

Metropolitan Government of Nashville and Davidson County  
Board of Ethical Conduct

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In the Matter of: Theeda Murphy v. Megan Barry

To the Members of the Board:

Pursuant to Tennessee Code Annotated Section 6-20-211(C)(3) and Section 18.10 of the Charter of the Metropolitan Government of Nashville and Davidson County, Ms. Theeda Murphy respectfully requests the Council Board of Ethical Conduct to subpoena the following persons and relevant documents for the hearing on July 11-12, 2018:

1. Megan Barry, former mayor who admitted guilt in misusing between \$10,000 and \$60,000 of Metro funds during her term, beginning March 1, 2016 until January 26, 2018.
2. Robert Forrest, retired sergeant with the Metro Police Department who admitted guilt in misusing between \$10,000 and \$60,000 of Metro funds during his assignment on the former mayor's security detail beginning March 1, 2016 until January 26, 2018.
3. Debby Dale Manson, former chief of staff for the mayor's office and, beginning on October 11, 2016 onward, the supervisor who approved all of the police department security detail's travel expense authorizations.
4. Keith Durbin, director of the Information Technology Services Department.
5. Mark Swann, Metro Auditor tasked with the investigation of travel expenses related to the former mayor's and former mayor's security detail travel and overtime expenses.
6. Joshua Savley, special agent with the Tennessee Bureau of Investigation, assigned on February 1, 2018 to investigate the former mayor and retired police sergeant's misuse of Metro funds.

7. Doug Bell, lieutenant with the Metro Police Department who supervised Robert Forrest.
8. Mike Alexander, captain of the Specialized Investigations Division.
9. Steven Anderson, chief of the Metro Police Department.

According to Section 18.10 of the Charter and Section 6-20-211 of the Tennessee Code Annotated, the Council Board of Ethical Conduct is authorized to compel the attendance of witnesses and production of documents. Metro Code of Ordinances Section 18.10 reads: "The council, the civil service commission, the board of education and every other officer and agency of the metropolitan government authorized to conduct investigations or to hold hearings shall have power to compel the attendance of witnesses and the production of books, papers and records pertinent to the investigation or hearing, and to administer oaths to witnesses. If any person fails or refuses to obey a reasonable order for attendance or reasonable order for the production of books and papers, the council, board or other agency is authorized to apply to the chancery court for an order requiring that the order of the council, board or other agency be obeyed."

Furthermore, Tennessee Code Annotated Section 6-20-211 reads: "The board has the power and may delegate it to any committee to: (A) subpoena witnesses, and order the production of books and papers relating to any subject within its jurisdiction; (B) call upon its own officers or the chief of police to execute its process; and (C) arrest and punish by fine or imprisonment, or both, any person refusing to obey such subpoena or order."

The Council Board of Ethical Conduct is more than an adjudicatory board that holds hearings on complaints. It is also, and on this occasion is being asked to fulfill its role as, an investigatory board endowed with the responsibilities and powers to question, examine and subpoena under the law granted to it by the Tennessee Code Annotated and Metropolitan Charter. Pursuant to Section 2.222.040(A)(5) subsections (b) and (d) of the Metro Code of Ordinances, the Council Board of

Ethical Conduct shall have the following duties and responsibilities: "to maintain records of its investigations, inquiries and proceedings" and "to conduct an investigation and make recommendations about any member's conduct as provided below."

At issue in the upcoming complaint hearing is how and to what extent the former mayor's relationship with her police detail violated the Standards of Conduct Section 2.222.020(k) by giving the appearance of improper influence and preferential treatment due to payment of excessive amounts of overtime as well as her actions and inaction on police-impacted business and policies. The people named in the subpoena request are all relevant in determining how much excessive overtime was approved, who approved it, and how much restitution may still be owed. A lack of oversight within the police department created an atmosphere that allowed a police officer to carry on a secret affair, claim excessive amounts of overtime, and evade notice by supervisors for nearly two years.

After months of intense scrutiny by the press, a criminal investigation by the Tennessee Bureau of Investigation and Davidson County District Attorney's Office, and inquiries by a special committee of the Metro Council, the public is still largely uninformed as to the extent of the damage that was done and the exposure to potential harm in the future for violations to occur again. Although both the former mayor and police sergeant who misused public funds have resigned, the underlying issues which allowed for this to happen have not been addressed. Ms. Murphy respectfully requests the aforementioned subpoenas for true public accounting and transparency.

Respectfully submitted,

Theeda Murphy

Community Oversight Now Coalition