



ETHICS COMMISSION AGENDA

**March 7, 2019
6:00 p.m.
Roseville City Hall
2660 Civic Center Drive**

- I. Call to Order
- II. Election of Officers
- III. Public Comment
- IV. Approval of Minutes dated October 11, 2017
- V. Annual Ethics Training- April 10, 2019
- VI. Other Business
- VII. Adjourn



Administration Department

Memo

To: Ethics Commission
From: Patrick Trudgeon, City Manager
Date: February 27, 2019
Re: March 7, 2019 Ethics Commission Meeting

The Ethics Commission will meet on March 7. Agenda items include:

- **Election of Officers-Chair and Vice Chair.** Annually each City Commission elects officers. Previously, Brian Cihacek of Public Works, Environment, and Transportation (PWET) served as Chair but he is no longer the PWET representative. Nancy O'Brien of the Parks and Recreation Commission served as Vice Chair, but she no longer serves as the Parks and Recreation Commission representative. Therefore, we will need to nominate a new Chair and Vice Chair. I will open the meeting and ask for nominations for Chair and Vice Chair and once those positions are elected, I will turn the meeting over to the Chair.
- **Approval of March 7 Ethics Commission Meeting Minutes.** Draft minutes from the October 3, 2016 meeting are attached to the packet. Please review the minutes and note any corrections. At the meeting, a motion and second should be made to approve the minutes.
- **Discuss 2019 Ethics Training.** Staff would like to have the Ethics Commission talk about the 2018 Ethics Training, which is set for April 10, 2019. For the past few years, City Attorney Mark Gaughan has presented at the training and his presentation has been well received. Mr. Gaughan will be present at the March 7th meeting and the Ethics Commission should discuss the format of the annual training. In preliminary conversations with Attorney Gaughan, we thought beyond the general overview of the Roseville Ethics Code, there should be focus on conflicts of interest and open meeting laws. I have attached the Roseville Ethics Code for your reference.

Ethic Commission Meeting Minutes
City Hall Council Chambers, 2660 Civic Center Drive
Wednesday, October 11, 2017

I. Call to Order

Chair Cihacek called the meeting to order at 6:00 p.m.

Members Present: Chair Brian Cihacek; Members James Bull, Edwin Hodder, and Nancy O'Brien

Members Absent: Member Brad VanderVegt

Others Present: City Manager Patrick Trudgeon and City Attorney Mark Gaughan

II. Election of Officers

Member Cihacek requested nominations for the two officer positions of Chair and Vice Chair.

Chair

Member Cihacek volunteered to serve as Chair, and this was seconded by Member O'Brien.

Ayes: 4

Nays: 0

Motion carried.

Vice Chair

Member Bull nominated Member O'Brien to serve as Vice Chair, and this was seconded by Chair Cihacek.

Ayes: 4

Nays: 0

Motion carried.

III. Public Comment

None.

IV. Approve Minutes of October 3, 2016

Member O'Brien inquired if there was a process that would allow the draft minutes to be available to them for approval sooner than at the next meeting. They only meet once a year and it is hard to remember what took place at the meeting.

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1 City Manager Trudgeon suggested once the draft minutes are received he can send them
2 out for review and corrections. He can also post the draft minutes on the website so they
3 are available to the public. When the Ethics Commission meets in the following year,
4 they can be formally adopted.

5
6 Member O'Brien commented they should also be posted because there is also no
7 guarantee that anyone who comes back in a year to approve them was actually here for
8 that meeting.

9
10 Member Bull commented it is better for the City Council to have them sooner so they can
11 review what took place at the meeting.

12
13 Mr. Trudgeon stated the last meeting on October 3, 2016 was significant because it
14 involved an ethics complaint, which they do not always have. He agreed it is important
15 to have the minutes available sooner.

16
17 Chair Cihacek summarized in the future, the minutes will be drafted, sent to
18 Commissioners for review and comment, and then posted as draft minutes until the next
19 scheduled meeting.

20
21 Commissioner Bull moved to approve the October 3, 2016 minutes as presented,
22 seconded by Commissioner O'Brien.

23
24 **Ayes: 4**

25 **Nays: 0**

26 **Motion carried.**

27 28 **V. Annual Ethics Training – April 11, 2018**

29 City Manager Trudgeon announced the 2018 Ethics Training will take place on April 11,
30 2018. Typically, the City has utilized the City Attorney to present on the code and
31 different scenarios, and take questions from attendees. The City requires all
32 Commissioners, Department Heads, and elected officials to attend. He requested Ethics
33 Commissioners provide ideas on topics and themes to include in the training or
34 suggestions for things that could be changed. Since it is an election year, they may want
35 to consider election topics as they relate to the ethics code.

36
37 Chair Cihacek inquired about attendance at the training.

38
39 Mr. Trudgeon responded about 50 percent of people who are required to attend actually
40 attend. Staff is well represented, and about half of Commission Members attend.

41
42 Member O'Brien agreed that staff is well represented and only about half of the City
43 Council attends. However, she has heard them make comments on it which shows they
44 watch the training video. She commented the basic and underlying code does not change
45 and the City Attorney cannot change that part of the presentation. The differing examples

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1 that are used each year are what makes the training live. She agreed that information
2 should be included regarding the 2018 elections along with examples to determine what
3 may or may not be appropriate.
4

5 City Attorney Gaughan agreed it is appropriate to tie in the 2018 election year. Over the
6 past couple of years, part of the presentation has included a complaint from a previous
7 election cycle regarding public use of resources.
8

9 Mr. Trudgeon commented he appreciates when Mr. Gaughan provides scenarios that lead
10 to differing opinions since it encourages group learning. It also helps people to
11 understand the nuances and that the issue may not be as clear cut as they thought. He also
12 suggested information regarding open meeting laws, communication and emails be
13 included. If people are not aware of the laws, it could lead to some ethical challenges.
14

15 Member O'Brien commented she understands and agrees with the open meeting laws, but
16 it would be helpful for others who are not familiar with them to learn more about them.
17

18 Chair Cihacek inquired if this was included as part of the training for new
19 Commissioners.
20

21 Mr. Trudgeon confirmed it was included and stated the discussion would be a good
22 refresher for others.
23

24 Chair Cihacek suggested they touch on it, but not spend a lot of time on it since it is
25 covered in the training for new Commissioners.
26

27 Member Bull commented the scope of their ethics is very narrow in the broad world of
28 ethics. There could be a violation of the open meeting law where there is no intention of
29 personal gain, but it is still very wrong. If they teach it as ethics, they may not get the full
30 explanation on what the open meeting law is really about and why it is important. He
31 suggested they keep it as a separate option for training.
32

33 Member O'Brien stated people have trouble understanding government ethics versus
34 general ethics and it may be confusing to people if they include open meeting laws with
35 ethical training.
36

37 Member Bull commented the length of the program in past years has been good. They
38 want to keep an audience engaged, and anything they can do to encourage conversation
39 among the participants is good. He supports what has been done in the past and would
40 like to see more of it.
41

42 Mr. Gaughan stated he always tries to touch on both what the ethics code is and is not.
43 Several years ago, he did a presentation on open meeting law to all City Commissions,
44 and due to Commissioner turnover, it may helpful to do it again.
45

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1 Member Bull stated the Planning Commission has discussed what it means to self-
2 regulate and tries to make sure they are conforming.

3
4 Member Hodder commented they have had Commissioners that have come on mid-year
5 and missed the ethics training. It is important for them to understand what their scope is
6 and what ethical violations are. He appreciates the examples provided in the training
7 that allow people to see it in action.

8
9 Chair Cihacek summarized they would like more scenario based training and a separate
10 training for open meeting law, communications and anything else to enhance a
11 Commissioner's understanding.

12 13 **VI. Other Business**

14 Member Bull stated the Ethics Training may be a good opportunity to provide a handout
15 on Open Meeting Law.

16
17 Mr. Trudgeon and Mr. Gaughan both stated they have not received any ethic complaints
18 or advisory opinion requests since they last met.

19
20 Member O'Brien inquired if they should emphasize advisory opinion requests. It seems
21 that with the number of departments and Commissions they have, they would have more
22 people asking.

23
24 Chair Cihacek stated the highest risk is for a City Council Member. A Commissioner is
25 very limited in role and does not have a lot of power. However, a City Council member
26 would have a higher risk because of their legislative and executive authority.

27
28 Member O'Brien stated it applies to all the City Council and Department Heads.

29
30 Chair Cihacek stated they are not a target for ethics violations and therefore do not
31 require advisory opinions. A lack of advisory opinions is not indicative of concern
32 because of performance and the different levels of risk each person experiences in terms
33 of the Ethics Code.

34
35 Member O'Brien stated a robust ethics program would have people feel comfortable
36 coming forward and asking for opinions. While she is not suggesting they do not have
37 this, she is concerned that they go years without having a request for an advisory opinion.

38
39 Chair Cihacek suggested they ask at the Ethics Training what people are experiencing
40 and have further discussion about it.

41
42 Member Bull stated people know if they have any potential gain from a decision or action
43 they make.

44

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1 Chair Cihacek commented there is also a series of controls in place and a Commissioner
2 Member does not have a lot of power. They could discuss if there are experiences in
3 which they should have asked for an advisory opinion.
4

5 Mr. Gaughan stated he does not have a view on whether suspicion arises on having too
6 few or too many requests for an advisory opinion. He is not surprised they have so few
7 because there are not a ton of scenarios that arise where a concern could be raised about
8 particular City business.
9

10 Member Bull stated he would expect more requests regarding a potential conflict of
11 interest on something versus ethics. The Planning Commission has a Member that serves
12 on another Board and he recuses himself from certain discussions due to potential
13 conflicts of interest.
14

15 Mr. Gaughan commented often times a person involved with a potential conflict of
16 interest will ask the staff liaison about it and it results in a recusal. It is resolved at that
17 level without having to seek a City Attorney or an advisory opinion.
18

19 Member O'Brien stated that she was encouraged to hear that Commission members were
20 talking about these issues and recusing themselves from voting when appropriate on an
21 informal basis without asking for a formal advisory opinion. This indicates they are
22 getting the point of the issue and that a robust discussion is taking place.
23

24 Mr. Trudgeon advised it does not happen at every single meeting, but may happen a
25 couple of times a year.
26

27 Member Hodder stated he has seen colleagues recuse themselves due to a conflict of
28 interest when they have grant reviews.
29

30 Member O'Brien suggested they pass along the topic of recusal to show that it is not
31 uncommon, and encourage people to talk to staff about it.
32

33 Chair Cihacek suggested they talk about the process of recusal and how it needs to be
34 identified in advance and accurately recoded in the minutes to make it effective.
35

36 Mr. Gaughan stated they also discuss how the appearance of ethical violations are just as
37 important as the actual ones, and in many situations, it can be even more complicated.
38

39 Chair Cihacek inquired if they need to check in earlier than just one time per year.
40

41 Member O'Brien responded her only concern was with the minutes and the time that
42 passes before they are available and approved.
43

44 Chair Cihacek suggested they consider shifting their schedule so that everyone is going
45 on or off the Commissions at the same time.

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Mr. Trudgeon stated every year each Commission is supposed to appoint someone to be on the Ethics Commission. Currently, the HRIE Commission has not yet appointed a person, but plans to do so soon. They may want to consider holding the Ethics Committee meeting at a certain time of year when they know they have someone from each Commission. However, people rotate off Commissions, so the problem will continue to be there.

Chair Cihacek suggested they consider requiring appointments by May since Commission Member terms begin in April. It could be a standing item on the April agenda.

Member O'Brien commented the Parks and Recreation Commission appoints someone to the Ethics Committee at the same meeting that new Commissioners come on and the Chair is elected.

Chair Cihacek stated the Public Works Commission does not have any new people coming in this year.

Mr. Trudgeon suggested it still be part of the agenda annually just to reaffirm those who were appointed.

Member Bull stated the Planning Commission also includes appointments with the election of officers.

VII. Adjourn

Commissioner Bull moved to adjourn the meeting at approximately 6:29 p.m., seconded by Commissioner Hodder

Ayes: 4
Nays: 0
Motion carried.

Respectfully submitted,
Patrick J. Trudgeon, City Manager

**EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota, was held on the 14th day of July 2014, at 6:00 p.m.

The following members were present: McGehee, Willmus, Laliberte, Etten, Roe

and the following members were absent: None.

Council Member Laliberte introduced the following resolution and moved its adoption:

**RESOLUTION NO. 11163
A RESOLUTION AMENDING THE CODE OF ETHICS FOR PUBLIC
OFFICIALS IN THE CITY OF ROSEVILLE
(RESOLUTION NO 10905)**

WHEREAS, it is the Council's desire to create and maintain ethical standards that guide Public Officials in the transaction of public business; and

WHEREAS, the Council has determined the most effective way to do so is to adopt and enforce a Code of Ethics that guides the conduct of Public Officials:

NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, that the following Code of Ethics is hereby adopted:

**CODE OF ETHICS FOR PUBLIC OFFICIALS IN THE CITY OF
ROSEVILLE**

Purpose

Officials in the public service must maintain the highest possible standards of ethical conduct in their transactions of public business. Such standards must be clearly defined and known to the public as well as to the Public Officials. Violations of the ethical standards in this ordinance are punishable by the City Council and are not to be deemed criminal misdemeanors of any other type of crime except as those behaviors or activities may separately be determined to be criminal under state or federal law.

Section 1. Declaration of Policy

The proper operation of democratic government requires that Public Officials be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

In recognition of these goals, there is hereby established a Code of Ethics for all Public Officials of the City of Roseville. The purpose of this Code is to establish ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interests of the City, and by directing disclosure by such officials of private financial or other interests in matters affecting the City. The provisions and purpose of this Code and such rules and regulations as may be established are in the best interests of the City of Roseville.

Recognizing that education on ethics in government is the key to having good government, this code requires that annual training be held to discuss the meaning of this code with Public Officials, and in addition such training shall involve trained experts on government ethics. The City Manager shall be the coordinator for the annual training. The training will keep the subject of ethics in government fresh in everyone's mind.
(amended 5-23-2011)

To increase the awareness and understanding of the importance of ethical considerations and behavior among the public as well as government employees, communication of the role of the ethics commission and this Code must occur at least annually in local newspapers and the Roseville website as determined by the City Manager. Additionally, this Code of Ethics shall be reviewed annually to determine if modifications are appropriate.

Section 2. Definitions of Terms

Public Official

Any person that has been elected to office, appointed to a City board or commission, or hired by the City to serve as a department head or assistant department head.

Public Officials include the following:

- a. Members of the City Council and Mayor;
- b. The department head and assistant department head of each City department;

- c. Any person that has been appointed by the Roseville City Council. This would include City commission, board, and task force members; and
- d. The City Manager.

Anything of Value

Money, real or personal property, a permit or license, a favor, a service, forgiveness of a loan or promise of future employment. The term “Anything of Value” shall not be deemed to include:

- (1) Services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (2) Services of insignificant monetary value;
- (3) A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
- (4) A trinket or memento costing \$5 or less;
- (5) Informational material of unexceptional value;
- (6) Food or a beverage given at a reception, meal, or meeting away from the recipient’s place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program; or
- (7) A contribution as defined in Minn. Stat. § 211A.01, subd. 5.

Compensation

A payment of Anything of Value to an individual in return for that individual's services of any kind.

Association

A business entity of any kind, a labor union, a club or any other group of two or more persons other than the immediate family.

Immediate Family

A reporting individual, spouse, minor children, minor stepchildren or other person residing in the same household.

Gift

The payment or receipt of Anything of Value unless consideration of greater or equal value is provided in return.

City Manager

The person that heads up the administration of the operating government of Roseville.

Section 3. Ethical Considerations

Public Officials are to serve all persons fairly and equitably without regard to their personal or financial benefit. The credibility of Roseville government hinges on the proper discharge of duties in the public interest. Public Officials must assure that the independence of their judgment and actions, without any consideration for personal gain, is preserved.

Specific ethical violations are enumerated below for the guidance of Public Officials, but these do not necessarily encompass all the possible ethical considerations that might arise.

- A. Other Offices or Employment. An elected Public Official shall not hold another incompatible office, as that term has been interpreted from time to time by statute, the courts, and by the Attorney General. Employed Public Officials shall not hold such incompatible office nor shall they engage in any regular outside employment without notice to and approval by the City Council, in the case of the City Manager, and the City Manager in the case of other employed Public Officials.

Elected and appointed Public Officials shall not hold other office or employment which compromises the performance of their elected or appointed duties without disclosure of said office or employment and self disqualification from any particular action which might be compromised by such office or employment.

- B. Use of Confidential Information. No Public Official shall use information gained as a Public Official which is not generally made available to and/or is not known to the public, to directly or indirectly gain anything of value, or for the benefit of any other person or entity; nor shall any Public Official make such information available when it would be reasonably foreseeable that a person or entity would benefit from it.
- C. Solicitation of or Receipt of Anything of Value. A Public Official shall not solicit or receive anything of value from any person or association, directly or indirectly, in consideration of some action to be taken or not to be taken in the performance of the Public Official's duties.

- D. Holding Investments. No Public Official shall hold any investment which might compromise the performance of the Public Official's duties without disclosure of said investment and self disqualification from any particular action which might be compromised by such investment, except as permitted by statute, such as Minnesota Statute 471.88.
- E. Representation of Others. A Public Official shall not represent persons or associations in dealings with the City where the persons or associations have paid or promised to pay compensation to the Public Official.
- F. Financial Interest. Where a Public Official or a member of the Public Official's immediate family has a financial interest in any matter being considered by the Public Official, such interest, if known to the Public Official, shall be disclosed by the Public Official. If the Public Official has such a financial interest or if the minor child of a Public Official has such a financial interest, the Public Official shall be disqualified from further participation in the matter.
- G. City Property. No Public Official shall use City-owned property such as vehicles, equipment, or supplies for personal convenience or profit except when such property is available to the public generally, or where such property is provided by specific City policy in the conduct of official City business.
- H. Special consideration. No Public Official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- I. Giving Anything of Value. No elected Public Official shall give anything of value to potential voters in return for their votes, promises, or financial considerations which would be prohibited by the State Minnesota Fair Campaign Practices statute.
- J. Public Funds, etc. No Public Official shall use public funds, personnel, facilities, or equipment for private gain or political campaign activities, except as may be authorized by law.
- K. Expenses. Public Officials shall provide complete documentation to support requests for expense reimbursement. Expense reimbursement shall be made in accordance with City policy.
- L. Donations. No Public Official shall take an official action which will benefit any person or entity because of a donation of Anything of Value to the City by such person or entity.

- M. Official Action. No Public Official shall take an official action or attempt to influence any process which will benefit any person or entity where such Public Official would not have otherwise have taken such action but for the Public Official's family relationship, friendship, or business relationship with such person or entity.
- N. Compliance with Laws. Public Officials shall comply with all local ordinances and State and Federal Statutes including, but not limited to, the Criminal Code, Fair Campaign Practices Act, and laws governing the functioning of municipalities, their elected and appointed officials, and employees.
- O. Cooperation with Ethics Committee Investigations. Public Officials shall cooperate with ethics investigations and shall respond in good faith to reasonable requests for information.
- P. Resolution of Ethics Complaints. The Ethics Commission, City Attorney, or City Manager, as the case may be, shall promptly attend to all ethics complaints in the manner provided in this Code. It is expected that most complaints will be investigated as necessary and presented to the City Council for consideration within 45 days of submission of the complaint.

Section 4. Special Considerations

Situations can arise where a member of a commission, a board, or the City Council abstains from voting because of a conflict of interest, but his or her abstention becomes a vote either for or against the matter because a majority are required to pass or reject that matter. This can happen where four-fifths vote is needed to pass an issue, or the vote has to be a clear majority and a split vote does not pass or reject.

When this happens, the City Attorney must be consulted and the final vote should carry a public notice explaining what took place, and how it was resolved.

Section 5. Handling Alleged Violations of Code of Ethics

- A. Complaints alleging ethical violations by Public Officials must be submitted in written form to the City Attorney. Complaints alleging ethical violations by City employee Public Officials shall be submitted in written form to the City Manager.
- B. The City Attorney shall investigate all ethics complaints pertaining to non-employee Public Officials unless the City Attorney has a conflict, in which case outside counsel will be assigned the complaint. The City Manager will investigate complaints pertaining to employee Public Officials.

- C. If the City Attorney or City Manager determines that the subject of the complaint may have committed a crime, the City Attorney and City Manager shall refer the matter to the appropriate criminal authority.
- D. If the criminal proceeding ends with a sentencing, said sentencing shall be considered to be the final disposition of the complaint.
- E. If there has been no violation of a criminal law, the City Attorney or City Manager, as the case may be, shall issue a report that documents the results of the City Attorney's or City Manager's investigation(s).
 - 1. The report shall be sent directly to the City Council if the complaint involves an Ethics Commission member. The Council shall have the authority to dismiss any Ethics Commission member found to have violated the Ethics Code.
 - 2. The report shall be sent to the Ethics Commission if the complaint involves other Public Officials. The Ethics Commission shall have the authority to convene and issue its own report and recommendation to the City Council. Thereafter, the City Council shall take action as the Council deems appropriate.
- F. The standard for decisions regarding allegations of ethical violations covered by Section 3 of this code shall be "clear and convincing evidence." The term "clear and convincing evidence" shall mean that burden of proof as defined by Minnesota State law.
- G. In processing complaints, the City Attorney, City Manager, Ethics Commission and City Council shall process and maintain data in a manner consistent with Minn. Stat. Ch. 13, the Minnesota Data Practices Act.
- H. **A complainant may withdraw a complaint, filed under this Code at any time, in writing with the City Manager or City Attorney. Unless the City Council directs otherwise, City personnel need not take any further action in accordance with the Code after such withdrawal. Once acceptance by the City Council has been granted, the City Attorney or City Manager shall provide notice to the complainant, the subject of the complaint if appropriate, and the Ethics Commission that the withdrawal has been accepted.**

Section 6. Disclosure of Financial Interests

Not later than ninety (90) days after the date of approval of this Code, each Public Official of the City shall file as a public record, in the office of the City Manager, a statement containing the following:

1. A list naming all business enterprises known by the Public Official to be licensed by or to be doing business with the City in which the Public Official or any member of the Public Official's immediate family is connected as an employee, officer, owner, investor, creditor of, director, trustee, partner, advisor, or consultant; and
2. A list of the Public Officials and members of the Public Officials' immediate family's interests in real property located in the City or which may be competing with the interests of the City located elsewhere, other than property occupied as a personal residence.

Each person who enters upon duty after the date of this code in an office or position as to which a statement is required by this Code shall file such a statement on forms to be provided by the City not less than thirty (30) days after the date of his/her entrance on duty.

Each person who made an initial filing shall file a new Statement by January 30 of each year thereafter giving the information called for above as of the time of the new statement. If a change in financial interest or property ownership occurs between filings, a new filing shall be made within thirty (30) days of the change.

The interest of any member of the immediate family shall be considered to be an interest of a person required to file a statement by or pursuant to this Code.

This Code shall not be construed to require the filing of any information relating to any person's connection with or interest in any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civil, or political organization, or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

However, if any of such organizations seeking any action or benefit come before a Roseville commission or the Council, then membership in the organization shall be a potential conflict of interest and must be reported as such to the City Manager by the Public Official in an amended disclosure statement. The other stipulations of this Code then apply.

The City Manager shall inform each person who is required to file of the time and place for filing. The City Manager shall inform the Council whenever a person who is required to file a statement fails to do so.

The motion for the adoption of the foregoing resolution was duly seconded by Council Member McGehee and upon vote being taken thereon, the following voted in favor: McGehee, Willmus, Laliberte, Etten, Roe

and the following voted against: none.

WHEREUPON said resolution was declared duly passed and adopted.

