



City of Madison

City of Madison
Madison, WI 53703
www.cityofmadison.com

Meeting Minutes - Draft ETHICS BOARD

*Consider: Who benefits? Who is burdened?
Who does not have a voice at the table?
How can policymakers mitigate unintended consequences?*

Tuesday, December 17, 2024

4:00 PM

Virtual

The City of Madison is holding the Madison Ethics Board meeting virtually.

1. Written Comments: You can send comments on agenda items to ethicsboard@cityofmadison.com

2. Register for Public Comment:

- Register to speak at the meeting.
- Register to answer questions.
- Register in support or opposition of an agenda item (without speaking).

If you want to speak at this meeting you must register. You can register at <https://www.cityofmadison.com/MeetingRegistration>. When you register to speak, you will be sent an email with the information you will need to join the virtual meeting.

3. Watch the Meeting: If you would like to join the meeting as an observer, please visit <https://www.cityofmadison.com/watchmeetings>.

4. Listen by Phone:

(877) 853-5257 (Toll Free)

Webinar ID: 874 7018 2751

CALL TO ORDER / ROLL CALL

Chair Joseph Baring calls the meeting to order with a quorum present.

Staff present: Assistant City Attorney Amber McReynolds (Office of the City Attorney), City Attorney Michael Haas (Office of the City Attorney), Rebecca Braselton (Office of the City Attorney), Karen Kapusta-Pofahl (Office of the Common Council Office).

Present - Travis R. Austin, Chair Joseph B. Baring, Heather Daniels, Joanna E. Fransch, Vice Chair Mary Eileen Harrington, Alder Michael E. Verveer, Nadine C. Mobley.

APPROVAL OF MINUTES

Motion to approve November 25, 2024 Ethics Board meeting minutes made by Alder Michael Verveer. Motion seconded by Eileen Harrington. Motion to approve minutes passed by voice vote. All present members vote to approve, no objections.

PUBLIC COMMENT

1. Public comment

No public comment.

DISCLOSURES AND RECUSALS

No disclosures or recusals.

COMPLAINT HEARING

2. Hearing re: Ethics Board Complaint filed by Emily Samson against Shadayra Kilfoy-Flores

Chair Joseph Baring introduces the Hearing.

Board will hear from complaint parties: Complainant Emily Samson, Respondent Shadayra Kilfoy-Flores, and Shadayra Kilfoy-Flores's Attorney, Damon Etawlyah.

Chair Joseph Baring swears in Emily Samson – that the information Sampson will provide to the Ethics Board is true and accurate, to the best of their knowledge.

Complainant Emily Samson points out that Attorney Damon Etawlyah's hand is raised. Chair Joseph Baring acknowledges Attorney Etawlyah and allows them to speak.

Attorney Etawlyah has questions about the process: will the parties be allowed to question one another, and what "guardrails" are in place for keeping the focus on specific accusation that is the subject of the complaint. Chair Baring states that there will be opportunity to ask questions after hearing from complainant and respondent.

Respondent Shadayra Kilfoy-Flores raises hand and is called by the Chair. Kilfoy-Flores says that there are registrants for Agenda Item 1. Public Comment, but that they were not acknowledged. Asks for clarification.

Assistant City Attorney Amber McReynolds clarifies that Public Comment refers to general comments, and registrants wanting to speak specifically regarding the hearing (agenda item 2) will have indicated this during registration and will be acknowledged in due course during the Hearing of the Complaint (agenda item 2).

Staff Member Rebecca Braselton confirms and tells Chair that there are two public registrants for agenda item 2, and the names have been sent to the Chair via email.

Madison City Attorney Michael Haas informs the Chair of the ordinance (Madison General Ordinance 33.01(9)(e)) regarding public comments: "Public comments are not allowed in quasi-judicial hearings on contested matters, nor

to deliberations concerning such hearings on contested matters...". Thus, public comment is not allowed on this contested matter, but witness testimony is allowed.

Chair Baring reviews registration of two names and nature of their intended comment. Chair confirms with responded Kilfoy-Flores that registrants intend to give general statements and are not witnesses.

Attorney Etawlyah adds that he does not indent to call on the registrants and that the hearing should move forward.

Eileen Harrington asks that the City of Madison Tech Facilitator/Staff make new public comment registrants aware of MGO restrictions regarding public comment during this hearing. Jesse Poole, Madison City Channel's Director for this hearing, confirms that all current registrants were able to hear the discussion and should be aware.

Complainant Emily Samson gives her statement on the complaint, alleging Respondent Shadayra Kilfoy-Flores violated MGO 3.35.

ACA McReynolds asks Chair Joseph Baring if he can see Attorney Etawlyah's raised hand.

Chair advises that each party will provide their statement then answer questions, then allows Attorney Etawlyah to ask that Samson avoid speaking about the internal investigation and nature of the police call, and subsequent charge of Kilfoy-Flores' daughter, and instead focus on the incident at the center of the complaint.

Samson continues her statement.

Chair Joseph Baring stops Samson's statement to say that she should stay focused on the actual event that is focus of the hearing.

ACA McReynolds reminds the Chair and Board Members that they can hear all information provided in the statements, including issues of credibility and bias, and that it's the board's purgative to decide relevance of that information in their decision. Both parties can talk about things that bring up credibility and bias and it's up to the board to weigh that information.

Samson continues her statement.

Samson plays a segment of squad video from the incident:
<https://media.cityofmadison.com/Mediasite/Play/ac230e9c71a94e4b8400e07216fc69331d?playfrom=3115000>

Samson offers to read the notarized statement provided by Police Officer Ryan Kimberley. Because the Ethics Board members and parties have the statement, Chair Baring suggests reading the statement aloud is not necessary.

Attorney Etawlyah questions Samson.

Ethics Board members question Samson.

ACA McReynolds clarifies the order in which the questions vs. discussion should proceed.

Chair Joseph Baring swears in Shadayra Kilfoy-Flores – that the information Kilfoy-Flores will provide to the Ethics Board is true and accurate, to the best of their knowledge.

Attorney Etawlyah offers to direct Kilfoy-Flores' statement with questions, which Kilfoy-Flores accepts.
Attorney Etawlyah questions Kilfoy-Flores.

ACA McReynolds advises Attorney Etawlyah that both parties should give closing statements after questions and before discussion.

Ethics Board members question Kilfoy-Flores.

ACA McReynolds advises that in keeping with the hearing format, Samson be allowed to question Kilfoy-Flores. ACA McReynolds notes that this was accidentally skipped over.

Samson does not have any questions for Kilfoy-Flores. Ethics Board members resume questioning Kilfoy-Flores.

Complainant Emily Samson delivers their closing statement.

Attorney Damon Etawlyah delivers closing statement for Respondent Shadayra Kilfoy-Flores. Shadayra Kilfoy-Flores delivers additional remarks to their closing statement.

ACA McReynolds explains parameters for Closed Session Discussion.

Chair Joseph Baring asks for vote on if Ethics Board Members are interested in entering a closed session. Member vote by hand in favor of closed session.

Haas explains options: Board can adjourn in closed session or set an amount of time for closed session.

Alder Michael Verveer is prepared to make a motion to enter closed session and asks for Ethics Board Members' opinions on whether to adjourn in closed session or set a time on the session.

Travis Austin suggests that they adjourn in closed session then notify all interested parties of the outcome.

Chair Joseph Baring asks for vote on if Ethics Board Members are interested in adjourning after a closed session. Member vote by hand in favor of adjourning after deliberating in closed session, then notifying parties of decision after adjournment.

Motion was made by Alder Michael Verveer to enter a Closed Session pursuant to sec. 19.85(1)(a), Wis. Stats., for the purpose of deliberating concerning the case which is the subject of quasi-judicial hearing that they just heard. If the Board does vote to convene in closed session, notice is hereby given pursuant to section 19.85(2), Wis. Stats., that upon completion of the closed session, the Board may reconvene in open session to discuss the above matter without

waiting 12 hours. Further that it would be the intent of this motion that the board not reconvene in open session, but rather, adjourn this evening in closed session upon the conclusion of our deliberations.

Motion seconded by Eileen Harrington.

Roll call vote:

Eileen Harrington: Aye
Alder Michael Verveer: Aye
Joanna Frasch: Aye
Nadine Mobley: Aye
Travis Austin: Aye
Heather Daniels: Aye
Chair Joseph Baring: Aye

Unanimous vote in favor of adjourning in closed session, then notifying parties of decision.

3. DISCUSSION: POSSIBLE CLOSED SESSION

Motion was made by Eileen Harrington for a five-minute break. Motion seconded by Joanna Frasch.

6:08 p.m. Roll call: All members present.

Ethics Board Members deliberate on whether Kilfoy-Flores violated the City of Madison's Ethics Code.

ACA McReynolds advises Ethics Board Members not to take into account whether the parties had an attorney present.

During the discussion, Madison City Attorney Michael Haas answers a question from Board Members that yes, Ethics training was given at first Civilian Oversight Committee meeting in 2020. All City officials are subject to the Ethics Code regardless of if they've received the training.

Discussion.

Travis Austin Makes motion that the Ethics Borad finds Shadayra Kilfoy-Flores violated the City of Madison Ethics Code found in Madison General Ordinance 3.35(5)(a)1 when she attempted to use her office to gain an advantage, privilege or treatment for the private benefit of herself or her immediate family.

Eileen Harrington seconds the motion.

Roll call vote:

Eileen Harrington – Aye
Alder Michael Verveer – Aye
Joanna Frasch – Aye
Nadine Mobley – Aye
Travis Austin – Aye

Heather Daniels – Aye
Motion passes unanimously.

Ethics Board Members discuss possible sanctions.

Alder Verveer asks ACA McReynolds if there is a precedent. ACA McReynolds states that they have not found one.

Motion made by Travis Austin that the Ethics Board recommends to the Common council that Shadayra Kilfoy-Flores be barred from any position or City committee for twelve months.

If appointed after that time, Kilfoy Flores will be trained in the Ethics Code on first day of appointment.

Eileen Harrington adds to this appointed to any city boards, commissions, or committees.

Eileen Harrington seconds the motion.

Haas recommends that if the intention is to include Eileen Harrington's addition, motion must be amended.

Discussion.

Travis Austin amends motion to recommend a sanction that Kilfoy-Flores not be appointed to a City board, commission or committee for a period of 12 months and that, and that if she is appointed to a City body in the future that she undergo training regarding the Ethics Code during the first month of service.

Eileen Harrington seconds the motion.

Roll call vote:

Eileen Harrington – Aye
Alder Michael Verveer – Aye
Joanna Frasc – Aye
Travis Austin – Aye
Nadine Mobley – Aye
Chair Joseph Baring - Aye
Heather Daniels – not present (excused to leave before vote)

Motion passes.

Travis Austin makes motion in favor of notifying parties of decision and forthcoming recommendation to common council as soon as possible after meeting adjournment/tonight.

Eileen Harrington seconds the motion.

All present Ethics Board members vote in favor – motion passes.

ADJOURNMENT

Travis Austin makes motion to adjourn. Motion seconded by Eileen Harrington.
Motion passes by voice vote.

Adjourned at 7:54 p.m.