

MILWAUKEE COUNTY ETHICS BOARD

Minutes of the Tuesday, February 6, 2007

2:00 P.M.

Courthouse, Room 203-P

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Present: Daniel Hanley, Jr., Chairman  
Hannah Dugan, Vice Chairwoman  
Brother Bob Smith  
Rebecca Blemberg- via telephone

Absent: Paul Linn  
Reverend Trinette V. McCray

Also present: Charles Blumenfield, Independent Counsel  
Robert Andrews, Deputy Corporation Counsel  
David Carr

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1.0 Roll Call

Roll call was taken. There was a quorum. Paul Linn and Reverend Trinette V. McCray were absent. Brother Bob announced that he could only stay for an hour since he had to be at a funeral to give a eulogy. The Chairman noted that once Brother Bob left, the Board would no longer have a quorum.

2.0 Approval of the Minutes for the Meeting of December 7, 2006

Brother Bob moved, Ms. Dugan seconded, and the Board, by vote (4-0), approved the minutes for the meeting of December 7, 2006 as written.

3.0 Report from the Executive Director

The following matters were laid over to the next meeting in the interests of time:

- 3.1 Status Report for 2007 Statement of Economic Interests Filers
- 3.2 Ethics Board Members Attendance Report 2005 and 2006
- 3.3 2007 Adopted Ethics Board Budget
- 3.4 Ethics Board Policy Regarding Co-Initials by Board
- 3.5 Virchow, Krause & Co. Auditor Comments in the Memorandum of Internal Control Dated December 31, 2005

4.0 County Executive's Appointment of David Carr to the Ethics Board. Status of Confirmation.

The Chairman welcomed and introduced the County Executive's appointment, David Carr, to the Board. Mr. Carr was to fill Ms. Dugan's expired term. The County Board of Supervisors will vote on the appointment at the March 1, 2007 Board meeting.

5.0 Report of the Chairman

5.1 Report Back from Corporation Counsel Regarding a Legal Advisory on the Solicitation of Funds and/or Services to and from Private Entities Subject to the Code by Persons Who are Subject to the Ethics Code.

The Board received a legal advisory from Deputy Corporation Counsel Robert Andrews on solicitation of funds.

5.1.2 Milwaukee County Christmas Party. Background and Resolution for Board Action

Deputy Corporation Counsel Andrews expressed concerns that a resolution prepared by Ms. Dugan on the above topic did not name any individuals who had violated the ethics code, but rather found the event itself in violation of the code. There were also factual errors in that no business associated with Milwaukee County was solicited nor was the event closed to the public. He argued against adoption. Ms. Dugan said the Board did not need to identify an individual since no investigation was being opened. She viewed the resolution as an advisory opinion. Her facts were based on information and belief. Chairman Hanley stated that County staff had been used to solicit fruit, cookies and punch for the exclusive use of County employees and their children. The invitation did not say the party was open to the public and the building was open on a Saturday. He compared it to a coach soliciting funds for a team when the coach was also a building inspector. People were afraid to refuse to donate for fear the coach would retaliate with building code citations. Attorney Andrews stated the comparison was not comparable. Ms. Blemberg did not think it was fair that Milwaukee county resources were being used to benefit the children of county employees.

*MOTION: Ms. Dugan moved the adoption of her resolution with the provision that the title be amended to read advisory opinion, that the therefore clause be amended to strike the word "resolves" to read "opines" and that the adjective "potentially" be added before the word "violates." Ms. Blemberg seconded. The Board voted (4-0) on the amendments and voted (4-0) on the motion as amended.*

Attorney Andrews asked what the impact of the resolution was, since he did not believe it was an advisory opinion. The Board needed to adhere to the ethics code provisions when they issued a resolution. A resolution was a precursor to an investigation of an individual, with notice and due process to be applied. Chairman Hanley stated that the Board was sending a message that the use of public staff and resources to solicit private vendors who did business with the County was a violation of the code. The employees and their children were receiving substantial benefits. Ms. Blemberg stated that since the language about violating the code was taken out of the resolution, there was no code violation, but that the message was sent that organizers needed to make inquiry before making solicitations.

Ms. Dugan stated that the staff should prepare an amended copy of the resolution and distribute it to employees as part of the education program.

5.2 Letter Dated January 5, 2007 from County Treasurer Daniel Diliberti Asking, as a Volunteer, about the Solicitation of Funds by the Veteran's Service Office for the Families of Veterans. Diliberti Response to the Chairman.

Ms. Dugan commended Treasurer Diliberti for making inquiry about the situation prior to soliciting for the Veteran's Fund. She noted that the State statute Mr. Diliberti cited, 45.10, in his letter no longer existed and that the new State law 45.86 now included a special tax for veteran's families, so there was no need for a special fund. Ms. Dugan had prepared a resolution stating that the solicitation process violated the ethics code. Chairman Hanley stated that the other signers of the letter were using their titles and positions to solicit funds for the Veteran's Fund. Such funds were not accounted for in the usual process and departments should stop making solicitations unless they were approved by the County Board. Attorney Andrews reminded the Board that if they were going to accuse employees of violating the code, they needed to open an investigation and provide the accused with an opportunity to defend themselves against the accusations made. He did not see where there was private gain by engaging in fund raising for veterans. The proposed resolution stated that the employees violated the code, but the activity they were accused of was not a code violation. The Ethics Board said, in the past, it was alright for the Parks Department to solicit funds for their activities, but now contradicted themselves by saying the Veteran's Department could not do the same thing. Chairman Hanley said there was personal gain because some of the elected officials could pay for the mailing of the letter out of their campaign funds, and should. Attorney Andrews stated that the gain had to be something of substantial value, not an indirect benefit. Ms. Dugan stated that her understanding was that an elected official could not accept anything of value. Brother Bob wondered, if the Board made too strict an interpretation, if it would then become a code violation for a supervisor to respond to an invitation to participate in a Child Diabetes Walk, since it may benefit him with recognition or votes.

*MOTION: Ms. Dugan moved to amend the proposed resolution where it stated “violates” in all the resolve clauses to read “could violate.” Ms. Blemberg seconded. The motion failed for lack of four affirmative votes by vote (3-1).*

Ms. Dugan asked that a response be sent to Treasurer Diliberti that continuing to solicit funds for the Veteran’s might be seen as a code violation. Brother Bob expressed concern that funds were being solicited, but weren’t being audited. Ms. Blemberg stated that officials who partake in fund raising efforts should not use their official titles. Attorney Andrews stated that Treasurer Diliberti had requested a confidential advisory and that the matter s should have been discussed in closed session, but was not appropriately scheduled as such. Board members noted that they were not aware the request was made as a confidential matter.

*MOTION: Ms. Dugan made a motion for an investigation regarding the solicitation of funds by the Acting Director of the Veteran’s Department and any other employee involved in the solicitation of funds for the veteran’s families. The motion failed for lack of a second.*

Chairman Hanley asked that the matter be laid over to the next meeting to allow for the draft resolution to be adjusted. Attorney Andrews noted that if the matter was to be discussed in closed session, that it be so noted on the agenda.

Brother Bob announced that he would have to leave. Chairman Hanley noted that the following Items would be laid over to the next meeting:

- 5.3 Ethics Board Letter to the County Clerk to Send Out Notices to Lobbying Principals for Expense Reports and to Hold Over the Investigation of the Zigman Complaint to Allow for the Filing of Rana Development’s January 31, 2007 Expense Report.
- 5.4 Report Back from Corporation Counsel Regarding the Letter Dated September 28, 2006 from the Marketing Firm of Zigman, Joseph and Stephenson, Inc. the Failure to Register and Illegal Lobbying Activities of Rana Development and its representatives, Asif Rana, Randy Crump, Linda Bedford, and H. Carl Mueller
  - 5.4.1 Status Report from Corporation Counsel on the Ethics Board Resolution of December 7, 2006 that there was Probable Cause that Darla Richards May have Violated Section 9.05(2)(1) of the Milwaukee County Ethics Code and that She Should Be Given Notice of this via a Mailed Resolution within 10 Days. Response from Darla Richards.

- 5.5 For Information, Ensure the Dissemination of the Ethics Board Action on December 7, 2006 that Corporation Counsel's Legal Opinion of July 2, 2004 to Chairman Holloway no Longer Provided a Safe Harbor Against the Provisions of the Ethics Code and Chairman Holloway's Vote on Section 8 Funding.
- 5.6 Report Back from Corporation Counsel on the Legal Advisory Regarding the Acceptance of Tickets for Any Events by Persons Subject to the Ethics Code Based on the Recent Opinion to the Marcus Center.
- 5.7 Letter of Request dated January 16, 2007 from Supervisor Joseph Rice for a New Ethics Board Designee to the County Board's Ethics Code Study Committee.
- 5.8 Revisions to the Forms for Statements of Economic Interests

6.0 Committee Reports

Chairman Hanley announced that, although Ms. Dugan was no longer on the Ethics Board, she would remain as his delegate to Supervisor Rice's Ethics Work Study Committee for their meetings.

7.0 Adjournment

Ms. Dugan announced that this would be her last meeting of the Ethics Board and the Board members wished her well. Chairman Hanley asked the Board when they could next meet and the consensus was for March 5 or 8, 2007. Ms. Dugan moved, Chairman Hanley seconded, and the Board voted (4-0) to adjourn.

Respectfully Submitted,

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Susan C. Shields, Executive Director