



City of Madison

City of Madison
Madison, WI 53703
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Meeting Minutes - Approved ETHICS BOARD

Wednesday, February 9, 2011

4:45 PM

210 Martin Luther King, Jr. Blvd.
Room 108 (Parks Conference Room)

CALL TO ORDER / ROLL CALL

Present: 7 -

Michael E. Verveer; Eric D. Hands; Carol A. Weidel; David Albino; Laura D. Rose; Michael B. Jacob and Drew Cochrane

Also present:

Rosemary Lee, Davin Pickell, Tom Carto, Rick Petri, Brenda Konkell, Janet Piraino, Steven Brist, Al Matano

1. APPROVAL OF MINUTES

A motion was made by Albino, seconded by Hands, to Approve the Minutes from the December 8, 2010 Ethics Board meeting. The motion passed by voice vote/other.

2. DISCLOSURES AND RECUSALS

Ms. Weidel disclosed that she had a long standing acquaintance with Janet Piraino, but that she did not feel that this would affect her ability to impartially consider item 6. Eric Hands disclosed that he was a volunteer usher at the Overture Center, but he did not feel that this was a conflict that would prevent him from impartially hearing item 5. Chair Jacob stated that he had previously been employed by the same employer as Ms Piraino, but that this was several years ago and they were in different offices. Mr. Jacob did not feel that this would prevent him from impartially considering item 5.

3. PUBLIC COMMENT

Davin Pickell appeared on his own behalf and expressed his concerns about the manner in which jurisdictional decisions were made by the Board at the last meeting.

DISCUSSION ITEMS

4. [21121](#) Discussion on MGO Sec. 3.35(9)(b)5.d

The Board members discussed Sec. 3.35(9)(b)5.d, which requires those who enforce City or State laws or regulations to file a Statement of Interest, but does not require those who enforce Federal laws or regulations to so file. Ms. Rose moved, and Ms. Weidel seconded, a motion to request counsel to draft a proposal to amend the Section so that those enforcing federal laws and regulations would be required to file a Statement of Interest. The Motion passed on a voice vote.

COMPLAINT

5. [20698](#) Ethics Board Complaint. Davin Pickell v. Tom Carto

Attachments: [Davin Pickell v Tom Carto.pdf](#)
[Motion filed by Atty Petri 122810.pdf](#)
[Additional Info from R. Petri](#)

The Complaint alleged a violation of Sec. 3.35(5)(b), Madison General Ordinances. Chair Jacob stated that the first order of business was consideration of the Motion and the Additional Information filed by Attorney Petri on behalf of Mr. Carto. Mr. Jacob asked if any member of the Board wished to make a motion to reconsider the vote by which the Board found jurisdiction in the matter. There was no motion heard.

The Chair then called the Complainant who offered testimony. Mr. Pickell alleged that City resources, including a list, computer equipment, and a computer network were used for personal convenience or profit to send an advocacy email on an issue before the Common Council. Mr. Pickell argued that 201 State Foundation, Inc., constituted a private entity. Following Mr. Pickell's statements, Attorney Petri cross examined the Complainant. Mr. Petri then made an opening statement. Following the opening statement, the Chair noted that the parties had not been placed under oath, Mr. Pickell was called back before the committee and took the oath along with Mr. Carto. Mr. Petri then conducted direct examination of Mr. Carto, followed by cross examination by Mr. Pickell. Mr. Carto testified that while he did not send out the email, he helped to edit it and that he worked with two City employees to send out the email. Mr. Carto stated that 201 State was the foundation of the Overture Center and that he was employed as President of 201 State. Mr. Carto agreed in response to a question that in his judgment he was subject to the Ethics Code. Mr. Carto argued that his job description required him to foster and support legislation favorable to MCAD and its tenants and as an advocate for the Center and the arts community. It was noted that Mr. Carto's contract with the City specifically stated that the City consented to Mr. Carto serving as an employee and officer of 201 State.

Mr. Cochrane noted that Sec. 3.35(5)(b) MGO, has a clause that states "except as may be specifically provided for by law" and that even if Mr. Carto was

engaging in advocating he was required to do so by his contracts and job description.

Following extensive discussion, Ms. Weidel moved to dismiss the complaint; the motion was seconded by Mr. Albino. Alder Verveer did not take part in the deliberations in Item 5.

The motion to dismiss passed by the following vote:

Recused: 1 -

Verveer

Ayes: 6 -

Hands; Weidel; Albino; Rose; Jacob and Cochrane

6. [21193](#)

Ethics Board Complaint: Davin Pickell v. Janet Piraino

Attachments: [Ethics Board Complaint : Davin Pickell v Janet Piraino.pdf](#)

The Complaint alleged a violation of Sec. 3.35(4) of Madison General Ordinances. Chair Jacob stated that the matter was before Board for a jurisdictional determination. The Board heard from the Complainant, Mr. Pickell. Mr. Pickell stated that he felt that Ms. Piraino had lied to Overture Center employees while she advocated privatization of the Overture Center. Mr. Piraino disagreed with the arguments of Mr. Pickell but argued that even if what Mr. Pickell said was true, it did not constitute a violation of the ethics code. Following discussion, Mr. Albino moved to dismiss the complaint for lack of jurisdiction. Ms. Weidel seconded the motion. The motion passed on a voice vote, with Mr. Cochrane voting no:

Ayes: 6 -

Hands; Weidel; Albino; Rose; Jacob and Verveer

Noes: 1 -

Cochrane

REFERRALS FROM COMMON COUNCIL

Following the vote, at 8:30 PM, Laura Rose announced that she needed to leave the meeting because of illness.

Present: 6 -

Michael E. Verveer; Eric D. Hands; Carol A. Weidel; David Albino; Michael B. Jacob and Drew Cochrane

Excused: 1 -

Laura D. Rose

7. [19916](#) Creating Section 3.35(6)(i) of the Madison General Ordinances to establish conditions and procedures for a third party to pay for incumbent's permitted expenses.

Attachments: [19916 Registration Forms 10-19-2010.pdf](#)
[Version 1](#)
[3.15.2011 registrations](#)
[Version 2](#)

Recommend adoption of Substitute Ordinance.

The Board discussed possible language to be included in a substitute.

Ald. Verveer moved that a substitute be drafted to add the following language to the proposal:

Create Section 3.35(j), which would state

(j) No incumbent shall accept prepayment or waiver of honoraria, fees or expenses, including food, travel or lodging, without prior approval of the City Comptroller.

In Sec. 3.35(h) after the word waived, add the word "prepaid".

Mr. Hands seconded the motion. The motion passed on a voice vote. Ald. Verveer further requested that counsel discuss the substitute with the City Comptroller.

RE-REFERRED ITEMS

8. [20309](#) Madison Ethics Board Policy Manual

Attachments: [POLICY MANUAL 112410.pdf](#)

The Board reviewed the proposed changes to the Ethics Board Policy Manual. Following a short discussion the Board reached a consensus to approve the changes. Ald. Verveer requested that counsel draft a resolution so that the changes may be submitted to the Common Council.

9. [21358](#) Ethics Board Complaint: Brenda Konkel v. Lisa Subeck

Attachments: [Brenda Konkel v Lisa Subeck](#)

Following discussion, Mr. Hands moved, and Ms. Weidel seconded to refer the draft decision to the next meeting. Motion passed on a voice vote. Mr. Cochrane asked to be recorded as abstaining, because he did not take part in the underlying hearing on the matter. Chair Jacob indicated he would work with legal counsel to prepare a draft decision. The motion passed by the following vote:

**Excused: 1 -
Rose**

Ayes: 5 -
Weidel; Albino; Jacob; Verveer and Hands

Abstentions: 1 -
Cochrane

Following item 9, Ms Weidel made a motion to reconsider item 1, approval of the minutes. Mr. Hands seconded the motion. Motion passed. Ald. Verveer pointed out that the minutes were incomplete and needed to be amended to show which Board members attended the last meeting. Ald Verveer moved to approved the minutes as corrected, Mr. Alber seconded the motion. The motion passed on a voice vote.

Ald Verveer pointed out that the Board had scheduled quarterly meetings and that this meeting should have been held on February 3. He asked if the other members had May 5, August 4 and November 3 on their calendars. He indicated he was not able to participate in the hearing for Item 5 because he was in another meeting at the same time.

10. ADJOURNMENT

A motion was made by Verveer, seconded by Hands, to Adjourn. The motion passed by voice vote/other. The meeting was adjourned at 9:10 PM.