

Metropolitan Board of Ethical Conduct Minutes of Meeting

Friday, December 8, 2023

The Board of Ethical Conduct held a meeting on this date in Metropolitan Council Committee Room 1 of the Second Floor of the Historic Courthouse in Nashville, Tennessee.

Persons in Attendance:

Diane DiIanni, Board Chair
Joseph Gutierrez, Board Member
John Spragens, Board Member
Kinika Young, Board Member
Council Member Zulfat Suara, Ex-officio Board Member

Nicki Eke, Legal Counsel
Austin Kyle, Metropolitan Clerk
Shawn Reed, Deputy Clerk

Call to Order

The Chair called the meeting to order at 9:00 a.m.

Public Comment Period

No members of the public requested to speak.

Approval of Minutes of October 24, 2023

Ms. Young moved to approve the minutes of October 24, 2023, which motion was seconded and approved by the following vote: “Ayes” (4): DiIanni, Gutierrez, Spragens, and Young; “Noes” (0); “Abstain” (0).

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.

Discussion of Advisory Opinion Requested by Council Member Clay Capp

Chair DiIanni presented an overview of Metro Code of Laws, Section 2.222.040.B. regarding the Board of Ethical Conduct’s obligations to provide advisory opinions when requested by a metropolitan government elected official or member of any metropolitan government board or commission. Chair DiIanni pointed out that other than the timeline for a response and ability to request clarification from the requester, there is no procedure defined for the Board to address these requests.

After discussion, Mr. Spragens moved to adopt a procedure for responding to advisory opinion requests and to reflect that upon receipt of an advisory opinion request, the Law Department will

prepare a draft advisory opinion and have the authority to seek clarification where necessary from the requester and that the draft advisory opinion will be presented at a timely called meeting of the Board for consideration. The motion was seconded and approved by the following vote: “Ayes” (4): DiIanni, Gutierrez, Spragens, and Young; “Noes” (0); “Abstain” (0).

Council Member Suara inquired if the Board would be in favor of the Metro Council potentially amending the Code to extend the timeline for responding to advisory opinions and the Board confirmed they would support that proposal.

Chair DiIanni opened discussion on the draft advisory opinion prepared by the Metro Law Department in response to the request from Council Member Clay Capp. After discussion, the Board offered the following amendments to the draft advisory opinion:

1. Adding a new line on the first paragraph below the Answer heading stating “The Board cautions that there is a heightened potential for actual or perceived conflict of interest in the scenario presented by the question. However, a Councilmember may accept employment for a political organization or PAC, with job responsibilities that include fundraising, provided that:...”
2. Adding to the last sentence of the final paragraph “In summary, to comply with the Standards of Conduct, any solicitation of funds made on behalf of the political organization shall not utilize the Councilmember’s official Metropolitan Government position, government property, or non-public information and must be conducted in accordance with all applicable laws.”

Chair DiIanni moved to adopt the draft advisory opinion as amended by the Board, which motion was seconded and approved by the following vote: “Ayes” (4): DiIanni, Gutierrez, Spragens, and Young; “Noes” (0); “Abstain” (0).

Next Steps/Scheduling

At this time, the next meeting is the annual standing meeting of the Board on Monday, March 4, 2024.

Adjournment

Upon motion properly seconded, the meeting was adjourned at 10:31 a.m.