

Metropolitan Board of Ethical Conduct
Minutes of Meeting

Thursday, April 4, 2024

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
Brigid Carpenter, Board Member
Kirsten Grimes, Board Member
Joseph Gutierrez, Board Member
John Spragens, Board Member
Kinika Young, Board Member
Council Member Zulfat Suara, Ex-officio Board Member

Tom Cross, Legal Counsel
Courtney Mohan, 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 signed up to speak.

Approval of Minutes of December 8, 2023

Chair DiIanni indicated that a correction was needed for a typo. Ms. Young moved to approve the minutes of December 8, 2023 with the correction noted by Chair DiIanni, which motion was seconded and approved by the following vote: “Ayes” (6): DiIanni, Carpenter, Grimes, 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.

Summary and Discussion of Department of Law memorandum re: Yousief v. Carol McCoy

Without objection, Chair DiIanni moved this item forward on the agenda.

Mr. Gutierrez notified the Board that he is part of an arts organization that receives grant funding from the Metro Arts Commission but did not feel that there was a conflict of interest that would affect his judgement, but did want to disclose that information for the record.

Chair DiIanni noted that Board members had received emails and outside communication regarding the complaints before the Board but that those communications would not be a part of the discussion for this meeting. Chair DiIanni gave a brief summary of the role of the Board pursuant to the Metro Code of Laws and the process they would be following for this meeting.

Legal Counsel Cross gave a summary of the Department of Law memorandum regarding the complaint filed by Lydia Yousief against Arts Commission member Carol McCoy. Mr. Cross indicated that the Department of Law's opinion on this matter is that the complaint did not meet the criteria in the Metro Code of Laws to be deemed a violation and recommended that the Board dismiss the complaint.

After discussion, the Board felt that while there were concerning issues, the complaint itself did not give them enough information to support a finding within the Code that dictates the Board's scope to move to a hearing, but they are willing to entertain an amended complaint in the future if the complainant provides sufficient evidence.

Ms. Young moved to dismiss the complaint without prejudice and to allow the complainant to file an amended complaint to spell out how this individual violated the Code, which motion was properly seconded. Mr. Spragens moved to amend the motion by dismissing the first portion of the complaint regarding the open meeting violation with prejudice and to dismiss the remaining portions of the complaint without prejudice, which amendment was seconded and approved by a voice vote of the Board. Chair DiIanni called for a roll call vote on the amended motion, which was seconded and approved by the following vote: "Ayes" (6): DiIanni, Carpenter, Grimes, Gutierrez, Spragens, and Young; "Noes" (0); "Abstain" (0).

Summary and Discussion of Department of Law memorandum re: Yousief v. Will Cheek

Chair DiIanni asked the Department of Law to summarize the legal memorandum regarding this complaint. Mr. Cross provided a summary of the Department of Law memorandum regarding the complaint filed by Lydia Yousief against Arts Commission member Will Cheek. Mr. Cross indicated the Department of Law recommendation was to dismiss the allegation of an open meeting violation as well as the conflict of interest allegation regarding "working against equity." Mr. Cross stated that the allegation regarding a conflict of interest by having an inconsistent pattern of recusal might constitute a violation and recommends that the Board hold a hearing on this matter.

Mr. Spragens asked legal counsel about Mr. Cheek's resignation from the Arts Commission. Mr. Cross indicated that while Mr. Cheek has resigned his position on the Arts Commission, the alleged conduct occurred while he was still an active member and there are still remedies available to the Board if a violation is found.

After discussion, Mr. Spragens moved to adopt the recommendations of the Department of Law memo in full by dismissing the first two allegations but sustaining the third allegation regarding a potential violation of Metro Code of Laws 2.222.020.o, which motion was properly seconded and approved by the following vote: "Ayes" (6): DiIanni, Carpenter, Grimes, Gutierrez, Spragens, and Young; "Noes" (0); "Abstain" (0). Chair DiIanni stated that the Board would be moving forward with a hearing on this matter. The hearing was set for Monday, April 29, 2024 at 9:00 a.m.

Metropolitan Council Legislative Update

The Metropolitan Clerk summarized Council Ordinance BL2024-152 that was sponsored by Council Member Suara and adopted on February 20, 2024. The ordinance provided updates to Metro Code of Laws section 2.222.040.B and 2.222.040.C regarding deadlines associated with the Board of Ethical Conduct. The Clerk also provided a summary of Council Ordinance BL2024-290 which is still currently in the legislative process with the Council. The ordinance would provide several updates to the Lobbying Code, Metro Code of Laws section 2.196.

Updated Procedures and Organization Rules

Chair DiIanni provided a summary of the amendments that have been added to the Board Procedures and Organization Rules.

Annual Lobbying Report

The Clerk had previously provided a report to the Board summarizing the 2023 lobbying and expense reports that were received timely, received late, or not received. Chair DiIanni clarified that lobbyists that filed their reports after the January 31st deadline and have paid the late filing fee should not be considered “non-compliant” for purposes of the reporting to the Board. Chair DiIanni reiterated that the pending legislation before the Council would address a number of the issues that the Board has identified with the current lobbyist reporting process.

Annual Election of Officers

Chair DiIanni called for nominations for the position of Chair of the Board of Ethical Conduct. Ms. Carpenter nominated Ms. DiIanni to continue serving as Chair, which motion was seconded and approved by the following vote: “Ayes” (6): DiIanni, Carpenter, Grimes, Gutierrez, Spragens, and Young; “Noes” (0); “Abstain” (0).

Chair DiIanni called for nominations for the position of Vice Chair of the Board of Ethical Conduct. Ms. Carpenter nominated Ms. Young to serve as Vice Chair, which motion was seconded and approved by the following vote: “Ayes” (6): DiIanni, Carpenter, Grimes, Gutierrez, Spragens, and Young; “Noes” (0); “Abstain” (0).

Next Steps/Scheduling

At this time, the next meeting is scheduled for Monday, April 29, 2024 at 9:00 a.m.

Adjournment

Upon motion properly seconded, the meeting was adjourned at 11:05 a.m.