

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF MERCER ISLAND**

In the Matter of the ) No. HEA-001  
)  
)  
**December 7, 2023, Ethics Complaint** )  
**Against Councilmember Jake Jacobson** )  
)  
) **REVISED PRE-HEARING ORDER**  
) *(Revised January 3, 2024)*

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TO: Jake Jacobson, Respondent  
Via email to: jake.jacobson@mercergov.org

John S. Riper, Attorney for Respondent  
Via email to: jriper@ashbaughbeal.com

Richard D. Erwin, Jr., Complainant  
Via email to: palamedes61@proton.me

Andrea Larson, City Clerk and Clerk to the Hearing Examiner  
Via email to: Andrea.Larson@mercergov.org [For file]

**PLEASE TAKE NOTICE** that on December 7, 2023, Richard D. Erwin, Jr. (Complainant), filed a complaint alleging that City of Mercer Island (City) Councilmember Jake Jacobson (Respondent) violated the City Code of Ethics, Chapter 2.60 Mercer Island City Code (MICC), by including a link to his campaign website within the signature line of emails transmitted from his city-issued email address. On December 14, 2023, the City Ethics Officer issued a Determination of Sufficiency, which determined that the December 7, 2023, complaint was sufficient to allege a prima facie violation of MICC 2.60.030.D; MICC 2.20.120 (incorporated via MICC 2.60.010.C); and RCW 42.17A.555 (incorporated via MICC 2.60.010.C).

On January 2, 2024, the Hearing Examiner issued a Pre-Hearing Order setting forth the hearing date and briefing schedule in this matter. On January 3, 2024, the Respondent submitted a request to extend the deadline for filing an answer to the ethics complaint from Noon, January 16, 2024, to Noon, January 18, 2024. The Respondent's request is **GRANTED**, and the Pre-Hearing Order has been revised in accordance with the granting of the request.

An open record ethics hearing to determine whether the alleged violation occurred will be held on **January 30, 2024, at 10:00 AM**, utilizing a hybrid approach allowing for participation in-person or through remote access technology.<sup>1</sup>

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<sup>1</sup> The Clerk to the Hearing Examiner will provide access information to the parties for the hybrid hearing.

## **HEARING PROCEDURES**

The Hearing Examiner is directed by the City Council to hear and decide this ethics complaint following an open record hearing. *MICC 2.60.070.B; MICC 2.60.070.C*. In order to facilitate the efficient presentation of issues at the hearing, the following procedures shall be followed:

1. Answer: By **Noon, January 18, 2024**, the Respondent may file an electronic copy (PDF) of any written answer to the ethics complaint. The answer should be submitted to the Clerk to the Hearing Examiner (who will forward a copy to the Hearing Examiner), with a copy to the Complainant. *MICC 2.60.070.B*. Any attachments to the written answer shall be labeled. All attachments shall be submitted in “.pdf”, “.doc”, or “.docx” format unless otherwise approved by the Hearing Examiner.
  
2. Witness and Document Lists: By **Noon, January 23, 2024**, each party shall provide to the other party, and to the Clerk of the Hearing Examiner (who will forward a copy to the Hearing Examiner), the following:
  - a. a witness list
  - b. a documents list
  - c. copies of the documents

The witness list shall include the name, address, and telephone number of each witness. If the witness will be providing expert testimony, the witness list shall also identify the area of expertise of the witness. Only those witnesses and documents identified shall be allowed at the hearing. Objections to admission may be made at the hearing. All parties to the ethics complaint will have an opportunity to cross-examine witnesses.

Copies of documents should be labeled as follows: Respondent (R-1, R-2, etc.); Complainant (C-1, C-2, etc.).

Any party may submit electronic copies of a hearing brief, not to exceed 15 double-spaced pages, to the Clerk to the Hearing Examiner (who will forward a copy to the Hearing Examiner), with a copy to the other party. Briefs may reference the submitted documents but should not separately attach (i.e., resubmit) these documents or attempt to submit new evidence.

3. Hearing: The issues that may be addressed at the hearing are limited to those identified in the complaint and any answer thereto. The order of presentation shall be:
  - a. Introductory remarks by the Hearing Examiner
  - b. Presentation of Complainant witnesses, and cross-examination of those witnesses by the Respondent
  - c. Presentation of Respondent witnesses, and cross-examination of those witnesses by the Complainant

*Pre-Hearing Order  
City of Mercer Island Hearing Examiner  
In re December 7, 2023, Ethics Complaint Against Councilmember Jake Jacobson  
No. HEA-001*

- d. Closing arguments, if any, by the Complainant and Respondent.
4. **PLEASE NOTE:** MICC 2.60.070.A.6 provides that the Respondent and City Ethics Officer may enter into an agreed stipulation prior to, and in-lieu-of, the January 30, 2024, ethics hearing. It states:

Prior to, and in-lieu-of the hearing, the ethics officer and the official complained against may upon agreement jointly submit a recommended stipulation to the city council. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the ethics officer thinks a stipulation is appropriate, an admission of the violation by the official complained against, a promise by the official complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the person who made the complaint and forwarded to the city council for action.

The Respondent shall promptly notify the Hearing Examiner of any such stipulation prior to the scheduled hearing.

So ordered this 3rd day of January 2024.



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PEREGRIN K. SORTER  
Hearing Examiner  
On behalf of Sound Law Center