

**Metropolitan Board of Ethical Conduct**  
**Minutes of Meeting**

Tuesday, August 21, 2018

The Board of Ethical Conduct held a meeting on this date in Metropolitan Council Committee Room 2 of the Historic Courthouse in Nashville, Tennessee.

Persons in Attendance:

Josiah Reid, Board Chair  
Diane DiIanni, Board Member  
Keith Frazier, Board Member  
Larry Patton, Board Member

Kevin Klein, Legal Counsel  
Elizabeth Waites, Metropolitan Clerk/Board Secretary

Call to Order

Mr. Reid called the meeting to order at 9:07 a.m.

Approval of Minutes of May 16, 2018

Mr. Patton moved to adopt the minutes of the last called meeting of the Board of Ethical Conduct. Ms. DiIanni seconded the motion, which was approved by unanimous vote of the Board.

Announcement of Appeal Rights

The Clerk announced that parties are encouraged to consult an attorney to evaluate appeal rights from a final order issued by this Board to ensure applicable procedures and deadlines are met.

Evaluation of 2<sup>nd</sup> Complaint in the matter styled **Theeda Murphy v. Megan Barry**

Counsel presented a summary of the legal report and analysis, including allegations purported to have arisen after filing of the initial Complaint. Counsel opined that re-pleading an alleged violation of Mayor Barry's Executive Order No. 5 in reliance upon the subsequent adoption of Ordinance No. BL2018-1111 by the Metropolitan Council seeks a prohibited retrospective application of law. Counsel opined that the remaining facts presented support existing allegations of violations of the Metropolitan Standards of Conduct, and that the first and second Complaints should be consolidated for hearing purposes.

Mr. Frazier moved to dismiss all allegations that the Respondent violated Mayor Barry's Executive Order No. 5. The motion was seconded by Mr. Reid, and adopted by unanimous vote of the Board.

Ms. DiIanni moved that the instant Complaint be considered an amendment to the initial Complaint. The motion was seconded by Mr. Frazier, and adopted by unanimous vote of the Board.

Discussion of Complainant's Request for the Board to Issue Subpoenas for Witnesses and Documents to a Hearing in the matter styled **Theeda Murphy v. Megan Barry**

Counsel summarized the legal opinion provided to the Board. Metropolitan Charter Section 18.10 gives Metropolitan Boards or Commissions that conduct investigations and hold hearings the authority to compel the attendance of witnesses and production of materials that are pertinent to the hearing, provided the anticipated evidence is properly within the scope thereof.

Ms. DiIanni moved to adopt a procedure to permit the Complainant an opportunity to file a list of witnesses to whom subpoenas are sought with a summary of questions anticipated from counsel and/or a summary of the testimony and information expected from each individual; and, for the Respondent to have an opportunity to respond within fourteen (14) days of receipt thereof. The motion was seconded by Mr. Patton. Mr. Frazier moved to amend the motion that either party may file a list of witnesses requested by subpoena; that the lists be filed no later than fourteen (14) days from receipt of the Internal Audit report; and that each party have an opportunity to respond to the other within fourteen (14) days thereafter. Ms. DiIanni accepted the amendment, which was properly seconded and adopted. The matter recurred on the motion to adopt the procedure as amended, which motion was approved by unanimous vote of the Board.

Adjournment

Upon motion properly seconded, the meeting was adjourned at 10:30 a.m.

ATTEST:

APPROVED:

/s/ Elizabeth Waites  
Metropolitan Clerk

/s/ Josiah Reid  
Chair of the Board