

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.

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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