



City of Racine

City Hall
730 Washington Ave.
Racine, WI 53403
www.cityofracine.org

Meeting Minutes - Final Board of Ethics

*Mary Wyant
Diana Valencia
Russell Missurelli
Doug Nicholson
Lincoln Murphy
Pastor Ernest Nia*

Monday, May 5, 2014

1:00 PM

City Hall, Room 106

Call To Order

CLOSED SESSION

Evidentiary hearing on Item 14-9898 based on a complaint filed pursuant to Sec. 2-584(b) by Wayne Clingman to consider the ethics charge against Mary Jergen Osterman.

OPEN SESSION

Discussion of preparation process of written determination pursuant to Sec. 2-584 (c) (7).

It should be noted the following board members were present: Acting Chair Lincoln Murphy, Diana Valencia, Russell Missurelli and Pastor Ernest Nia

It should be noted that the following individuals were also present for the hearing:

City Attorney Robert Weber, Attorney Devine, Mary Jerger Osterman, Court Reporter Sue Taylor and City Clerk Janice Johnson-Martin.

The following witnesses were called to testify:

Wayne Clingman
Ron Thomas
Lawrence Gregg
Paul Ancona
Mike Love
Rob Krug

[14-9898](#)

Subject: Discussion on Complaint filed February 6, 2014 by Wayne Clingman

Recommended to be Received and Filed

IN THE MATTER OF: Hearing on the Ethics Complaint filed by Wayne Clingman against Mary Jerger Osterman.

FINDINGS OF FACT

1. That, Mary Jerger Osterman was a member of the Racine Cable Commission at all times between January 1, 2010 and May 5, 2014, and was also the owner / operator of the Copacetic Hat Store, located at 409 Main Street, Racine, Wisconsin.

2. That, on or about February 4, 2014, Wayne Clingman, a member of the Racine Equality Project, filed a notarized Complaint against Mary Jerger Osterman (hereinafter "Osterman"), alleging that Osterman violated Sections 2-581(c) and 2-581(h) of the Racine City Code of Ordinances when certain promotional pieces concerning Copacetic Hat Store were aired on Belle TV, the City of Racine's local cable channel.

3. On March 18, 2014, the Racine Board of Ethics, pursuant to Section 2-584(c) determined that there was probable cause to believe that Osterman was in violation of Sections 2-581(c) and 2-581(h) of the Racine City Code of Ordinances and scheduled a hearing on May 5, 2014, pursuant to its authority in Section 2-584(c) (1)-(6) of the Code.

4. Notice of the Board's probable cause finding and Notice of Hearing were sent to Osterman on March 31, 2014.

5. On May 5, 2014, at a special meeting of the City of Racine Board of Ethics, Osterman appeared with her attorney Thomas Devine, at which time the Board of Ethics commenced a closed hearing pursuant to Section 2-584(c) (1)-(6) of the Code, and at which time counsel for the Board presented evidence and examined witnesses under oath, as did counsel for Osterman, said proceedings being recorded by a court reporter.

6. Following said hearing, the Board of Ethics deliberated with regard to the allegations contained in the Complaint, and the Board made the following Findings of Fact, Conclusions of Law and Recommendation:

- a. The allegations contained in paragraphs 1-3 of the Complaint that

Osterman
violated Racine City Code of Ordinances Section 2-581(c), is not
sustained by the
evidence.

b. The allegations contained in paragraphs 1, 2 and 7 of the Complaint that
Osterman violated Section 2-581(h) of the Racine City Code of
Ordinances, is not
sustained by the evidence.

CONCLUSIONS OF LAW

1. Osterman did not violate Section 2-581 (c) of the City of Racine Code of
Ordinances related
to the offering or receiving of anything of value in a situation where it could
reasonably be
expected to influence her vote, official action or judgment, or it could
reasonably be
considered as a reward for her official action or inaction.

2. Osterman did not violate Section 2-581 (h) of the City of Racine Code of
Ordinances related
to an official engaging in or accepting private employment or rendering
services which
would conflict with the discharge of her official duties or would tend to impair
her
independence or action or judgment in the performance of such duties.

RECOMMENDATION

*NOTE: The Board was concerned that both Osterman and other members of
the Cable
Commission had unsuccessfully sought clarification of the local ordinance
regarding advertising
and/or sponsorship from both City officials and representatives of Skies Fall
prior to the pilot
project in question. The Board was also concerned by the fact that Osterman's
business was the
first one to be promoted, but the Board ultimately determined that the purpose
of the pilot project
was to promote economic development through the promotion of local
businesses and not to
"advertise" Osterman's hat business. Although perhaps beyond its purview, the
Board of Ethics
recommends amending the cable franchise ordinance to make it mirror
Wisconsin state law and
to make it clear that advertising is permitted on our local channel.

Adjournment

The meeting was adjourned at 4:45p.m.