



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6443
April 2, 2024
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6443: Disposition of Code of Ethics Complaint Against Councilmember Jacobson	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Consider Ethics Hearing Examiner’s recommendation and take action in disposition of ethics complaint against Councilmember Jacobson.	

DEPARTMENT:	City Council
STAFF:	Jessi Bon, City Manager Andrea Larson, City Clerk Bio Park, City Attorney
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Code of Ethics Complaint Against Councilmember Jacobson 2. Ethics Officer’s Determination of Sufficiency 3. Ethics Hearing Examiner’s Findings, Conclusions, Decision, and Recommendation
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is the disposition of the Code of Ethics complaint against Councilmember Jacobson.

- A code of ethics complaint was filed by Richard Erwin against Councilmember Jake Jacobson. (See Exhibit 1).
- The complaint was found to be sufficient by the Ethics Officer on December 14, 2023. (See Exhibit 2).
- A hearing was conducted by the Ethics Hearing Examiner on January 30, 2024.
- Following the hearing, the Hearing Examiner issued their Findings, Conclusions, Decision, and Recommendation, deciding that violations of the ethics code were committed, and recommending to the City Council no sanctions or penalties pursuant to MICC 2.60.070(E)(1) in disposition of the complaint. (See Exhibit 3.)
- Pursuant to MICC 2.60.070(D) and (E), the City Council must afford deference to the Hearing Examiner’s recommendation and take action in disposition of the complaint.
- Councilmember Jacobson requested pursuant to RCW 42.30.110(1)(f) that deliberations by the City Council be conducted in a meeting open to the public.

BACKGROUND

A code of ethics complaint dated December 7, 2023 was filed by Richard Erwin with the City Clerk against Councilmember Jake Jacobson. The alleged violation is set forth in Exhibit 1.

Pursuant to MICC 2.60.070 (A)(2), the City Clerk forwarded the complaint to the Ethics Officer for a Determination of Sufficiency. The complaint was determined to be sufficient by the Ethics Officer as set forth in Exhibit 2.

Because the complaint was determined to be sufficient by the Ethics Officer, a hearing was scheduled and conducted by the Ethics Hearing Examiner to determine whether, pursuant to MICC 2.60.070(B) and (C), any violation of MICC 2.60.030, including chapter 42.23 RCW, was committed. The hearing was held on January 30, 2024, and both the complainant, Richard Erwin, and the official complained against, Councilmember Jacobson – who was represented by attorney John Riper, were present and participated at the hearing.

The full record of the hearing, including exhibits, orders, motions, briefs, and recordings, is [available here](#).

Subsequent to the hearing, the Ethics Hearing Examiner issued their Findings, Conclusions, Decision, and Recommendation, deciding that violations of the ethics code were committed, and recommending no sanctions or penalties pursuant to MICC 2.60.070(E)(1) in disposition of the complaint by the City Council. The Hearing Examiner's decision and recommendation is set forth in Exhibit 3.

ISSUE/DISCUSSION

Affording deference to the Hearing Examiner's recommendation, the City Council must, pursuant to MICC 2.60.070(D), deliberate and determine what, if any, of the Hearing Examiner's recommended remedial actions or sanctions to adopt.

As the official against whom the complaint was brought, Councilmember Jacobson requested pursuant to RCW 42.30.110(1)(f) that deliberations by the City Council be conducted in a meeting open to the public, rather than in Executive Session.

NEXT STEPS

Pursuant to MICC 2.60.070(E), final City Council action to decide the Hearing Examiner's recommended remedial actions or sanctions must be by majority vote in a public meeting. The member of the City Council against whom the complaint was made cannot vote in open session on any matter involving themselves.

The City Council may take one or more of the actions set forth in MICC 2.60.070(E) in disposition of the complaint. However, because a violation was found by the Hearing Examiner, the City Council's action must afford deference to the Hearing Examiner's recommended remedial actions or sanctions, which was "no sanctions or penalties" under MICC 2.60.070(E)(1).

RECOMMENDED ACTION

Move to adopt the Ethics Hearing Examiner's recommendation, which is MICC 2.60.070(E)(1) - no sanctions or penalties, as the City Council's final action in disposition of the Code of Ethics complaint against Councilmember Jacobson.

OR

Move to impose one or more of following remedial sanctions or penalties set forth in MICC 2.60.070(E)(2) thru (9) in disposition of the Code of Ethics complaint against Councilmember Jacobson:

1. *Referral.* A complaint may be referred to another agency with jurisdiction over the violation, such as the public disclosure commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.
2. *Admonition.* An admonition shall be an oral non-public statement made by the mayor, or his/her designee, or if the complaint is against the mayor, the deputy mayor, or his/her designee, to the official.
3. *Reprimand.* A reprimand shall be administered to the official by a letter of reprimand by the city council. The letter shall be prepared by the city council and shall be signed by the mayor or, if the complaint is against the mayor, the deputy mayor.
4. *Censure.* A letter of censure shall be a letter read to the official in public. The letter shall be prepared by the city council and shall be signed by the mayor, or if the complaint is against the mayor, the deputy mayor. The official shall appear at a city council meeting at a time and place directed by the city council to receive the letter of censure. Notice shall be given at least 20 calendar days before the scheduled appearance at which time a copy of the proposed letter of censure shall be provided to the official. The letter of censure shall be read publicly, and the official shall not, at the time of reading, make any statement in support of, or in opposition thereto, or in mitigation thereof. The letter of censure shall be read at the time it is scheduled whether or not the official appears as required.
5. *Removal—Member of board or commission or other appointed task group or committee.* If the official against whom the complaint was made is currently a member of a city board or commission or other city task group or committee, the city council may, in addition to other possible penalties set forth in this section, and notwithstanding any other provision of the Mercer Island City Code, by a majority vote remove the official from such board or commission effective immediately. Nothing in this subsection limits the city council's removal authority under title 3 of the MICC.
6. *Removal—Councilmember appointments.* In addition to taking any actions above, if the official against whom the complaint was made is a member of the city council who serves on any city board or commission, other city task group or committee, regional or multijurisdictional body as a representative of the city, whether appointed by the mayor, mayor and deputy mayor, council, or regional body, in addition to other possible penalties set forth in this section, and notwithstanding any other provision of the Mercer Island City Code, by a majority vote the city council may remove the official from such body effective immediately.
7. *Removal—Mayor or deputy mayor appointment.* In addition to taking any actions above, if the official against whom the complaint was made serves as mayor or deputy mayor, the city council may remove said appointment.
8. *Civil penalties.* In addition to taking any actions above, the city council may also assess a civil penalty of up to \$1,000.00. Any monetary penalty assessed civilly shall be placed in the city's general fund.