

**CITY OF PHOENIX
ETHICS COMMISSION
Summary Minutes
March 21, 2024**

Virtual Meeting (Webex)

Committee Members Present

Cheryl Pietkiewicz
Patricia Sallen
Jose Samuel (Sam) Leyvas III
Peter Schirripa

Committee Members Absent

1. Call to Order/Roll Call

Ms. Inger Erickson, Deputy City Manager, called the meeting to order at 3:02 p.m. with Commission Members Patricia Sallen, Sam Leyvas and Peter Schirripa present.

Ms. Erickson opened the meeting with introductions of both staff and Commission members.

2. Open Meeting Law Training

Mr. Davvid Welch, Management Assistant II with the City Clerk Department, provided a training on Open Meeting Law.

Ms. Erickson asked if there were questions from the Commission. The Commission had no questions.

3. City of Phoenix Ethics Training

Mr. David Benton, Chief Counsel, provided a training on City of Phoenix Ethics, Gifts and Conflicts of interest.

Ms. Erickson asked if there were questions from the Commission.

Mr. Schirripa asked about accepting gifts for his work position from current or perspective customers, outside of his role as a Commission member.

Mr. Benton stated it is acceptable as it is part of his job and not as a Commission Member. He cautioned the Commission to consider the optics of accepting gifts and to consider if the organization providing the gift has any matters before City Council. He stated the Commission may discuss any concerns with the Commission's Counsel, Ms. Beth Nillen.

Ms. Erickson asked if there were additional questions from the Commission. The Commission had no additional questions.

Ms. Erickson stated there was one member of the public here to speak and asked Mr. Benton to read a statement about public comments.

Mr. Benton stated that during public comment for agenda items, members of the public may speak for up to two minutes on agenda items. Comments must be related to the agenda item or action being considered. General comments that go beyond the scope of the agenda item must be made during the Call to Public period. Any member of the public who appears before the Commission in their capacity as a lobbyist is required by City Code to disclose that fact. During Citizen Comment, members of the public may address the Commission for up to three minutes on their particular issue or concern. Open Meeting Law permits the Commission Members or staff to listen to the comments but prohibits Commission Members from discussing or acting on the matters presented.

Ms. Erickson asked Mr. Benton to confirm that the public will have two minutes on agenda items and three minutes during the Call to Public.

Mr. Benton responded yes.

Ms. Erickson introduced Mr. Jeremy Thacker for comment.

Mr. Thacker expressed his thanks and excitement for the Ethics Commission. He expressed his concerns about the City's seriousness about ethics and accountability, through a series of questions. He stated the City needs an Ethics Commission and urged the Commission to take the role seriously. He stated he has submitted several ethics complaints, and none have been closed out.

4. Review and Adopt Bylaws

Ms. Erickson asked if the Commission has reviewed the Bylaws and if there are questions or concerns. She stated the Commission will need to approve and adopt the Bylaws.

Mr. Leyvas stated he has thoughts and proposals for some edits. On page 2, Article 3.02, he proposed a correction to update Phoenix City Code Section 2-53(C) to 2-53(B). He asked staff to verify his proposed correction.

Mr. Leyvas asked to clarify the term for the current Commission. On page 2, Article 3.02, the article states the term will begin on or about January of the first year served and expires Dec. 31. He questioned if the Commission is in year one or year two, since they were sworn in Dec. 13, 2023. He proposed an edit to the article to state January 2024 as the first year. Mr. Leyvas suggested to add a statement about the corresponding City Code to Article 3.03, for consistency with Article 3.02.

Mr. Leyvas asked if he should make a motion with his proposed edits.

Ms. Erickson suggested to hear the feedback from the remaining Commission Members. She asked Mr. Benton and Ms. Nillen if there are concerns with the proposed edits from Mr. Leyvas.

Ms. Nillen stated there is a modification provision under Article 6.01 stating that the Commission can only modify if the proposed amendments have been provided to the Commission no less than seven days prior. Ms. Nillen suggested to submit all proposed edits to the draft Bylaws to staff so staff can determine next steps. Ms. Nillen suggested adopting the Bylaws and submit the proposed edits to staff so they can be posted before the next meeting in accordance with Article 6.01 in the Bylaws.

Mr. Leyvas asked for clarification.

Ms. Nillen suggested adopting the Bylaws during the meeting, submit the information to staff, and making amendments in the future. She stated the Bylaws are only a draft, and they cannot be amended until they are adopted.

Mr. Leyvas thought because they are still in draft, the Commission has room to make corrections prior to adopting.

Ms. Nillen stated not everyone has the proposed edits in writing and the final proposed language has not been shared. She stated the compiled proposed edits would not be available until next meeting for the Commission.

Mr. Leyvas stated he did not have serious objections.

Mr. Leyvas proposed changing the title of "Secretary" to "Recording Secretary", for Article 4.03, to be consistent across City Boards and Commissions.

Ms. Erickson asked for feedback from Ms. Sallen and Mr. Schirripa.

Mr. Schirripa asked if a fifth Commission member has been found.

Ms. Erickson stated that one application has been submitted and is eligible per the requirements. The application processed closed as of March 18 and the City is considering opening the application again to allow for more applications.

Ms. Cheryl Pietkiewicz joined the meeting virtually at 3:44 p.m.

Ms. Sallen asked for clarification for the first statement in Article 3.05 on what number constitutes a quorum.

Ms. Nillen clarified a quorum is the majority of the members as a whole, appointed or not appointed. A quorum would be three out of five.

Ms. Sallen asked for clarification on the second statement in Article 3.05 on what constitutes a majority vote by the quorum.

Ms. Nillen clarified that the Commission will need to have three out of the five members present to hold a meeting. The Commission will need a majority vote of members who are present.

Ms. Erickson stated items will need an affirmative vote of four members to move forward to City Council.

Ms. Erickson asked if there are additional questions. There were no additional questions from the Commission.

Ms. Erickson asked the Commission if they want to vote on the Bylaws, as they are, and to compile the amendments for posting and approval at the next meeting.

Mr. Leyvas moved to adopt the draft Bylaws of the City of Phoenix Ethics Commission, version 1 dated Dec. 31, 2017. Ms. Sallen seconded the motion.

Ms. Erickson opened the public comment portion and introduced Mr. Thacker.

Mr. Thacker stated he submitted a public records request for names and contact information for the Commission Members and he has not received a response. He stated he did not see the Bylaws posted. He referenced a report from the Campaign Legal Center titled "Principles for Designing an Independent Ethics Commission". Mr. Thacker read from sections of the report and stated all the best practices recommended for independent and successful Ethics Commissions are being violated in the structure of the City of Phoenix Ethics Commission.

Ms. Erickson stated staff will follow-up on Mr. Thacker's public records request.

Ms. Erickson asked for a vote.

Mr. Leyvas asked if the draft documents were available in the posting of the meeting notice.

Ms. Erickson said the draft documents were not posted in the meeting notice.

Mr. Leyvas asked if this was a standard practice.

Ms. Erickson stated that not posting the documents was an oversight. The documents are available to the public through a public records request.

Mr. Leyvas stated with this information, he will be voting no on the adoption, to ensure the public has access to the draft documents.

Ms. Erickson asked for a vote. The motion failed 0-4.

5. Elect Chairperson and Vice Chairperson

Item five was not discussed, as Item four was not approved.

Ms. Erickson asked for the Commission Members' resumes to share with the Commission prior to the next meeting.

6. Review and Adopt Initial Rules of Procedure

Ms. Erickson opened the discussion for the Initial Rules of Procedure. She stated the Initial Rules of Procedure are set by the City Manager and any changes would need a vote of approval from four Commission Members to take to Council. Seven of the nine City Council would need to approve.

Mr. Leyvas asked if the City Manager has recommended the initial set of Rules of Procedure to the City Council or are they currently in draft.

Ms. Erickson stated the Initial Rules of Procedure have not been adopted by City Council.

Ms. Nillen clarified, per Section 3.E of the Initial Rules of Procedure, the Commission may refer changes to the Initial Rules of Procedure to the City Manager for review.

Ms. Erickson confirmed the City Manager approved the Initial Rules of Procedure.

Mr. Leyvas noted that the version presented to the Commission for review and discussion is marked as "draft" and asked if staff could seek clarification on whether the Initial Rules of Procedure are still in draft form.

Ms. Nillen stated that if the Commission requests amendments to the currently set Initial Rules of Procedure, the Commission would need to approve the amendments by a four-person vote of approval, and the City Council would need to approve by a seven-person vote of approval.

Ms. Nillen stated the Commission can provide recommendations during the meeting.

Mr. Leyvas referenced Section 2 paragraph 1 of the Initial Rules of Procedure. He stated there are two definitions that differ in the Initial Rules of Procedure and the Phoenix City Code, Section 2-52. He recommended amending the definitions

for “Board Member” and “Elected Official” in the Initial Rules of Procedure to be consistent with Phoenix City Code, Section 2-52.

Ms. Erickson asked for additional comments from the Commission.

Ms. Sallen referenced Rule 6.d of the Initial Rules of Procedure, second sentence. She stated regardless of whether the Commission chooses to use an outside investigator, the Commission should have the final decision on setting a Request for Inquiry for a formal hearing.

Ms. Sallen expressed concern if there was a mechanism to ensure respondents and complainants comply with Commission and Investigator requests for information. She questioned how to deal with non-compliance of requests for information.

Ms. Nillen stated the Commission has no subpoena power, per the City Code and Initial Rules of Procedure. Ms. Nillen stated she can act as the outside investigator if the Commission chooses.

Ms. Erickson asked for additional comments from the Commission. Mr. Schirripa and Ms. Pietkiewicz had none.

Ms. Erickson opened the public comment portion and introduced Mr. Thacker.

Mr. Thacker stated the City does not make it a policy to include documents with the posted meeting agenda, with the exception of City Council Formal meetings and Subcommittee meetings. He would need to submit a public records request. He expressed concerns that the rules, bylaws and staff were already developed and provided to the Commission.

7. Call to Public

Ms. Erickson opened the Call to Public and introduced Mr. Thacker.

Mr. Thacker expressed his appreciation to the Commission. He recommended the Commission review and address all ethics complaints submitted in the last seven years.

Mr. Leyvas asked about how the complaints, collected since 2018, will be addressed if they are not in the format required by the procedures.

Ms. Erickson indicated staff intends to bring all eight complaints, collected since 2018, to the Commission for their review and decision on how to address the complaints.

Mr. Leyvas asked if the procedures allow for the Commission to review the current complaints, if they do not follow the format required by the procedures, such as the requirement to be notarized.

Ms. Erickson stated the staff will review them as provided.

Mr. Leyvas recommended making a provision in the procedures to clarify the requirements do not apply to complaints submitted prior to the approval of the procedures.

Ms. Pietkiewicz and Mr. Schirripa support the recommendation.

8. Future Agenda Items and Meeting Dates

Ms. Erickson requested to send revisions to the Bylaws and Initial Rules of Procedure to Ms. McCarthy.

Ms. Nillen confirmed the agenda and amended documents should be posted and shared with the Commission seven days prior to the next meeting.

Mr. Benton recommended following the foundation of the amendment requirements whether or not the bylaws have been adopted.

Ms. Nillen agreed.

Ms. Erickson confirmed agenda items four, five and six on the agenda will be added to the next agenda.

Ms. Erickson stated the Commission is required to set a schedule of dates during the first meeting. She stated the intent is to have meetings on the third Thursday of each month, at 3 p.m. She asked if that would be agreeable to the Commission.

The Commission confirmed the schedule would work.

Ms. Erickson stated the schedule will be set, with the understanding that dates may be revised in the future.

Mr. Leyvas asked for a more formal introduction from Ms. Nillen and Mr. Benton and their roles for the Commission at the next meeting.

Ms. Erickson thanked the Commission and asked for any final comments.

The Commission did not have additional comments.

9. Adjournment

Ms. Erickson adjourned the meeting at 4:14 p.m.