

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

Wednesday, December 19, 2018

The Board of Ethical Conduct held a meeting on this date in the Jury Assembly Room of the Justice A. A. Birch Courthouse in Nashville, Tennessee.

Persons in Attendance:

Josiah Reid, Board Chair  
Mariah Cole, Vice Chair  
Burkley Allen, Council Pro Tempore  
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 9:39 a.m.

Approval of Minutes of October 22 2018

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

Announcement of Appeal Rights

The Clerk announced that parties who disagree with a final decision of the Board may appeal by filing a writ of certiorari with the Davidson County Chancery Court within sixty (60) days of entry of the Order, and parties are encouraged to seek independent legal advice to ensure that applicable procedures and deadlines are properly followed.

Hearing in the matter styled **Theeda Murphy v. Megan Barry**

Counsel for the Complainant gave an opening statement and asked that the Board recommend a public censure of the Respondent to the Metropolitan Council.

Counsel for the Respondent gave an opening statement.

Counsel for the Complainant called Sheila Clemmons Lee to testify. Ms. Clemmons Lee was sworn and gave testimony, and was questioned by the Complainant's counsel. Ms. Clemmons Lee showed the Board two photographs which counsel for the Complainant announced would be filed as late exhibits. Counsel for the Respondent waived cross examination. The Board asked questions of the witness, and the testimony of Ms. Clemmons Lee was concluded.

Counsel for the Complainant called Sekou Franklin to testify. Dr. Franklin was sworn and gave testimony, and was questioned by Complainant's counsel and cross examined by Respondent's counsel. The Board asked questions of the witness, and the testimony of Dr. Franklin was concluded.

The Complainant called her case to rest.

The Chair called for a recess at 11:06 a.m. The Chair called the meeting to order at 11:15 a.m.

Ms. DiIanni asked whether anyone observing the hearing had personal knowledge of a meeting between community members and Ms. Barry in 2017, as referenced in the Complaint. Arnold Hayes raised his hand to indicate such knowledge, and was called to testify by the Chair. Mr. Hayes was sworn and gave testimony, and was questioned by the Board. Neither counsel for the Complainant nor counsel for the Respondent asked questions of Mr. Hayes, and the testimony of Mr. Hayes was concluded.

Counsel for the Respondent waived the presentation of evidence.

The Complainant gave a closing statement and requested that the remedy of public censure be recommended to the Metropolitan Council.

Counsel for the Respondent gave a closing statement.

The Complainant waived rebuttal argument.

### Deliberation

The Board discussed the findings of the Supplemental Report of the Internal Audit Department of the Metropolitan Government.

The Chair called for a roll call vote on whether former Mayor Barry's relationship with Robert Forrest created the appearance of preferential treatment due to payment of excessive amounts of overtime in violation of section 2.222.020(g) of the Metropolitan Standards of Conduct. "Ayes": (2) Ms. Cole and Mr. Frazier; "Noes": (3) Mr. Reid, Ms. DiIanni, and Mr. Patton. The Chair declared the motion failed.

The Chair called for a roll call vote on whether former Mayor Barry's relationship with Robert Forrest created the appearance of preferential treatment due to payment of excessive amounts of overtime in violation of section 2.222.020(i) of the Metropolitan Standards of Conduct. "Ayes": (4) Ms. DiIanni, Mr. Patton, Ms. Cole, and Mr. Reid; "Noes" (1) Mr. Frazier. The Chair declared the motion passed.

The Chair called for a roll call vote on whether former Mayor Barry's relationship with Robert Forrest created the appearance of preferential treatment due to payment of excessive amounts of overtime in violation of section 2.222.020(k) of the Metropolitan Standards of Conduct. "Ayes": (5) Mr. Frazier, Mr. Reid, Ms. Cole, Mr. Patton, and Ms. DiIanni; "Noes" (0). The Chair declared the motion passed.

The Chair called for a roll call vote on whether former Mayor Barry's relationship with Robert Forrest, coupled with her action or inaction on Metropolitan Nashville Police Department business and police policy, was a violation of section 2.222.020(k) of the Metropolitan Standards of Conduct. "Ayes": (2) Ms. Cole; Ms. DiIanni; "Noes" (3) Mr. Frazier, Mr. Reid, and Mr. Patton. The Chair declared the motion failed.

Upon the Board's finding that violations of the Metropolitan Standards of Conduct had occurred, the Chair called for a roll call vote on whether the Board should recommend that a public censure be initiated by the Metropolitan Council. "Ayes": (5) Ms. DiIanni, Mr. Patton, Ms. Cole, Mr. Reid, Mr. Frazier; "Noes" (0). The Chair declared the motion passed.

Setting next meeting

The Board will hold its next called meeting on January 10, 2019 at 10:00 a.m. in the Metropolitan Historic Courthouse, Suite 205 in Council Committee Room 2.

Adjournment

Upon motion properly seconded, the meeting was adjourned at 12:39 p.m.

ATTEST:

APPROVED:

/s/ Elizabeth Waites  
Metropolitan Clerk

/s/ Josiah Reid  
Chair of the Board