



## **MINUTES OF THE ETHICS BOARD**

**THURSDAY, NOVEMBER 12, 2020, 5:00 PM**

**Virtual Meeting. Public may join via Zoom.**

### **A. ZOOM MEETING INFORMATION.**

I. This item contains documents which provide call in information and instructions for the Zoom Meeting.

### **B. ROLL CALL.**

I. William Vande Castle, Chair; Alder Bill Galvin; Branka Bakovic; Chari Graham; Cheryl Renier-Wigg; Aaron Weinschenk

Present: Cheryl Renier-Wigg, Bill Galvin, William VandeCastle, Aaron Weinschenk, Excused: Chari Graham

### **C. APPROVAL OF THE AGENDA.**

I. Approval of the Agenda for the November 12, 2020 Ethics Board meeting.

Moved by Staff Cheryl Renier-Wigg, seconded by Ald. Bill Galvin to approve. Motion carried.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, No- None, Abstain- None

### **D. APPROVAL OF MINUTES.**

I. Approval of the Minutes from the October 28, 2020 Ethics Board meeting.

Moved by Aaron Weinschenk, seconded by Ald. Bill Galvin to approve. Motion carried.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, No- None, Abstain-None

## **E. REGULAR BUSINESS.**

I. Deliberations and possible action on Motions filed in the matter of the Ethics Complaint against Alder John Vander Leest, filed by Mr. Tarl Knight, under the City of Green Bay Code of Conduct for Elected Officials.

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governing body. The Board will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Moved by Staff Cheryl Renier-Wigg, seconded by Aaron Weinschenk to go into closed session.

Motion carried.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, No- None, Abstain-None

Moved by Staff Cheryl Renier-Wigg, seconded by Alder Bill Galvin to return to open session. Motion carried.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, No- None, Abstain-None

Moved by Alder Bill Galvin, seconded by Aaron Weinschenk to approve Findings of Fact and Conclusions of Law. Motion carried.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, No- None, Abstain-None

2. Decision and recommendation of the Board.

3. Discussion of further proceedings.

## **F. ADJOURNMENT.**

Moved by Ald. Bill Galvin, seconded by Staff Cheryl Renier-Wigg to adjourn. Motion carried.

Yes- Bill Galvin, William VandeCastle, Cheryl Renier-Wigg, Aaron Weinschenk, No- None, Abstain-None

## VERBATIM MINUTES

- We have a quorum. It's 5:03. Let's get this meeting going. So this is the--
- Sorry, hang on just one second, please, so I can make sure Shelby and I start the meeting at the same time. Shelby, are you still there?
- [Shelby] Yes, it's recording.
- Okay. Thank you. Hang on one second. I just got to get caught up in CivicClerk.
- We've got the Ethics Board Meeting for Thursday, November 12th, 2020. The meeting is being conducted via Zoom. We've got electronic roll call here and we do have quorum. So we'll move on to item C Approval of the Agenda, item number one. Is there a motion to approve the agenda for the November 12, 2020 Ethics Board Meeting?
- Motion to approve.
- We have a motion.
- Second.
- And I will second. So a motion and a second. Any additions or modifications to the agenda? Hearing none, all in favor of approval of the agenda signify by saying aye?
- [All] Aye.
- Any opposed? Motion carries. Thank you. All right, moving on to item D, Approval of the Minutes from the October 28th, 2020 Ethics Board Meeting. Did everybody get a copy of those minutes? All right.
- Yes.
- Are there any additions or corrections or modifications to those minutes? Nope. Hearing none, is there a motion to approve?
- Motion.
- So moved.
- We have a motion. Is there a second?
- Second.
- We have a motion and a second. All in favor of Approval of the Minutes from the October 28th, 2020 Ethics Board Meeting signify by saying aye?

- [All] Aye.

- Any opposed? All right, the motion carries. Moving on to Regular Business. Item number one, deliberations and possible action on motions filed in the matter of the ethics complaint against Alder John Vander Leest filed by Mr. Tarl Knight under the City of Green Bay Code of Conduct for Elected Officials. Just as a note, as reflected in the minutes, we did go into closed session last time for deliberations and returned to open session with no action was taken at that time, other than we directed Attorney Kalny on behalf of the City and the Ethics Board to prepare a draft of a set of findings of fact, conclusions of law, and recommendation based on our closed session discussions. That has been done. Has everybody received a copy of that?

- Yes I have.

- Sure, yes.

- That's been circulated among the board members. So the next step is to consider those findings. And we have the possibility of going into closed session. And I will read the required language here. The Board may convene in closed session pursuant to Section 19.85 sub 1 sub a of the Wisconsin Statutes for the purpose of deliberating concerning a case which was the subject of any judicial or quasi judicial trial or hearing before that governing body. The Board will thereafter reconvene in open session pursuant to Section 19.85, sub 2 of the Wisconsin Statutes to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda. So is there a motion to go into closed session?

- Motion to go into closed session.

- There is a motion. Is there a second?

- Second.

- We have a second. So we have to do this by a roll call vote. So just call out your name and your vote. So Bill Vande Castle, I vote yes.

- Aaron Weinschenk, I vote yes.

- Cheryl Renier-Wigg, I vote yes.

- Bill Galvin, I vote yes.

- All right. So we will adjourn. Is there anybody opposed? That's all of us I guess. So there's nobody opposed. So we will adjourn into closed session. And we would ask that, Mr. Knight, you can stick around here. We'll hopefully not be in there too long tonight. All right.

- Can't hear you, Bill.

- Bill, we can't hear you yet. Maybe Bill should call in. Lindsay, can you help him figure out how?

- Sure. Just bear with me one second, Bill. I'm going to send you the phone number to call and then the meeting ID and password, or passcode, whatever it's called.
- Can you hear me now?
- Can hear you, but you're real fuzzy.
- I just sent you an email with the details, If you do want to call in.
- Can you hear me now?
- Still breaking up really badly.
- All right, can you hear me now?
- Can hear you, but you're fuzzy.
- All right. I must of lost everything when I came back into the room. All right, we are back in open session. Just an update from closed session. Draft of the findings of fact and conclusion and decision--
- I'm sorry to interrupt, Bill. We will need a motion to go back into open session.
- Well, we made it in closed session. And it was roll call.
- Right, but you have to do that back in, do the actual, that actual vote, in open session. I double-checked with Vanessa, 'cause we didn't do that last time.
- Motion to go back into open session.
- Second.
- We have a motion and it's been seconded. Galvin seconded.
- Who seconded?
- I did, Bill Galvin.
- Thank you.
- All in favor, again, start by saying your name, and your approval or disapproval. Bill Vande Castle, I vote aye.
- Aaron Weinschenk, aye.
- Cheryl Renier-Wigg, aye
- Bill Galvin, aye.

- Thank you.
- So we are back in open session, which is the, recording again, are we back up?
- Did you ask if we're recording again? We are recording. Because I'm finding it really hard to hear you, Bill. I apologize.
- I'm having a hard time coming back this way too, when that happened. It was fine when we were in open session before, and went into closed session, it was difficult to get into. So I'll just try to talk louder. We're back in open session. We reviewed the proposed findings of fact and conclusions of law and decision that was discussed at the last closed session, and we made a few edits. And so we have the revised version that we reviewed in closed session. Is there a motion to approve those findings and decision and recommendation?
- So moved.
- We have a motion. Is there a second?
- Second.
- So we have a motion and a second. All in favor, signify by saying aye?
- Aye.
- Aye.
- Aye.
- Any opposed? All right. The motion carries. So the decision is, and for Mr. Knight and any others who were not in closed session. The actual decision will be made available in its full written format to everyone. It's about 11 pages long. But . Just to reiterate the recommendation from this Board, and Attorney Kalny, can you pull up the revised draft that you had before?
- If you could enable me to share, Lindsay?
- You bet. Hang on one second. You should be able to do it now.
- Thank you. Yep, there we go, it works. There we go. Okay.
- [Bill] And so the--
- Can you see it?
- [Bill] I will just read it. But based on the Findings of Fact and Conclusions of Law stated above, and upon all records and arguments in these proceedings, the Ethics Board of the City of Green Bay, pursuant to Section 8 of the Code of Conduct, decides and recommends to the Common Council as follows: Number one. That the Ethics Board lacks jurisdiction and authority to consider and decide whether Alder Vander Leest's conduct violates the First Amendment or the City's Personnel Policies.

And that First Amendment is the First Amendment of the U.S. Constitution. Number two. The most reasonable reading of Section 4 of the Code of Conduct, in context, is that it was intended to address conduct in public meetings and was not intended to address social media issues. Number three. The Code of...

- I think we just lost him. Lindsay?

- Aaron, you're Vice-Chair, would you mind, oh. Bill, are you back?

- Excuse me, Lindsay?

- [Lindsay] Yes, Alder?

- In the past, when some of the Alders have had trouble with Zoom meetings, they stay on the video portion on their laptop, but they call in by phone.

- [Lindsay] Mm hm.

- They turn off the audio on their computer and then they are able to converse via phone-in. That might be easier and more legible for the recording also. I don't know if it's worth the wait or if Aaron can take over too.

- I did send Bill the call-in information. I don't know if he was able to give that a try.

- [Bill G.] Okay.

- But Bill, if you don't mind, if Aaron could read the rest of it? 'Cause we're having trouble, it's really garbled.

- Okay, that's fine.

- Aaron, you're Vice-Chair, so if you wouldn't mind just reading the rest of it?

- Sure. No problem. Can everybody hear me okay?

- Yep.

- [Aaron] Yes? Okay.

- [Lindsay] Yes, thank you.

- I'll just read the second point again, 'cause I think that's where we kind of lost Bill there. The most readable reasonable reading of Section 4 of the Code of Conduct, in context, is that it was intended to address conduct in public meetings and was not intended to address social media issues. Point number three. The Code of Conduct does not expressly prohibit or otherwise give fair warning to an Alder that deleting the names of people or otherwise removing them from Facebook page constitutes a violation of the Code of Conduct. Point four. If the Common Council wishes to direct the Ethics Board to consider conduct of Alders on social media, that topic should be directly addressed in the

Code of Conduct. The Ethics Board will not extend its authority on its own without such direction. And the final point, point five, the Ethics Board therefore decides and recommends that the complaint in this matter be dismissed and that no sanctions be imposed on Alder Vander Leest for the conduct complained there in. And it will be dated for today. And Chair of the Board, Bill, will sign it with the Clerk's Office. I think Bill is trying to talk, but he is currently muted.

- Thank you. Do the Board Members have any questions? With that, I think we are ready for adjournment, unless anybody has anything else? Is there a motion to adjourn?

- I think we should address the next steps on the agenda, right?

- Attorney Kalny, do you mind if I stop sharing your screen?

- Sure, go ahead, and could you share, Lindsay, do you have the agenda handy? Could you share that for us?

- Sure.

- Yeah, I'll stop share right now.

- Thank you. Let me just pull that up. Give me just one moment, please. Can you see that? Are you seeing the agenda all of you?

- Right. So the next item is discussion and recommendation of the Board, we did that. Discussion of further proceedings. I think it's important that we just generally address where this matter goes from now for Mr. Knight's benefit, and to make sure we're all on the same board. If you'd let me share again, Lindsay, I'd like to put something up, back on the screen.

- You bet.

- Okay, thanks. Where's the Code of Conduct? I have it on here somewhere. Here. As you can see, this is part of Section 8 of the Code of Conduct. At the conclusion of the evidentiary hearing, the Ethics Board, following deliberation in open or executive session, shall submit a report to the Council. Our finding of facts, conclusions of law, and decision are that report. The Ethics Board shall provide the complainant and the individual charged with a copy of the report. After we have it executed, we will see to it that Alder Vander Leest and Mr. Knight have copies of that report. And then either the complainant or the person charged may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Council. And then ultimately the Council shall determine whether Alderman's argument shall be presented orally or in writing and take action on the recommendation within 60 days. We anticipate we'll have that document signed certainly within the next two weeks, probably within a week. And we should be in a position where we can recommend, make the recommendation to the Board well before, well within that 60 day period. I guess I turn it back to you, Aaron, as the co-chair, to complete the agenda.

- Can everybody hear me again?

- Yes.

- Yes.

- Okay. So I think then we have made it through the agenda, and we just need a motion to adjourn. Is that right?

- [Lindsay] Yes.

- [Aaron] Okay. Can I get a motion to adjourn?

- [Bill G.] So moved.

- [Cheryl] Second.

- And do we need to do a roll call?

- Nope. Just a voice vote is fine.

- All in favor of adjournment?

- [All] Aye.

- [Bill] Thank you, all.

- [Aaron] Thanks, everybody.

- [Lindsay] Thank you.