



BOARD OF ETHICS

SPECIAL CALLED MEETING

Steven Blaske, Chairman
Kevin Bahr
John Francis

Janet Webb
Wade Wright

MINUTES

September 12, 2013

A. CALL TO ORDER

Chairman Blaske called the meeting to order.

B. ROLL CALL

Board Member Francis was absent. All other members were present.

C. MINUTES

1. Approval of Thursday, August 29, 2013 Board of Ethics Meeting Minutes.

Board Member Wright moved to approve the minutes. Board Member Bahr seconded.

Passed: For: 4; Against: 0; Abstain: 0; Absent: 1.

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

There were no organizational or procedural items.

E. UNFINISHED BUSINESS

There was no unfinished business.

F. NEW BUSINESS

1. Appointment of Vice-Chairman.

Board Member Wright nominated himself as Vice-Chair. Board Member Webb seconded.

Passed: For: 4; Against: 0; Abstain: 0; Absent: 1.

2. Administer Oath of Office to Kevin Bahr.

Chairman Blaske noted that Board Member Bahr was sworn in during a previous meeting and is a full member of the Board.

3. Deliberation and Vote on Counts 1 and 2 of Steven T. Chipka's Ethics Complaint Against Dr. Adrian Bonser.

- DENNIS STILL Mr. Chairman, I submitted a written findings of fact, conclusions of law and recommendation. I can read that word for word, but you all have been provided a copy of that, so I assume you all have read it or looked at it prior to this occasion. I can go -- I can elaborate, but I don't know, unless you have questions, I don't -- I'd prefer just to leave it at that.
- STEVEN BLASKE Yeah, I was going to suggest that we ask you questions as opposed to you having to read it to us, 'cause I think it's not that lengthy --
- DENNIS STILL We can all read.
- STEVEN BLASKE -- and we all have read it, yes. Yes, it's -- I'm not sure if it's one of the obligations or one of the prerequisites to office, but I think we all can read.
- DENNIS STILL Right.
- STEVEN BLASKE Does anybody have any questions?
- I actually have a question if nobody else does. One of your conclusions, and I don't think that it nec- -- that your decision necessarily hinges upon it, but one of the things that you indicated was that Mr. Chipka had not provided any documentation of his claims. I don't know that that's the exact words that you used, but --
- DENNIS STILL Well, what I said, is, in his complaint, he didn't provide those things. I think later on, he's provided volumes of stuff, but when you read the ethics ordinance itself, it says, he's supposed to be specific; he's supposed to attach documents, and none of that happened at that time, or at least, it wasn't as I saw it with that.
- STEVEN BLASKE OK. [CROSSTALK]
- DENNIS STILL So that's -- now, he did provide these documents, but at a later time, and like I say, it's a stack of 'em, and I've read 'em, probably you all of have read them or seen them too --
- STEVEN BLASKE Yes.
- DENNIS STILL It's -- it's -- it's a stack of 'em, but that's what I was addressing. At the time of the complaint, they were not attached.
- STEVEN BLASKE OK. Then let me ask a question. What my first question was going to be -- whether in fact you had been made aware of that or had the documents, and I thought you had, and you've explained that really well. I guess the question I have is, even if those had been attached or apart, and I realize they were not, but even if they had been attached or apart of the original submission, would that have changed your position as to the worthiness of his complaints?

- DENNIS STILL As a matter of procedure, I think he was in default in the complaint itself. But that is the reason at the -- we had gone through so much on this thing. We had gone back and forth in setting up the hearing, and in my judgment, at the hearing that we had, arguably we could have ruled in favor of Mrs. Bonser's motion filed by her attorney, but in my judgment, we -- with one more hour, we could settle this thing and raise the substantive issues, and I think that's always wise to let people come out and raise their issue, particularly -- we got that far. If it was dismissed early in the game, then wouldn't need to go into it, but since we had gone so far, in my judgment, I thought we should go forward with the actual issues as presented, even though presented in a disjointed way, they were presented, and I think -- it -- I analyzed his case in my findings of fact, and in my opinion, he had no -- there was no substantive basis to what he had to say. Forg- -- assuming for a minute, he was procedurally correct, then in fact, I think he was in default.
- STEVEN BLASKE Yes, and that -- that's what I was asking.
- MALE But you seem to give him benefit of the doubt, inasmuch as he had submitted it at some point in time, because in your --
- DENNIS STILL Right. And that's what I'm doing -- I'm --
- WADE WRIGHT -- conclusions of law, number 12, you said very clearly, the evidence that he did submit was frivolous, unjustified, derogatory, disrespectful, condescending, all of which result in unfounded and unsupported allegations of ethical misconduct, so --
- DENNIS STILL That's my findings, yes, sir.
- WADE WRIGHT And that was what I interpreted.
- STEVEN BLASKE Yeah, OK, I just wanted -- because he had mentioned his not submitting it, I wasn't sure whether you meant, with the complaint, or there was some concern that you hadn't seen the documentation, but I'm pleased to know that you have, and that it does not change your conclusion.
- DENNIS STILL Doesn't change it one iota.
- STEVEN BLASKE Great, great, OK.
Any other questions?
- JANET WEBB No.
- STEVEN BLASKE OK, thank you.
- KEVIN BAHR [INAUDIBLE]
- WADE WRIGHT Yes?
- KEVIN BAHR Could you quantify your fees incurred in the processing of this matter?

- DENNIS STILL I added things up, and consider my pending bill and everything, it's going to be above \$3000 in my fees. Now, I left that blank, because I think, under that particular code section, and y'all probably have reviewed it yourself, I think it allows you to do that. I'm not aware of anywhere that it says the amount has to be at least this or less than that, or what you use, --
- KEVIN BAHR Yes.
- DENNIS STILL -- so I -- it's basically your judgment, but to answer your question directly, my bill is going to exceed \$3000. In fact, I've already billed the city \$3000, not counting the time today, not counting -- can't remember if the time on the -- putting together the report was -- is included in that or not. But it's going to be over \$3000.
- JANET WEBB No, it w- --
- DENNIS STILL And then, you know, that doesn't account the city's time. I don't think we're allowed -- and I think there was some question at some point about this -- I don't think we're allowed -- although somewhat you might -- think it might be appropriate -- I don't think the statute allows to reimburse Dr. Bonser for the efforts that she's expended on behalf of this. It talks about cost in relation -- and I apply that to the city's cost. Now they may argue different [sic], but that's my feeling.
- JANET WEBB Would it be fair to say that it would be close to \$3500?
- DENNIS STILL Yes. And that's the reason I left that blank. I think y'all kinda have to come up with a number. I couldn't dare draw a number out of the air as to what you ought to use. But it will -- yes, \$3500 is gonna be close.
- STEVEN BLASKE Well, my understanding is that it is your job to issue the report. It is our job to make a recommendation to city council, and it's ultimately, the city council's job to issue a final decision. I think that's how it works, but --
- DENNIS STILL I think that's -- I agree. I make a recommendation. You can go up, down or sideways with that recommendation. And the council will take your recommendation, and again, they can go up, down or sideways --
- STEVEN BLASKE Correct.
- DENNIS STILL -- with that recommendation also, but --
- STEVEN BLASKE Well, I have a question for you that perhaps would take you're your -- into account your experience in municipal matters and in matters such as these, more so than really in the facts of this case. It is my understanding that when city officials, members of city council and the like find themselves doing what could be deemed to be city business, and they expend some money on their own that it is not unusual or unheard of for the city to decide to reimburse someone for the expenses that they've had, and I don't think that we can directly reimburse or that the city can directly reimburse Mr. Bonser for everything, but I do think that she could ask the council to pay her expenses, and I think there is precedent for that, but I don't know

whether you would consider that to be ordinary or appropriate or usual versus unusual, and in that way, I guess it would become a city affair, because it troubles me, quite frankly, let me tell you what the underlying issue is to me, Mr. Chipka made his claims in emails and telephone calls, in approaching people, against almost everybody in the city, I mean, from the police chief to the mayor, to Ms. Bonser, but he chose only one person to actually bring an ethics complaint against, and the result of that was that that [sic] one person went to great expense and trouble in order to defend that, and I'm not sure why that shouldn't be a city expense in a way as well, I don't think we can directly charge Mr. Chipka for that unless the city believes that is their expense and then charges him as a city expense, sort of a two-step process. But it doesn't seem to me that that [sic] would be inappropriate, but I was curious what your reaction to that would be.

DENNIS STILL Well, a city official in carrying out the duties of their office, are entitled to ask their council to do that. I'm not sure if some cities have a [sic] ordinance that says, if somebody's in the performance of the duties of their office, they'll be reimbursed or provided an attorney or something like that. Usually that happens up front, that is, that councilperson would go to the council and ask for defense, and usually you see this in the situations of civil suits, not these -- or that's where I've seen it. These are somewhat unusual, that is, ethics complaints, they're certainly not as pervasive as a civil suit, and it's usually, for instance, a police officer, in the performance of their duty, they get sued personally for doing or not doing something that the city or the insurance carrier for the city will provide a defense for that person. But d- -- Sharon may can answer if there's a city ordinance that addresses that. If not, it's ultimately up to the mayor and council to make that decision if they deem it appropriate to reimburse reasonable and necessary expenses to defend something such as this.

STEVEN BLASKE OK.

WADE WRIGHT You characterized it as a frivolous complaint.

DENNIS STILL Yes, sir.

WADE WRIGHT And that gives council, then, if we send it forward, that way, it gives council leeway to seek compensation from the complainant.

DENNIS STILL Yeah, well --

WADE WRIGHT -- covered cost.

DENNIS STILL I'm not sure that Dr. Bonser can directly seek reimbursement from --

WADE WRIGHT No, no, I'm --

DENNIS STILL -- Mr. Chipka.

WADE WRIGHT -- I'm talking about the city now.

DENNIS STILL Oh, OK. All right.

- WADE WRIGHT At this point.
- DENNIS STILL I heard you --
- WADE WRIGHT That's my first part of my statement that --
- DENNIS STILL I think she's certainly entitled to request that. It's a judgment call by the mayor and council, and she would be certainly -- argue that she was just carrying out her duties of her office and was the victim of this situation, but I'm not sure this body or I am in a position to recommend that.
- WADE WRIGHT No, but we can recommend to the council that they seek compensation from the complainant for the frivolous --
- DENNIS STILL Yes.
- JANET WEBB Yes.
- WADE WRIGHT -- complaint.
- DENNIS STILL And that's my --
- WADE WRIGHT And to recapture your --
- DENNIS STILL -- that is part of my recommendation.
- WADE WRIGHT -- costs. And we have two council members here, so they're hearing it in advance, but should we decide to do that, but question about -- and perhaps this is getting a little too far afield, but would Dr. Bonser not have redress in the courts? Inasmuch as --
- DENNIS STILL I haven't done any research, but I think probably not --
- ATTORNEY I don't know that she's moved for fees in this proceeding.
- DENNIS STILL See -- well, and you see, a public figure, for instance, and I'm not saying it falls to this -- or rises to this level or it doesn't, but a public figure, and a councilperson is that, she could consider libel and slander for these kind of things, but I think it's highly unlikely she could ever recover on that. Now that's my personal opinion. Her attorney may disagree with that.
- WADE WRIGHT I understand.
- DENNIS STILL But -- that would be a civil way that she could consider this, but if you're a private citizen, those things work. When you're an elected public official, it's very difficult to pursue those matters. You're asking me to get out into something that really p- [CROSSTALK] --
- WADE WRIGHT No, I understand. I understand. I -- I'm just thinking ahead here.
- DENNIS STILL But I, you know, I do agree that she's been done unfairly in this, but what

you do from there is --

STEVEN BLASKE OK. Does anybody else have any questions for Mr. Still?

KEVIN BAHR On a technical matter, I just wanted to nail down the legal fees with certainty. We know to thou- -- we know we're beyond \$3000.

DENNIS STILL Yes.

KEVIN BAHR The question was, are you \$3500, and the answer was, we're at or around it. I'd like some clarity on whether you'll be north of \$3,500?

DENNIS STILL I am. OK, let's see here.

STEVEN BLASKE Kind of depends on how long that we talk to him tonight.

WADE WRIGHT The clock is ticking.

DENNIS STILL Well, I have my billing here, and the last thing that's on this billing was a -- the appearance for this hearing on the 29th. I spent time preparing this. I don't remember how many hours I put down for that. I'll end up with about two hours coming and going here. I'm billing \$150 an hour. That's the negotiated rate. So that's -- be \$300. I can't imagine I didn't put down at least two hours for putting this brief together, I mean, this report, because I wrote it about three times before I felt comfortable to publish it to you and anyone, so it would surprise me that it wasn't at least another \$600.

STEVEN BLASKE And it seems to me that since we're making a recommendation to council, not really an order, that it could be in the form of -- that they award -- that they charge Mr. Chipka with whatever amount --

KEVIN BAHR Actual bill.

STEVEN BLASKE -- exactly that turns out to be, as opposed to trying to figure out -- to pin him down tonight as to how long it's going to take him to get home.

MALE [INAUDIBLE]

DENNIS STILL It -- that probably would be appropriate, and the amount is billed, that the total amount is billed by me, if that's what you wanted to -- if that's the target you wanted to use, because by the time -- well, I'm assuming after this hearing, that'll be the end of it, so I can turn in a final bill for my part, and Sharon will have that in a few days.

STEVEN BLASKE OK. Is there any discussion of Mr. Still's report and what we've heard tonight from any member?

MALE [INAUDIBLE] Any more questions for Mr. Still?

STEVEN BLASKE Oh, I'm sorry I thought I asked that. Are there any more questions for Mr. Still from the board? OK.

JANET WEBB Thank you.

STEVEN BLASKE OK. Is there any discussion?

[INDISTINCT CONVERSATIONS]

WADE WRIGHT We were just discussing the point of whether or not we should give Mr. Chipka a real quick brief on what's been said after the hearing officer delivered his report, but I'm not sure, inasmuch as, you were notified of the appropriate time that we need to do that, --

MALE [INAUDIBLE]

WADE WRIGHT -- do you have an opinion on that, Judge?

DENNIS STILL Yes, I do, I mean, the hearing for him was before. I'm to make a recommendation, the jury -- you're the jury; that's the way it -- attended in that, and once I make my report, it's up to y'all. I don't -- I think it's -- I don't really think it's proper that you hear from Dr. Bonser or --

WADE WRIGHT I wasn't suggesting we hear from -- and no one else speaks at this session --

DENNIS STILL OK.

WADE WRIGHT -- other than you.

DENNIS STILL Oh, OK. I thought you were talking about [CROSSTALK] --

MALE No, just whether --

DENNIS STILL [CROSSTALK]

MALE -- we should just recap the last few minutes, for his benefit, since he [UNINTELLIGIBLE], --

DENNIS STILL Oh, OK.

MALE -- so.

MALE [INAUDIBLE]

STEVEN BLASKE I don't personally feel comfortable trying to --

WADE WRIGHT -- characterize it --

STEVEN BLASKE -- characterize somebody else's words --

WADE WRIGHT OK.

STEVEN BLASKE -- I don't know if we want to ask --

JANET WEBB No, I don't think we --

- STEVEN BLASKE -- to do -- to restate everything he stated --
- WADE WRIGHT [?No?Yeah?], [?that you want?] to clarify --
- STEVEN BLASKE OK. Any discussion?
- JANET WEBB No, well, I have a question, Mr. Chairman. So, depending on the recommendation to the board by the hearing officer, Mr. Still, then are we going to address each of the three? Or are we going to take 'em seriatim?
- KEVIN BAHR I move that we accept the recommendations, [INAUDIBLE] --
- JANET WEBB But then we would have to add the dollar amount.
- KEVIN BAHR Correct, but I would [CROSSTALK] --
- STEVEN BLASKE Or leave it to the city.
- KEVIN BAHR -- [INAUDIBLE] that the actual amount's billed and paid by the city, for his interrogation, his proceeding, Mr. Still, those that are assessed.
- JANET WEBB Oh, OK.
- STEVEN BLASKE Yeah, I wouldn't think we would have to specify the specific amount at this point --
- JANET WEBB OK.
- MALE -- because it's really not determined. It depends on how long, as we said, we keep talking to the judge.
- JANET WEBB But I thought that was --
- DENNIS STILL How long [?you talked and bored him?] --
- JANET WEBB I'm sorry. I thought we were supposed to come up with a dollar amount.
- STEVEN BLASKE I don't think we have to. I think --
- MALE No I d- --
- STEVEN BLASKE -- I think --
- JANET WEBB OK.
- STEVEN BLASKE -- that we -- what we can do is come up with a recommendation as to the way in which we think the city council ought to arrive at a number, and it's ultimately for them to decide in any event, not us, --
- JANET WEBB OK.
- STEVEN BLASKE -- but we could recommend a dollar number, there isn't any reason we

couldn't do that, but we could also say that the city should determine its actual costs, and that we recommend that they award that amount, well, not they're awarding it to themselves, but I should say that they should charge that amount to the person who brought the charge to Mr. Chipka, and that's probably easier to deal with from their perspective, because as of tonight, we don't know an exact amount, and the city's time, in my view, could be not only the bill that comes from Mr. Still, but they know, and I don't want to know how much they pay Ms. Lowery. I'm sure it's not enough for all that she does, but they may feel that they can ascertain roughly how many hours she spent on this and what her rate is and undertake to add some number for that, or for other costs they had perhaps -- document, copying, other things, I don't know, and they can decide to charge him for all that or not.

JANET WEBB OK. Thank you.

STEVEN BLASKE So, I guess, at this point, we can either ascertain more discussion, or if no one has any more discussion, we could ascertain some sort of motion.

DENNIS STILL Mr. Chair, I think you have a motion.

STEVEN BLASKE -- entertain --

DENNIS STILL You need a second, --

STEVEN BLASKE Oh, --

DENNIS STILL -- and --

STEVEN BLASKE -- OK.

DENNIS STILL -- [and?] [CROSSTALK]

STEVEN BLASKE I apologize.

MALE [UNINTELLIGIBLE]

STEVEN BLASKE You [UNINTELLIGIBLE] --

KEVIN BAHR Would you like me to restate the motion?

STEVEN BLASKE Yes, please, I'm sorry.

KEVIN BAHR I move that we accept hearing officer's recommendation to the city to determine actual costs incurred for the hearing officer's fees for the city for prevailing on this matter.

JANET WEBB I second it.

STEVEN BLASKE OK, it's been moved and seconded that we forward Mr. Still's recommendation as hearing officer as our own and suggest that the city charge whatever amount it determines to be its actual costs involved. Is

there any discussion of that motion?

OK. All in favor?

Passed: For: 4; Against: 0; Abstain: 0; Absent: 1.

STEVEN BLASKE Aye.

WADE WRIGHT Aye.

KEVIN BAHR Aye.

JANET WEBB Aye.

STEVEN BLASKE OK. Any opposed? OK. So that recommendation is made to the city council. I would suggest that it's up to Dr. Bonser and her council if they wish to seek from the City Council some recompense for the expense that she's gone to, and that would, I guess, be up to the City council as to whether they wanted to do that, and if they did want to reimburse her, whether they wanted to, in effect, charge Mr. Chipka with that. That's not for us to decide; that's really for the council to decide.

Is there any other business for us this evening?

G. OTHER BUSINESS

JANET WEBB I do have a question for the next meeting. Is it still on schedule?

WADE WRIGHT Before you do --

JANET WEBB Yes.

WADE WRIGHT Just one more point, at the end of the recommendations, the hearing officer speaks to a public reprimand to Mr. Chipka, and how do you propose to handle that? Are you recommending that to council as part of the motion?

STEVEN BLASKE Well, I thought we did.

WADE WRIGHT We didn't address that piece of it when we were discussing it.

JANET WEBB But I thought we were accepting it seriatim. That means everything.

WADE WRIGHT [UNINTELLIGIBLE]. All right, thank you.

JANET WEBB May I -- do -- may I ask the question --

WADE WRIGHT Sure.

JANET WEBB The next scheduled is correct. It's to be Tuesday, September the 24th at 5:30. Thank you.

[INAUDIBLE]

JANET WEBB As we go along.

[INAUDIBLE]

JANET WEBB OK. Thank you.
Should I make a motion?

H. BOARD COMMENT

STEVEN BLASKE If there is no other business, does anybody -- on behalf of the board wish to make comments? OK.

WADE WRIGHT Just to say that the Judge got it right.

STEVEN BLASKE Yeah, OK.

WADE WRIGHT And we appreciate that. Dr. Bonser's been through quite enough with this.

STEVEN BLASKE OK.

JANET WEBB Yes, thank you for a job well done, Mr. Still.

I. ADJOURN

Board Member Bahr moved to adjourn. Board Member Webb seconded.

Passed: For: 4; Against: 0; Abstain: 0; Absent: 1.