



Meeting Minutes

Ethics Board

Wednesday, October 12, 2016

2:30 PM

5th Floor Conference Room

Call to Order, Roll Call

Present: 5 - Larry Klahn, Regina Siegel, Donald Campbell, Taylor Haley, Jodi Widuch

Election of Officers

A motion was made by Siegel, seconded by Widuch, to nominate Larry Klahn as Chair. A motion was made by Haley, seconded by Siegel, to nominate Don Campbell as Vice Chair. On the nominations as presented, the motions carried by voice vote.

Complaint filed by Dave O'Mara

Stephen Matty as legal counsel for the Ethics Board addressed the Board. As a governmental body, the Board must comply with the Open Meetings Law. The meetings are open to the public, but there is no right to public participation; they have the right to observe. As a quasi-judicial body members must maintain impartiality, and may not be contacted directly. A complaint has been filed by Dave O'Mara. City Ordinance provides that upon its receipt the accused needs to be notified within 10 days, and the Clerk has done that. It also requires the Board to meet within 20 days. This is the initial meeting; there is no evidentiary hearing today. At beginning there must be a determination of probable cause that the allegations occurred, and then, proceed to an evidentiary hearing. If a determination is made that probable cause does not exist, that is the end of the proceeding. To help determine whether probable cause exists on a complaint and whether to move on to hearing, the Board may have parties submit a written argument where they explain why probable cause does or does not exist. In the past cases, arguments were required to be submitted in writing. Then if there is a hearing, oral arguments similar to a trial with sworn witnesses providing evidence and cross examination is held. The Board also has the ability to have a preliminary investigation. If that is desired, the City will bring in a third party to make the investigation. Today's meeting will address if there is probable cause to move on to a hearing or not. The recommendation is that the Board have the parties submit written arguments whether probable cause does or does not exist. Also, the parties should indicate whether they think an investigation is warranted. City Ordinance encourages completion of the process within 120 days. The recommendation is to have the parties introduce themselves, and then pass a motion to have the parties submit written arguments to the Board, as well as whether an investigation is warranted. The Board will also have to set deadlines. Once those submission are made, legal counsel will assist in addressing the questions.

The complainant introduced self, and summarized his written complaint, and stated there was misguidance and he thought he was treated differently than others. Ross Seymour is his legal counsel but was not able to be here today.

The accused introduced self, and is represented by Attorney Dan Ryan. Attorney Ryan stated if there is a hearing he will address the points raised in the complaint. Regarding the probable cause issue, he reviewed the complaint and ethics rule that is alleged to have been violated, and stated the facts that are detailed in the complaint do not fit the ethics code violation that is alleged to have occurred.

Because the parties are represented by legal counsel, all future correspondence will be directed to Mr. Seymour and Mr. Ryan.

A motion was made by Campbell, seconded by Widuch, that the parties submit written arguments as to whether probable cause exists. A motion was then made by Klahn, seconded by Campbell, to amend the motion to require the parties to include in the written submission whether a preliminary investigation is warranted. The motion as amended carried by voice vote.

A motion was made by Siegel, seconded by Campbell, that the complainant's deadline to submit a written argument is the end of business on October 21, 2016. The respondent's deadline to submit a written argument is the end of business on November 1, 2016. The parties shall submit the written argument to the City Clerk, with a copy to the legal counsel of the opposing party on the same day it is filed with the Clerk. The motion carried by voice vote.

In response to Attorney Ryan's question, the City Clerk stated written submission by email is acceptable.

Adjournment

A motion was made by Siegel, seconded by Widuch, to ADJOURN. The motion carried by voice vote.