



ETHICS COMMISSION AGENDA

**October 11, 2017
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 3, 2016
- V. Annual Ethics Training- April 11, 2018
- VI. Other Business
- VII. Adjourn

Memo

To: Ethics Commission
From: Patrick Trudgeon, City Manager
Date: October 5, 2017
Re: October 11, 2017 Ethics Commission Meeting

The Ethics Commission will meet on October 11. Agenda items include:

- **Election of Officers-Chair and Vice Chair.** Annually each City Commission elects officers. Currently, Brian Cihacek serves as Chair and Nancy O'Brien serves as Vice Chair. Nominations for the officer positions for the upcoming year will need to be made at the meeting and a vote taken to elect a Chair and Vice Chair.
- **Approval of October 3, 2106 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 2018 Ethics Training.** Staff would like to have the Ethics Commission talk about the 2018 Ethics Training, which is tentatively set for April 11, 2018. 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 October 11th meeting and the Ethics Commission should discuss the format of the annual training.

Ethic Commission Meeting Minutes
City Hall Council Chambers, 2660 Civic Center Drive
Monday, October 3, 2016 – 6:30 p.m.

I. Call to Order

City Manager Trudgeon called the meeting to order at approximately 6:30 p.m., called the roll and declared a quorum was present.

Members Present: Michelle Manke (Community Engagement), Nicole Dailey (Human Rights), Nancy O'Brien (Parks & Recreation), James Bull (Planning), and Brian Cihacek (Public Works, Environment and Transportation)

Members Absent: Members Brad VandeVegt (Police Civil Service) and John Bachhuber (Finance)

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

II. Election of Officers

City Manager Trudgeon welcomed commissioners, advising the Commission would be meeting on an as-needed basis, and reviewed their role and purpose. Mr. Trudgeon noted he would serve as staff liaison as a non-voting member. Mr. Trudgeon noted the other role of the Commission was to coordinate annual ethics training for city elected officials, advisory commissioners, and staff as appropriate.

City Manager Trudgeon asked for nominations for Chair and Vice Chair of the Ethics Commission.

Chair

Member Cihacek volunteered to serve as Chairperson; and with no other volunteers or nominations, by consensus, Member Cihacek was elected as Chair for the term of one year; and City Manager Trudgeon turned the gavel over to him at this time.

Ayes: 5

Nays: 0

Motion carried.

Vice Chair

Member O'Brien volunteered to serve as Vice Chair; and with no other volunteers or nominations, by consensus, Member O'Brien was elected as Vice Chair for the term of one year.

Ayes: 5

Nays: 0

Motion carried.

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III. Public Comments

None.

IV. Consider Complaint of Mr. Brad Koland against Roseville City Council Members

Chair Cihacek deferred to City Attorney Mark Gaughan. City Attorney Gaughan reviewed his role to the Ethics Commission related to the Ethics Commission and Ethics complaints received by the city.

Specific to recent complaints filed by Mr. Brad Koland as part of his application for a Minor Subdivision by Mr. Koland, 1926 Gluek Lane, Roseville, MN against Roseville City Council members Lisa Laliberte and Tammy McGehee, City Attorney Gaughan referenced the written complaints addressed to his office and dated September 19, 2016 respectively. Mr. Gaughan noted that a copy of both written complaints from Mr. Koland had been included in tonight's meeting packet materials.

Mr. Gaughan advised the Commission that they had three options in their review and consideration of an Ethics Complaint:

- 1) Adopt the findings of the City Attorney and forward them to the City Council for their ultimate action on the matter;
- 2) Fashion their own report, and while they are not authorized to conduct any further investigation, they can craft their own findings and forward them to the City Council for their ultimate action on the matter; or
- 3) Take no action and defer to the City Council for ultimate action, but with no action by this body on the matter.

In conclusion, Mr. Gaughan advised that the Ethics Commission didn't need to do anything in response to complaints other than receive any complaint they thought was appropriate, with the City Council retaining their authority to take action on any and all complaints.

Since this was the first meeting of this Ethics Commission, City Attorney Gaughan briefly reviewed the role and purpose of the Commission as detailed in Resolution No. 11163 amending the City's Code of Ethics for Public Officials (as an amendment to Resolution No. 10905), adopted July 14, 2014. Mr. Gaughan noted a copy of the resolution was included in tonight's packet materials as well. Mr. Gaughan advised that the role and purpose of Commission was elaborated on in the annual Ethics Training held by the city; and proceeded to review what the Commission's role was and what it was not as per the adopted resolution. Mr. Gaughan encouraged the newly-appointed commission to review city website archives focusing on the City's Code of Ethics and standard of conduct governing city officials. Mr. Gaughan clarified that this is a code of conduct, and not a law, but an attempt for the best interest of the broader community to be at the forefront of any city actions. Mr. Gaughan reviewed the two prongs of ethics code, for government officials and/or elected officials and also for city management. Mr. Gaughan noted that the public at large, advisory commissioners or employees could seek advisory opinions from

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1 the City Attorney, whether formal or informal in nature; with a complaint procedure
2 clearly outlined accordingly.

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4 Specific to these complaints, City Attorney Gaughan advised that he would review his of-
5 fice's response in the form of a written report regarding the complaints alleging viola-
6 tions of the Ethics Code against Councilmembers Laliberte and McGehee, also included
7 in written format in packet materials. City Attorney Gaughan advised that he would re-
8 view the report and then field responses, questions or comments prior to the Commission
9 moving one of the three options as previously outlined and as the next steps. City Attor-
10 ney Gaughan reviewed the written report in-depth, first the three alleged Ethics Code vio-
11 lations and ethical considerations for Councilmember Laliberte, and then the five alleged
12 violations received against Councilmember McGehee.

13
14 As noted in his report, City Attorney Gaughan stated one thing notably missing was that
15 there was no implication or notice that either Councilmember Laliberte or Councilmem-
16 ber McGehee did anything in their own personal best interest as opposed to the city's best
17 interest that would indicate either made any decisions on the Minor Subdivision applica-
18 tion without the best interest of the city at the forefront of their decision-making. As
19 such, Mr. Gaughan advised that his office determined that neither alleged complaint sup-
20 ported any provision that the Ethics Code had been violated by either councilmember.
21 Mr. Gaughan further noted that in terms of elements of a violation, the complaint didn't
22 even present a true interpretation of the city's Ethics Code. Mr. Gaughan reiterated the
23 three options for the Commission to consider as they deliberate these complaints; and of-
24 fered to respond to questions of the body.

25
26 **Ethics Commission Deliberation**

27 Regarding the finer points of the allegations, Member Bull asked if the application for the
28 Minor Subdivision would specify the dimensions of the plat; and if city staff deemed the
29 subsequent lots were 85' in width and whether someone could interpret that the proposed
30 lot(s) didn't meet that minimum.

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32 City Attorney Gaughan responded that this particular Minor Subdivision application in-
33 volved an irregularly shaped parcel, not a rectangular lot, but located on a corner lot on a
34 curve, resulting a pie-shaped lot. When the existing lot was cut up, Mr. Gaughan noted it
35 still had an angle to it, opining that had led to the need for interpretation regarding the lot
36 width.

37
38 Member O'Brien asked if city code was that vague that it allowed for no definitive an-
39 swer to that question for an irregularly shaped lot. In her reading of the City Council
40 meeting minutes from the date the Minor Subdivision application was heard, Member
41 O'Brien noted it appeared everyone was in agreement that it met code except those mak-
42 ing the proposal, opining she found it somewhat confusing.

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1 City Attorney Gaughan responded that yes, from his perspective, current city code did
2 create some ambiguity on that point. Mr. Gaughan clarified that lot width and size was
3 up for interpretation by staff.
4

5 From his perspective as a member of the Planning Commission, Member Bull noted there
6 were sometimes differing interpretations by Planning Department staff and that of Plan-
7 ning Commissioners. Member Bull stated of more significance to him was whether or
8 not this proposal would fit into the nature of the neighborhood, even though that was to-
9 tally subjective as written in city code, while taking into consideration the impact to and
10 character of a neighborhood. From his perspective, Member Bull stated he deemed the
11 City Council's action in line with their responsibility within those city code parameters.
12

13 City Attorney Gaughan stated a community wanted individual council members to use
14 their discretion in interpreting code, serving to best represent the overall community.
15

16 Member O'Brien noted there were a number of residents speaking at the City Council
17 meeting on the Minor Subdivision application. For the benefit of the listening audience,
18 Member O'Brien asked City Attorney Gaughan to provide a clear explanation of what, if
19 any, obligation an individual council member has to follow recommendations of city
20 staff.
21

22 City Attorney Gaughan responded that the City Council was under no obligation to fol-
23 low city staff recommendations, as they were just that, recommendations. Mr. Gaughan
24 noted each council member was elected to do a job and serve as the final decision-makers
25 for their constituents, with each elected official leaning on their own life experiences and
26 interpretations, along with taking into account staff recommendations, public comment
27 and input from applicants and/or advisory commissioners, all within the parameters of
28 city code. At the end of the day, Mr. Gaughan noted all government is set up for public
29 officials to use their discretion, thus the purpose of the election process. Just because
30 their decision may differ from someone else's, Mr. Gaughan advised that didn't mean
31 they were behaving unethically, and usually meant they were doing their jobs correction.
32

33 Member O'Brien stated she had concluded there was no ethical violation, only a differing
34 of opinions. Specific to Mr. Koland's allegation that confidential information was used
35 that he was not privy to, Member O'Brien asked if her reading was accurate in determin-
36 ing, whether or not the information was public knowledge or if Mr. Koland simply wasn't
37 aware of it, and if there were any indications the information was confidential.
38

39 City Attorney Gaughan stated he could find no evidence the information was confidential
40 in nature; and even if it had been, there was also no indication that Councilmember
41 McGehee had used the information for her own personal gain. Mr. Gaughan noted it was
42 fine for a council member to use the information to inform their decision-making; and the
43 only way to run afoul of that would be if the information was used for personal gain.
44 However, Mr. Gaughan noted that such an occurrence wasn't even alleged.
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1 Member O'Brien noted even if there had been personal gain, there was no indication that
2 the information was actually confidential, other than it appeared Mr. Koland was unaware
3 of the information.

4
5 Chair Cihacek opined that could depend on the definition of "confidential" or "not confi-
6 dential."

7
8 When not more clearly defined, City Attorney Gaughan advised that ordinary dictionary
9 definitions were used to rely upon.

10
11 Member O'Brien, in her reading of city code, stated she was not seeing proof of either
12 side that the information was confidential or that it was used by Councilmember McGe-
13 hee for personal gain.

14
15 Chair Cihacek called for a motion for one of the three options outlined by City Attorney
16 Gaughan.

17
18 Member Bull moved, and Member Manke seconded agreement with the findings of the
19 investigation and recommending to the City Council acceptance of the recommendation
20 of the City Attorney that no violations of the Ethics Code have been established by Mr.
21 Koland's complaints against Councilmembers Laliberte and McGehee.

22
23 **Ayes: 5**

24 **Nays: 0**

25 **Motion carried.**

26
27 **V. Annual Ethics Training – April 12, 2017**

28 City Manager Trudgeon announced 2017 Ethics Training as scheduled, and advised the
29 Commission would need to meet in January to talk more generally about the Ethics Code,
30 training logistics and content for that training. Mr. Trudgeon reviewed some of the past
31 training sessions by outside speakers and/or the City Attorney; and the variety of content
32 that the Commission may wish to consider. Mr. Trudgeon asked individual commission-
33 ers to think about their preferences and ideas between now and January; and advised
34 some funds were set aside for outside speakers if that was preferred (e.g. professors or
35 experts on the subject of ethics. Mr. Trudgeon noted there were wide-ranging topics; and
36 noted the involvement of all municipal elected officials, city staff, and advisory commis-
37 sioners that would hear the core message of what the city's Ethics Code was.

38
39 Discussion ensued regarding training for new advisory commissioners as well as a re-
40 freshener for commissioners having gone through training before to seek continued growth
41 and development and relevancy for both groups.

42
43 Member O'Brien referenced the brief government training document (12 pages) she had
44 found very informative, and asked that City Manager Trudgeon email a copy of it to new
45 Ethics Commission members, opining she had found the differences outlined for gov-

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1 ernment ethics versus ethics in general to be very readable; and suggested individual
2 commissioners read through it and bring it to that next meeting.

3
4 Further discussion included incorporating various educational elements and aspects in
5 training; how to boost attendance as the training; and date/timing for the January meeting,
6 with members preferring 6:30 p.m. start time and City Manager Trudgeon advising he
7 would provide dates in January to select from and await input.

8
9 Member Bull suggested having Ethics Commissioners provide a report back to the com-
10 missions on which they serve as part of the disciplines of the body.

11
12 Member O'Brien noted the Ethics Code may not change and training may be repetitive;
13 however, she stated her appreciation for City Attorney Gaughan's presentations over the
14 last several years as he brought different real life examples of events taking place in the
15 city, state and world that made the training current and interesting.

16
17 **VI. Other Business**

18 City Manager Trudgeon reported that neither he nor the City Attorney had received any
19 other Ethics Complaint violations.

20
21 **VII. Adjourn**

22 Member Bull moved, and Member O'Brien seconded adjournment of the meeting at ap-
23 proximately 7:08 p.m.

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25 **Ayes: 5**

26 **Nays: 0**

27 **Motion carried.**
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