



City of Madison

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

Tuesday, August 31, 2010

4:45 PM

210 Martin Luther King, Jr. Blvd.
Parks Conf. Room 108 (City-County Building)

CALL TO ORDER / ROLL CALL

Present: 6 -

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

Others Present: Michael May, Steve Brist, Brenda Konkel, Mario Mendoza, Rosemary Lee, Deb Archer, and Drew Cochrane.

Vice Chair Carol Weidel called the meeting to order at 4:58 p.m. A quorum was present and the meeting had been properly noticed.

ELECTION OF CHAIR & VICE-CHAIR

Eric Hands nominated Michael Jacob to serve as Chair of the Ethics Board. There were no other nominations and Mr. Jacob was elected Chair by acclamation. Carol Weidel nominated Laura Rose to serve as Vice-Chair of the EB. There were no other nominations and Ms. Rose was elected Vice-Chair by acclamation.

APPROVAL OF MINUTES

A motion was made by Eric Hands, seconded by Carol Weidel, to approve the July 1, 2010 meeting minutes with the following corrections: The spelling of names from the approval of minutes for 7/1/10, the correct spelling of David Albino's name (only one l in last name was noted); and Eric Hands is incorrectly spelled as Eri Hands.

ANNOUNCEMENTS

City Attorney Michael May indicated that Assistant City Attorney Steven Brist would be taking over lead role in counsel to the Ethics Board and dealing with Ethics questions asked by persons covered by the Code. Mr. May also indicated that he understood the Mayor would be nominating Attorney Drew Cochrane to fill out the final position on the Ethics Board.

PUBLIC COMMENT

Public Comment was reserved for individual agenda items.

NEW BUSINESS

19536

Request for Ethics Board Advisory Opinion RE: Issues in Soliciting Funds for Congress for New Urbanism Convention

Deb Archer of the Greater Madison Convention and Visitors Bureau spoke in favor of the Mayor being allowed to do the fundraising. This has been part of the plan that had been presented to Congress for New Urbanism (CNU) and she felt it was very important to the success of the conference. Ald. Verveer asked if it wasn't true that Mayor Bauman and others had raised money in the past in similar instances. Ms. Archer was aware of Ms. Bauman's fundraising and that several other alders have done it also in the past.

Mario Mendoza spoke in favor of the Mayor being allowed to participate in the fundraising. Mr. Mendoza indicated the significant public benefit that would come from having the conference in the City, not only economically, but also in terms of contact with influential designers. He indicated the plan was for the Mayor to co-sign a fundraising letter and follow up with a few phone calls. He expressed concern that too strict a reading could foreclose endeavors of great benefit to the City, and where circumstances were of no personal benefit to the Mayor. Mr. Mendoza indicated this was a common practice elsewhere and that the Mayor was very willing to have some type of disclosure and transparency to allow this to proceed.

In response to a question from Ald. Verveer, Mendoza indicated that the Mayor was not a director and had no other relationship to CNU. He was not associated with the organization and obtained no financial or other benefit from it. He also indicated he did not believe fundraising would bring favorable or unfavorable treatment on any entity based upon their response to the Mayor.

Mendoza also indicated that if the opinion was limited to those who were not regulated by or who regularly did business with the City, that it would be difficult for the Mayor to find the entities that had no such relationship. He felt it would foreclose fundraising for almost all involved persons.

Verveer also asked about the effect if it were limited to those who had pending business with the City. Mario indicated that some of the key corporate citizens who would normally be expected to support this endeavor have regular, ongoing issues with the City.

Mr. Mendoza also outlined what was actually intended in terms of the Mayor's actions, such as signing a fundraising letter and following up with some phone calls. Mr. Mendoza believed that there was approximately \$20,000 in the City budget, but the total amount that needed to be raised was \$280,000. He also believed that this was a first for the Mayor.

There being no other speakers, the Board turned to the question of the advisory opinion. There was consensus that the Board had jurisdiction.

The Board considered the second question as framed by City Attorney Mike May's memo to the Ethics Board dated August 30, 2010:

"Is the Congress for New Urbanism (CNU) an entity with which the Mayor is "associated" within sec. 3.35(2)(b), MGO, such that fundraising for it would be a violation of sec. 3.35(5)(a)1 and 3, by taking action on a matter which produces a benefit for an associated organization?"

After a brief discussion, the Board agreed by consensus that the Mayor was not associated with CNU. He didn't have any of the indicia that are indicated in the ordinance, nor any other indicia that placed him at such a high level relationship to the organization.

The Board then considered the third question as framed by City Attorney Mike May's memo to the Ethics Board dated August 30, 2010:

"Would the solicitation of funds by the Mayor violate sec. 3.35(5)(a)2 in that the solicitation, even with no benefit to the Mayor or his immediate family, would be expected to influence the Mayor's action or be considered a reward for action?"

Both Ms. Weidel and Ms. Rose believed that seeking and obtaining contributions of entities that are doing business with the City likely would color the Mayor's judgment. They believe that those who complied with the solicitation would, even to the extent the Mayor tried to avoid it, be looked upon favorably by the Mayor. Ms. Rose stated that she felt this limitation was in here particularly to stop organizations with means of making such contributions.

Ald. Verveer asked about the opinions of the State Ethics Board. The City Attorney replied that the main two messages he took from the State Ethics Board opinions, interpreting a similar state statute, is that state officials should stay away from soliciting funds from entities that were either regularly doing business with or otherwise regulated by their state agencies. The second thing the City Attorney took from those opinions was that the second clause, which spoke about accepting or soliciting in a manner that could affect one's independence or judgment, did not mean that there had to be a personal benefit for the person doing the solicitation.

Mr. Albino stated that as he read the ordinance, there should be something pending before the City at the time, rather than simply an entity that might have some business in the past or future.

There was discussion regarding the possible effect of sunshine or disclosure of contributions. Ald. Verveer discussed some history in which Mayor Bauman was authorized to do fundraising by the City. After further discussion, a motion was made by Laura Rose and seconded by Weidel to issue an advisory opinion that, except where dealing with persons who do not have regular involvement with or regulation by the City, direct solicitation of funds by the Mayor for the CNU Convention would violate Sec. 3.35(5)(a)2 of the City's Ethics Code. The motion passed on a voice vote.

Ald. Verveer asked that a discussion on a proposed amendment be put on a

future meeting calendar. Both Ald. Verveer and others on the Ethics Board felt compelled to rule as they did based on the language of the Ethics Code, even though they believed that the conference and the solicitation of funds by the Mayor for the CNU Convention would be beneficial to the City.

Finally, the Board moved on to the question of what, if anything, the Mayor could do beyond direct solicitation. The Board concluded that a separate letter of support would not be allowed, and that those sending out the solicitations could certainly use a mayoral quote that was in the public domain. They did not believe the Mayor could be listed as Honorary Co-Chair of fundraising. However, they saw nothing wrong with the Mayor being listed as Co-Chair of the Host Committee for the event. They also believed a letter with the Mayor's name on it as Chair of the event, not the fundraising committee, could be mailed to others so long as the Mayor was not doing the actual solicitation, nor should the Mayor be making calls related to the fundraising.

The Board asked that two other issues be looked at and brought back for the next meeting. The first was the apparent exception in the State Ethics Code for the Department of Tourism or Commerce to make solicitations. The second is whether the word "judgment" should or should not remain in this section of the Code.

The Board asked the City Attorney to draft the formal advisory opinion for the Board to review at its next meeting.

EXISTING BUSINESS

[18557](#)

Brenda Konkel Letter to Ethics Board

There was some further discussion of matters in the memo from Brenda Konkel. It was noted that the statements of interest were now online.

Discussing the question of possible definition of personal interests, although some examples were given, the Board did not believe it was in a position to further define that.

The Board also indicated it did not have jurisdiction over the lobbying law. The Ethics Board may have concerns about statements that some people were not in compliance with the law, but did not believe it had jurisdiction.

With respect to receiving things of value such as beverages or transportation, the Board did not like the idea of setting a dollar limit on gifts. The Board also believed that as much training as was possible would be good for both City staff and lobbyists. The Board noted that at some times, a complaint may be the only way to bring an issue to light.

With respect to alders serving on committee appointments, the Board did not read the Ethics Code as barring former alders from being appointed to committees within the year following their leaving office.

Brenda Konkel raised questions with respect to the Mayor's trip to Europe on biking. She indicated that no forms setting out those expenditures have been filed with the City Clerk.

Ald. Verveer requested that the City Attorney should draft an ordinance modifying the Ethics Code with respect to submitting reimbursement requests from third parties through the Comptroller's Office.

Finally, in discussing whether there was another way to consider Ethics issues, the Board felt that holding regular meetings with a public comment period would be a way that issues could be brought before the Ethics Board if they were of concern, but people were unwilling to file formal complaints.

19200

Amending Sec. 3.35(5)(b) of the Madison General Ordinances to prohibit the use of City property or uniforms for political activity.

Sponsors: Michael E. Verveer

A motion was made by Weidel, seconded by Hands, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other.

MEETING DATES

2010

Board members acknowledged the dates for the two remaining meetings in 2010 (October 7 and November 3)

2011

The Board acknowledged the proposed dates for meetings in 2011, with a proviso that the Board could meet sooner if there were any formal complaints or requests for advisory opinions. Those meeting dates are February 3, May 5, August 4, and November 3, 2011.

ADJOURNMENT

A motion was made by Eric Hands, seconded by Carol Weidel, to adjourn. The motion was approved on a voice vote. The Board adjourned at 8:10 p.m.