



City of Madison

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

Tuesday, June 4, 2013

4:30 PM

210 Martin Luther King, Jr. Blvd. Room 103A
Room 103A (City-County Building)

1. CALL TO ORDER / ROLL CALL

Present: 6 -

Michael E. Verveer; William C. Keys; Mary Czyszczak-Lyne; David Albino;
Michael B. Jacob and Drew Cochrane

Absent: 0

Vacant 1

Also present were City Attorney Michael May, Assistant City Attorney Steven
Brist, Alder Mark Clear, Satya Rhodes-Conway.

2. APPROVAL OF MINUTES

A motion was made by Verveer, seconded by Cochrane, to approve the
minutes. Motion passed on a voice vote. Mary Czyszczak-Lyne abstained from
voting on the motion.

3. PUBLIC COMMENT

There was no public comment.

4. DISCLOSURES AND RECUSALS

There were no disclosures or recusals.

5. NEW BUSINESS

BUSINESS ITEM

6. [30416](#) Satya Rhodes-Conway Email Regarding Post-Employment/Appointment
Restrictions MGO Sec. 3.35(5)(i)&(j). Dated April 3, 2013

Attachments: [RHODES-CONWAY.POST EMPLOYMENT EMAIL..pdf](#)

The first item of business was Legistar # 30416, a request for an advisory opinion from Satya Rhodes Conway, regarding the post employment restrictions contained in Sec 3.35(5)(i) MGO as it applied to a former Alder. Ms. Rhodes Conway stated that she is a former Madison Alder, having left office in April, 2013. As she left office she received a reminder from the Council staff that she was subject to the provisions of Sec. 3.35(5)(i) MGO, which states in part that "No former alder person, for 12 months following the date on which he or she leave office may appear, with or without compensation, on behalf of any person or entity, before any board, committee or commission or before the Common Council or negotiate with any incumbent on any matter which may reasonably be expected to come before such board, committee or commission of the Common Council for official action." Sec. 3.35(5)(i) also provides that "Nothing in this subdivision shall prohibit a former incumbent from representing herself or himself before any City entity in relation to a non-commercial personal undertaking at any time." After receiving the information on post employment restrictions, Ms. Rhodes-Conway contacted City Attorney Michael May and sought advice regarding when she could appear before a City body representing only herself. City Attorney May stated that he interpreted the language in the Ethics Code that said that a former alder could appear on their own behalf in relation to a non-commercial undertaking for the 12 months after the person leaves office, as limiting a former alder to only appearing before a city body to ask for something like a zoning variance on a personal residence. He indicated that he did not interpret the Code as allowing continuing advocacy on policy issues by a former alder just by making the assertion that they are appearing on their own behalf. Ms. Rhodes-Conway expressed concerns that her ability to express her opinions on issues before the City was limited by the informal ethics opinion. City Attorney May then stated he viewed the provision as a yearlong cooling off period. He said that he did see ambiguity in the ethics code provisions, but that Sub. (i)2 and (i)6 must be read together and that if (i)2 was simply read to mean that a former alder could appear before a city body, then sub (i)6 had no meaning and (i) did not need to be included in the ordinance. Therefore, because sub (6) must be given meaning, and when the two provisions are read together, the conclusion is that a former alter may not appear before a city body to advocate on policy issues.

Alder Verveer asked what limitations were placed on a former alder who wished to engage in lobbying? City Attorney May stated that he would review the ordinances and find an answer for the Board members.

It was noted that in addition to the request for an opinion, Legistar # 30154, which was the seventh item on the agenda, was a proposed ordinance revision that addressed the same subject by changing the ethics code. The Board members asked Ms. Rhodes Conway whether she had a preference whether her concerns were dealt with by an advisory opinion or by a change in the ordinances. She indicated that she did not have a preference.

Alder Verveer moved to table item 6 and take up item 7 and Mr. Albino seconded the motion. The motion passed on voice vote.

REFERRAL FROM COMMON COUNCIL

7. [30154](#) Amending Section 3.35(5)(i)6. of the Madison General Ordinances to permit

a former incumbent to appear before a city body under certain circumstances to express their views on a policy matter.

Attachments: [Version 1](#)

Alder Mark Clear, the lead sponsor of the proposal, Legistar # 30154, spoke in favor of it and answered questions. Mr. Cochrane suggested that the revision to the language in Paragraph 6 of Subdivision (i) use parallel construction, so that instead of stating before “a City board or committee or the Common Council” that instead it state before “any City entity”.

City Attorney May stated, after reviewing the lobby ordinance and the ethics code, that there did not appear to be a specific provision that prohibited a former alder from registering as a lobbyist during the 12 month period after leaving office. Mr. Cochrane stated that this made sense because the lobbying law came later than the ethics code. Mr. Cochrane left the meeting at 5:15 pm, because of another commitment.

Mr. Albino raised several questions about the meaning of terms in Sec 3.35(5) (i) of the ethics code. He pointed out the language that prohibited a former alder from negotiating with any incumbent and asked what is negotiating? City Attorney May suggested that “negotiate” could mean negotiating a contract, and that expressing a policy opinion could be distinguished from negotiation. Mr. Albino stated that negotiation is a broad term and City Attorney May agreed. Mr. Albino then noted that “non-commercial personal undertaking” was not defined in the ethics code. Mr. Jacob then stated that he saw several issues that had been discussed, including the Item 7 fix, the questions about the negotiation language, the meaning of a noncommercial undertaking and the need to prevent lobbying by former alders.

A motion was made by Mr. Keys, seconded by Ald Verveer, to recommend adoption of Item 7 (Item 30154), with the amendment regarding the “any city entity” language recommended by Mr. Cochrane. The motion passed on a voice vote.

The Board members had a short discussion about the need to revise the entire ethics code, and then turned to the issue of Item 6, which was on the table. Following discussion, it was determined that item 6 would be left on the table until the Common Council acted on Item 7.

8. [29901](#)

Amending Section 3.35(2)(b) of the Madison General Ordinances to extend the Ethics Code exception for elected officials appointed by the City to other boards to also cover employees.

City Attorney May explained that this proposal amended the ethics code to extend the exemption for elected official who are appointed by the City to other boards, to also exempt employees appointed to other boards, so that the employee is not “associated” with the other board, under the ethics code. He gave the example of the Parks Director who is required to serve on the board of a friends group, and could be considered to be associated with that board for the purposes of the ethics code. Ms. Czyszak-Lyne moved to recommend adoption of Item 8, Mr. Albino seconded the motion. The motion was adopted

on a voice vote.

9. [21476](#) Amending the Ethics Board Rules of Procedure.

Attachments: [POLICY MANUAL.REDLINE.PDF.2-8-11.pdf](#)

Alder Verveer stated that he believed that this matter, recommending approval of changes in the Ethics Board Policy Manual, had previously been considered and recommended by the Board and this matter id not need to be on the agenda again. He suggested that the record in Legistar be modified to reflect the prior decision. Assistant City Attorney Brist stated that if there was no objection, he would have the Legistar record changed to reflect the prior action. No objection was heard, so Brist was instructed to make the change

There was then discussion on possible matters for future meeting of the Board. Alder Verveer asked staff to draft a proposal to specifically prohibit lobbying by a former alder during the 12 month period after leaving office.

10. **ADJOURNMENT**

Mr. Keys moved to adjourn, Mr. Albino seconded the motion. The motion passed on a voice vote and the meeting was adjourned at 6 PM.