

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

Wednesday, March 8, 2018

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

Persons in attendance:

Josiah Reid, Vice Chair at meeting commencement (newly elected Chair)
Mariah Cole, Board Member (newly elected Vice Chair)
Diane DiIanni, Board member
Keith Frazier, Board member
Larry Patton, Board member
Bill Pridemore, acting as interim deputy council pro tempore

Kevin Klein, independent legal counsel/Department of Law designee
Saul Solomon, independent legal counsel/Department of Law designee
Elizabeth Waites, Metropolitan Clerk/Board secretary

Call to order

Mr. Reid called the meeting to order at 9:02 a.m.

Approval of Minutes of February 21, 2018

Ms. DiIanni moved to approve the minutes of the last called meeting of the Board of Ethical Conduct. Mr. Patton seconded the motion, and the minutes were adopted by a unanimous vote of the Board.

Announcement of Appeal Rights

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

Election of Officers

Mr. Reid announced that the Board's Chair, Dr. Sheri Weiner, had been sworn in on March 6, 2018 as the President and presiding officer of the Metropolitan Council. Dr. Weiner will no longer serve as ex officio council member on the Board of Ethical Conduct. Mr. Reid presided over the meeting from its commencement, and at this time opened the floor for nominations to the position of Chair of the Board. Mr. Frazier nominated Mr. Reid to serve as Board Chair, and Ms. DiIanni seconded the nomination. Mr. Reid called for further nominations, and none were presented. Thereupon, Mr. Reid called for a vote on the nomination of Mr. Reid to serve as

Board Chair. Said nomination was adopted by the following roll call vote: “Ayes” Ms. Cole, Ms. DiIanni, Mr. Frazier, Mr. Patton, and Mr. Reid (5); “Noes” (0).

Mr. Reid called for nominations to the position of Vice Chair of the Board, upon his ascension as Chair and the resulting vacancy of Vice Chair. Ms. DiIanni nominated Ms. Cole to serve as Vice Chair. The nomination was seconded by Mr. Frazier. Mr. Reid called for further nominations, and none were presented. Thereupon, Mr. Reid called for a vote on the nomination of Ms. Cole to serve as Vice Chair of the Board. Said nomination was adopted by the following roll call vote: “Ayes” Ms. Cole, Ms. DiIanni, Mr. Frazier, Mr. Patton, and Mr. Reid (5); “Noes” (0).

Discussion on Complaint by Mr. Sandhu against Councilman Sledge

This matter was called upon during its regular course on the agenda. Mr. Sandhu was not present at the time the matter was called. Mr. Reid moved to continue the matter to the heel of the agenda. Ms. Cole seconded the motion, which passed by a unanimous vote of the Board.

Discussion on Complaint by Ms. Murphy against Ms. Barry, former Metropolitan Mayor

Legal counsel Mr. Klein discussed the issue of whether the Board may retain jurisdiction over the complaint in light of Megan Barry’s resignation as mayor, effective March 6, 2018. Counsel advised that pursuant to the Metropolitan Code of Laws, a review of any instructive decisions of the Metropolitan Department of Law, and applicable case law, the Board does retain jurisdiction to hear this matter. Counsel advised that remedies including referral to Metropolitan Department of Law for analysis of whether to initiate civil restitution proceedings, as well as referral to Metropolitan Council to request public censure, remain available to the Board for consideration.

Mr. Reid moved to adopt the jurisdictional analysis, and thereupon discuss the substance of this Complaint. Ms. DiIanni seconded the motion, which passed by unanimous vote of the Board.

Mr. Solomon summarized the legal report filed by his firm, which was previously submitted to the Board. Mr. Solomon discussed the analyses contained therein, and recommended that the allegation of excessive overtime pay should proceed to a hearing. Mr. Solomon recommended that the remaining allegations in the complaint should be dismissed.

Mr. Reid moved to dismiss the Complaint insofar as it alleges violations of Executive Order 005 on the grounds of lack of jurisdiction. Mr. Frazier seconded the motion, which was adopted by unanimous vote of the Board.

Mr. Reid moved to dismiss the Complaint insofar as it alleges that Megan Barry and Sgt. Forrest’s relationship, standing alone, would constitute a violation of the Metropolitan Government’s Standards of Conduct. Mr. Frazier seconded the motion, which was adopted by the following roll call vote: “Ayes” Ms. Cole, Mr. Frazier, and Mr. Reid (3); “Noes” (0); Abstentions: Ms. DiIanni and Mr. Patton (2).

Mr. Reid moved to dismiss the Complaint insofar as it alleges that Megan Barry and Sgt. Forrest's relationship, coupled with Mayor Barry's action or inaction on MNPB business and police policy, could constitute a violation of the Metropolitan Standards of Conduct. Mr. Frazier seconded the motion, which failed by the following roll call vote: "Ayes" Mr. Reid (1); "Noes" Ms. Cole, Ms. DiIanni, Mr. Frazier, and Mr. Patton (4). Thereupon, this allegation shall be set for a hearing before the Board.

Mr. Reid moved to dismiss the Complaint on the issue of whether Mayor Barry's relationship with Sgt. Forrest created the appearance of giving preferential treatment due to excessive amounts of overtime, as alleged in the Complaint. Mr. Frazier seconded the motion, which failed by the following roll call vote: "Ayes" (0); "Noes" Ms. Cole, Ms. DiIanni, Mr. Frazier, Mr. Patton, and Mr. Reid (5). Thereupon, this allegation shall be set for a hearing before the Board.

Mr. Reid moved to bifurcate the pending allegations. Specifically, Mr. Reid moved to set a hearing on the police oversight policy allegation, and to determine at that meeting whether the excessive overtime allegation is ready to be set for hearing, contingent upon whether the Internal Auditor's report has been published and is available for discussion by the Board at that time. Ms. DiIanni seconded the motion, which passed by unanimous vote of the Board.

Discussion of BL2018-1111

The Board reviewed the proposed legislative changes to Section 2.222.040 of the Metropolitan Code of Laws. After discussion, the Board expressed unanimous consensus in favor of the legislation, and asked the Clerk to convey to the Council Committee considering the legislation that the Board is in support thereof.

Mr. Pridemore exited the meeting at this time.

Discussion on Complaint by Mr. Sandhu against Councilman Sledge

Mr. Sandhu announced that he would withdraw his complaint if the Board granted permission that he may present a brief explanatory statement. After some discussion, the request was granted, and Mr. Sandhu made a statement. Mr. Sledge asked to be permitted to make a brief statement, which request was also granted. This matter shall be recorded as withdrawn by the Complaint, and shall be removed from subsequent agendas of this Board.

Scheduling

The Board set a meeting on March 28, 2018 to discuss procedural rules and regulations to be adopted as governing this Board. The Board set a hearing on April 25, 2018 pertaining to police oversight policy allegations in the Murphy v. Barry matter, and to review and discuss the Internal Auditor Report, if available, in order to determine the procedural posture pertaining to excessive overtime expenditures as alleged in this matter.

Adjournment

Mr. Frazier moved to adjourn the meeting, which motion was seconded by Ms. DiIanni and unanimously approved by the Board at 10:50 a.m. The Board is adjourned until its next called meeting on March 28, 2018 at 3:00 p.m.

ATTEST:

APPROVED:

/s/ Elizabeth Waites
Metropolitan Clerk

/s/ Josiah Reid
Chair of the Board