

ETHICS POLICY & MEETING RULES REVIEW COMMITTEE

**City Hall
Room 302A
10 N. Division Street
Battle Creek, MI 49014
February 15, 2019
4:00 PM**

Committee Members Present: Commissioners Gray, Lance and Sofia

Committee Members Absent: Mayor Behnke

Staff Present: Jill Steele, City Attorney; Vicki Houser, City Clerk

Call to Order: Commissioner Gray called the meeting to order at 4:00 p.m.

Approval of Minutes:

A motion was made by Comm. Sofia, supported by Comm. Lance, to approve the August 24, 2018 meeting minutes, with minor corrections to the spelling of Comm. Sofia's name. All yes, none opposed. Motion carried.

Committee Discussion:

A. Annual Review of the Code of Ethics for Battle Creek City Commissioners as required by Ordinance 212.05(15)(b)(C)

Comm. Lance asked if the 2015 changes to the Code of Ethics had been challenged.

Attorney Steele responded that there have been no legal challenges.

Commissioners Gray, Sofia and Lance stated they had no recommended changes to the Code of Ethics.

Comm. Gray requested the record show that no changes to the Code of Ethics were recommended.

B. Consideration of participation in public meetings by an absent military member who is also a member of the public body and recommended rules

Attorney Steele presented information relative to MCL 15.263(2), noting current city ordinances stated an elected official is not permitted to vote if not present at the meeting. Attorney Steele recommended adding section D to the City ordinances which would specifically address the absence of an elected official serving military duty.

Vice Mayor Sofia stated this new public act would only apply to Comm. Simmons currently, asking if the public act was intended to address active duty or simply away for military activity, such as training. Vice Mayor Sofia asked if there was an analysis to demonstrate the intent of the statute.

Attorney Steele agreed she would have to look up the definition or intent of the term "military duty," stating she was not sure if it required deployment, as "military duty" was not defined in the State statute. Attorney Steele also noted Public Act 485 of 2018 required the City's procedures be in place no later than March 29, 2019.

Attorney Steele further stated the City would need to determine a means of video conferencing or other technology the IT Director deemed adequate.

Vice Mayor Sofia expressed concern video conferencing was not always feasible when military personnel are deployed, dependent upon the mission.

Attorney Steele noted military personnel communicate via Facebook or Skype.

Comm. Lance suggested language that included "whatever means is feasible, given the circumstances."

Attorney Steele noted the statute required the municipality to establish the procedure, not that the city had to go to an extreme extent. Attorney Steele expressed concern the council member absent due to military duty would need to have access to the resolution material, the background information and the ability to hear the council's deliberation.

Comm. Lance noted there were many ways to provide live participation, stating he did not feel the statute was drafted for only military personnel, stating it could be for contractors performing work for the military.

Attorney Steele stated she assumed the statute was for military personnel, such as reserves, stating she had not thought of others who may be working for the military. Attorney Steele provided a history of the Public Act, noting Senate Bill 1262 was introduced by Senator Adam Hollier, with an introduction on December 5, 2018, amendments on December 15, 2018 and passage on December 29, 2018. Attorney Steele also noted the act indicated there would be no fiscal impact on state or local governments.

Committee members expressed concern that a council member on military duty may not be able to receive or reply to calls or emails, and the potential risk if they were on a secret mission.

Attorney Steele suggested a portal, through which the public could contact the council member, and the issuance of a press release informing the public that the council member was absent due to military duty and how to contact the council member. Attorney Steele also noted the public could communicate with the council member through the City Manager's officer.

Comm. Lance stated the absent council member should provide a point of contact, whether via their Commission email or a private email.

Vice Mayor Sofia cautioned that the military should ensure the means of communication is cleared.

Attorney Steele noted there was always the potential the city website is down or the password has been changed.

Comm. Gray summarized the committee's comments, stating Vice Mayor Sofia would check on the background for the intent of the statute, Attorney Steele would review the definition of "military duty" and contact the IT Director to determine opportunities, and the City Manager's office will be the point of contact to facilitate communication between the public and the absent Commissioner.

Attorney Steele stated she would develop language indicating the Commissioner will be considered present.

To meet the need to introduce an amendment to the ordinance by March 5, 2019, Committee members agreed to meet on Friday, February 22, 2109 at 4:00 pm.

Public Comment: There were no public comments.

Commission Comment:

Vice Mayor Sofia stated she would like the Commission rules modified to require any directive to City staff be done by more than one Commissioner, noting of lot of expense is involved when drafting ordinance changes.

Attorney Steele reminded the Committee that the Commission rules require the City Manager and/or City Attorney to act upon a request for a change in ordinance from only one Commissioner. Attorney Steele, stating it would be helpful to know if there is enough interest from other Commissioners before moving forward, suggested a minimum of 3 Commissioners. Attorney Steele stated it would be similar to "co-sponsoring" as done in the State Legislature.

Comm. Gray suggested a process be establish, possibly similar to the process used to set a Commission workshop, requiring at least 3 Commissioners request it.

Attorney Steele suggested the discussion be brought up at a Commission meeting to determine others' thoughts.

Comm. Gray agreed to bring the subject up at a Commission meeting, stating it would be good to get feedback from fellow Commissioners.

Adjournment: Commissioner Gray adjourned the meeting at 4:45 pm.