



MINUTES OF THE ETHICS BOARD

**TUESDAY, NOVEMBER 20, 2018, 5:30 PM
CITY HALL, ROOM 207**

A. ROLL CALL.

Present: Patty Kiewiz, William VandeCastle, Mark Olsen, Chari Graham Excused: Ald. Bill Galvin

B. APPROVAL OF THE AGENDA.

Moved by Board Member Chari Graham, seconded by Board Member William VandeCastle to approve. Motion carried.

C. APPROVAL OF MINUTES.

I. Approval of the minutes of the June 14, 2018 meeting.

Moved by Board Member Mark Olsen, seconded by Board Member Chari Graham to approve. Motion carried.

D. CONSIDERATION OF REQUEST BY ALDER DORFF TO WITHDRAW CODE OF CONDUCT COMPLAINT AGAINST GUY ZIMA.

Moved by Board Member William VandeCastle, seconded by Transit Director Patty Kiewiz to open the floor for discussion. Motion carried.

Moved by Transit Director Patty Kiewiz, seconded by Board Member Mark Olsen to go close floor for discussion. Motion carried.

Moved by Board Member Mark Olsen, seconded by Board Member Chari Graham to dismiss with prejudice for failure of prosecution as stated in the withdrawal. Motion carried.

E. ADJOURNMENT.

Moved by Transit Director Patty Kiewiz, seconded by Board Member Cheri Graham to adjourn at 5:51 p.m. Motion carried.

VERBATIM MINUTES

- All right, thanks. All right, the clock on the wall says it's 5:30, this meeting was scheduled for 5:30. This is the City of Green Bay Ethics Board. The microphones are on, the camera's in the back in the corner over there so we'll start with roll call and just introduce yourself for the record and getting the camera's back there. So Mark, we'll start with you.
- Sure, Mark Olsen.
- Chari Graham.
- Bill Vande Castle.
- Patty Kiewiz.
- Good, thank you all. We have four members, that is a quorum so that we can proceed. Next item on the agenda is approval of the agenda for this evening's meeting. Is there a motion to approve?
- [Patty] Motion to approve.
- [Bill] And I will second, so we have a motion and a second. Any questions on the agenda? Hearing none, all in favor signify by saying aye.
- [Together] Aye.
- Motion carries. Item c on the agenda is approval of the minutes from the June 14th, 2018 meeting. That was previously sent out. Are there any additions or corrections to those documents, or to that document? All right, is there a motion to approve?
- Motion to approve.
- Second.
- And we have a motion and a second. Whoops, I wore my pen out. Motion and a second, any further discussion on the approval of the minutes on June 14th? Hearing none, all in favor signify by saying aye.
- [Together] Aye.
- Any opposed? Motion carried. Next item on the agenda, consideration of request by Alder Dorff to withdraw a Code of Conduct complaint against Guy Zima. Mr. Kalny, would you give us an update as to where we are with this?
- Yes, on September 25th, actually on September 23rd we received a statement from Miss Dorff that was attached to your packets stating that she is withdrawing the complaint, actually giving us notice that she's withdrawing the complaint. A request was made that this be signed by Miss Dorff and she did so on September 25th. And I understand that document was circulated to Mr. Zima, Miss Dorff and the committee. And that's where we are today.
- And it's my understand that this document was filed with the City Clerk's Office, is that correct?

- That's correct.
- So it is part of the file?
- That's correct. It should be made part of the file.
- So, what's the process with this? With the filing of this? What do we do at this point in your opinion?
- Well, normally a withdrawal of a complaint is that there's going to be a refusal to prosecute. This Board is charged with the duty of having evidentiary hearings. It's hard to have an evidentiary hearing with only one party. When you look through the code I see nothing that would allow this committee to sanction Miss Dorff for withdrawal for example. In fact if a complaint is false the code specifically says that's it's a matter that is taken up at the Alder's own cost. Certainly this by we can't make constitutional findings. So we have no complaint to have an evidentiary hearing over. 'Cause there is only one party. And I imbibe to you the matter must be dismissed. I'd go as far as to say it also has to be dismissed with prejudice. The items complained of are in excess of a year old and the code's very clear that complaints can only be brought for items that are less than a year old. Of course, this Board only asked my recommendation. I would recommend to this board that they dismiss this matter with prejudice for failure of prosecution as stated in the withdrawal. It's very clear there's an intent to withdraw.
- Correct me if I'm wrong but we've had a number of prior proceedings here but had no one of those was there ever any evidence ever presented. Is that correct?
- That's correct.
- So really we only had the complaint and then we never, there were no witnesses ever sworn. There was no testimony ever given before this board so there's really been no presentation of
- Of evidence at this point, no.
- Okay.
- I also would note that that normally would lead to a dismissal without prejudice because there's been no evidence before the body. But again, here we have a different situation because the complaints are old.
- Board members, any questions from you of Mr. Kalny?
- Don't think so.
- So we have consideration of the request to withdraw. Mr. Zima is here and I'm sure you'd like to say something.
- [Guy] Of course.
- Is there a motion to open to the floor to allow Mr. Zima to address the board? I'll make that motion, is there a second?
- I'll second.
- All right, we have a motion and a second. All in favor signify by saying aye.
- [Together] Aye.

- Any opposed? Motion carries through. Mr. Zima the floor is open.

- [Guy] First of all I think I'd like to say that I think you can reject the request to withdraw. Miss Dorff has made these charges a year ago. She's put this community to great expense to bring what I consider false charges against me and now she does not want me to have a right to be adjudicated. Whether you have a right to, or the council or agency, your recommendation, the council has a right to inflict punishment or not I think is probably a moot point because I am out of office and all these things regarding a person who's in office. But, if you do have the right back lead the responsibility to adjudicate the matter, to decide whether it was fair and just accusation or whether it was false. I've been basically smeared in this community for the better part of a year regarding this matter. First and foremost I want an opportunity to clear my name. The council, Mr. Kalny advised that he felt it was a moot point and we shouldn't continue with the case. And went back to the council. The council rejected that and they sent it back to you to have a hearing. You sent the letter to me with that effect, Mr. Vande Castle. You said, since the council of June 20th, of June 19th, 2018 directive that the Ethics Board provide us with a hearing regarding the code of conduct complaint previously filed, so on and so forth, you were to schedule a hearing. So the council said, schedule a hearing. Now on this day, tell us whether you think meets the justification of a complaint or not and then we'll decide about it later. Again, the punishment is relevant.

- Let me ask you.

- [Guy] My character is what's at stake. If I just could continue. After that, the council opined on it a second time because one of the council members asked for reconsideration of their directive to have you have a hearing. A second time the council rejected that. And it was supposed to be set for hearing. And now Miss Dorff, and I don't know what the fear is, but doesn't want this case heard. The community I think has a great interest in it. I have a great interest in it. I plan to run for office again some day and this should not hang over my head. I think you should reject the request to withdraw and continue on or maybe you should ask her to pay for and send an apology to me for putting me through all of this without the intention of giving me a chance to defend myself against what I consider her false accusations. You know the filing of the complaint creates a great suspicion in the community. In leaving it un-adjudicated is equivalent to dragging a man behind a horse and leaving him in the mud to die. 'Cause that's where I'm at. I'm just this smeared muddy person. And I don't think it's any great stake for you to hear the case. Decide whether you agree with Miss Dorff or not and make your recommendation to council and the council to make theirs, and I will accept guilt or innocence as those bodies, yourself and the City Council find. Again, the council referred this back to the Ethics Board, not once but twice. I am the public awaiting adjudication on this matter. This is of great public interest. I'm asked about it all the time. What happened? What was it? We're going to leave this un-adjudicated? I think it's implicitly unfair to make accusations, which I consider false and to withdraw them in the name of, as Miss Dorff says, I believe it is irresponsible to spend more of the tax payer's money in pursuit of the complaint. What about the moral responsibility to give a person their day in court to be exonerated or found guilty. And it's of, it is of use to the council and the community to have adjudication in this matter. Because it tells them what's acceptable and what's not acceptable behavior. Is your board really going to set a precedent that's it's okay to file complaints before elections and drop them after elections? Leaving doubt as to the validity of the complaint. Elected officials get to accuse fellow officials without proof or adjudication? It's unfair and it's unjust and I believe it's beneath the community of everything our country stands for and what we stand for. You're the Ethics Committee. I can make complaints and I'm not going to hold you responsible for the mistakes of the newspaper, because they're a blunder at all times. But the paper said that this was an ethics complaint. Of course it's not an ethics complaint is it? It's just being heard by the ethics committee. It's a Code of Conduct.

- Exactly, so let me ask you, obviously you were on the

- You were on the council when this code was adopted so I know you're familiar with it. So under the Code of Conduct how do you propose we proceed without a complaint? The complaint's been withdrawn. There's nobody here to provide any evidence. There's never been any evidence presented before this body. So the

question I would have for you, I'm not disputing anything that you said, but the question I have is, what authority do we have to compel Alder Dorff to present her evidence if she's chosen not to?

- [Guy] Thought she sent you her evidence.

- What's that?

- [Guy] She's already sent you her evidence.

- No, we've seen no evidence. All we have is the complaint.

- [Guy] What is the greater good, the greater harm?

- I understand that but I'm asking you what authority do we have to proceed without a complaint. If she is no longer willing to pursue this for whatever reason, we don't

- [Guy] I think it's having the moral gumption of an Ethics Committee to do it.

- That may be the case but we're still operating under the Code of Conduct and that's what I'm asking. Do you see anything in the Code of Conduct that would allow us to proceed without there being a complaint because it's been withdrawn. I find none. But if you have something that you think

- [Guy] So people get to create great costs and great accusations and are allowed to withdraw it at the last moment without any repercussions?

- To my knowledge there's nothing in the Code to prevent somebody from withdrawing the complaint once it's been filed. I'm not aware of anything.

- [Guy] I think you're looking for something to get off the hook.

- That's unfair to say that.

- [Guy] It's unfair everything's that's been done to me. And this attorney and the city have really been working together to try to get this off of your agenda.

- Well there's no complaint.

- [Guy] They're doing their best to get it off your agenda.

- There's no complainant.

- [Guy] Well, when she was asked if she wanted to withdraw it before, she absolutely said no. And then the recommendation of this committee to the council was that it be dismissed, if it was ever dismissed maybe you know Mr. Kalny.

- I guess it would be dismissed. She on the basis that's there's no jurisdiction.

- [Guy] And the council sent it back and they said try it.

- [Bill] Right, and that was before Alder Dorff withdrew the complaint so that we're in a situation today where, I understand your concerns, they're legitimate concerns, but frankly from my opinion I see no basis for us to be able to proceed without there being someone here to present some evidence to us to make a decision on. There's no evidence for you to respond to because there is no complaint, it has been withdrawn.

- [Guy] What do I need to do? Make a complaint against Miss Dorff for false accusations and bring it before your committee to put back in front of you?

- I can't give you any legal advice.

- I would suggest you just speak with your attorney because we can't give you that advice.

- [Guy] I'm speaking rhetorically.

- I understand.

- [Guy] I'm not asking for your advice. I'm just speaking rhetorically. And that's what I'll do if I have to do it. This is, I'm bound and determined that this is going to come before you one way or another to give the justice it deserves. And you may well find against me. But I have a right to clear my name. I have been smeared in this community for a year and still the paper keeps writing garbage day after day that hasn't even been put into the open area.

- I get it. We, as you mentioned, we can't control what stated in the paper. We can only proceed based on what's in front of us and what was in front of us has been withdrawn. So we have nothing for us to proceed on.

- [Guy] Well, as I've told you, I felt that you could reject her request for withdrawal and tell her what just might happen if she doesn't go through, after all the torture she's put to me and my family and during my election in this community when I lost narrowly I think it was a contributing factor. I don't think it was the only factor. But it's all on the supposition of what I considered false accusations and how conflated it got in the news. Which is not her or your fault or mine. But it's just total unfairness and they've wiggled every which way to get out of it. This isn't over. We've gone through great expense. I don't know what Mr. Kanly's bill is but from prior experience I know it's in the tens of thousands. And I will apologize to you publicly if it's not. And on it goes, plus all of your time. She can come and waste everybody's time. She can make false accusations. Is this the precedent we're going to set? Are you going to allow her to get away with this?

- A complaint was filed. It went through the process. That complaint has now been withdrawn before any evidence was presented and we're at a situation where we need to move forward with this based on the fact that there is no longer a complainant. Again, anything further?

- [Guy] Someone had asked me if they could speak. I don't know if you're allowing other people to speak.

- No. It's not on the agenda. This is not a public forum for this. This is a proceeding regarding this matter. So is there a motion to close the floor?

- I'll make a motion to close the floor.

- We have a motion, is there a second?

- [Mark] Second.

- Motion and second to close the floor. All in favor signify by saying aye.

- [Together] Aye.

- Any opposed? Motion carries. All right, we have before us then consideration of the request by Alder Dorff to withdraw the Code of Conduct complaint against Mr. Zima. Is there a motion to grant that request and dismiss this matter with prejudice as Attorney Kalny indicated?

- [Mark] I'll make that motion.

- I have a motion, is there a second?

- [Patty] Second.

- We have a motion and a second. Any further discussion? Hearing none, all in favor signify by saying aye.

- [Together] Aye.

- Any opposed? Motion carries. Next item on the agenda is adjournment.

- Motion to adjourn.

- We have a motion to adjourn. Is there a second?

- Second.

- Okay, motion and second. All in favor signify by saying aye.

- [Together] Aye.

- Motion carried. We are adjourned, thank you.

- [Citizen] Will I have a chance to speak?

- It's not on the agenda sir. This is not a public forum. This is a hearing

- [Citizen] And ask you if I could

- And again, I explained to you, this is not a public forum tonight. It wasn't on the agenda for the floor to be open to the public. Thank you.