

ETHICS POLICY & MEETING RULES REVIEW COMMITTEE
Via Zoom: 312-626-6799
Meeting ID: 896 7813 7981
Battle Creek, MI 49014
November 17, 2021
11:00 AM

Committee Members Present: Commissioners Lance, Sofia, Reynolds and Szenda Wilson, all commissioners attending remotely from the City of Battle Creek, MI.

Committee Members Absent: None

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

Call to Order: Victoria Houser called the meeting to order at 11:01 p.m.

Nomination of Committee Chairperson

Comm. Reynolds nominated Commissioner Sofia to serve as Chairperson of the Ethics Policy and Meeting Rules Review Committee. Commissioners Lance and Szenda Wilson supported the nomination of Comm. Sofia.

Comm. Sofia accepted the nomination to serve as chairperson.

Approval of Minutes:

A motion was made by Comm. Lance, supported by Comm. Reynolds, to approve the April 12, 2019 meeting minutes. All yes, none opposed. Motion carried.

Committee Discussion:

A. Public Comment: Items on the Consent Agenda and Resolutions Not on the Consent Agenda

Attorney Steele referenced a chart that was provided to the board members, noting most residents who speak during the public comment period at Commission meetings spoke for less than 3 minutes, seldom using the full 5 minutes that was provided prior to the virtual meetings.

Comm. Lance stated that in his experience, 3 minutes is normally sufficient for residents to provide public comments one time for all items on the consent agenda and resolutions not on the consent agenda.

Attorney Steele noted the Mayor has the discretion to extend public comment time when necessary. Responding to Comm. Szenda Wilson, Attorney Steele noted the public was previously allowed to comment on each resolution for 3 minutes, noting a change was done a few years ago to consolidate the public comment time, to allow one public comment time of 5 minutes for items on the consent agenda and resolutions not on the consent agenda.

Comm. Sofia stated it would be best if Commissioners requested in advance that public comment time be extended if there was a particular subject that may need additional time. Comm. Sofia stated it may cause an issue if the first few residents were able to make their comments within the 3 minutes, and then to allow additional time for others to speak, noting the Mayor has the ability to alter the public comment time if the topic warranted.

Comm. Reynolds agreed 3 minutes would be sufficient time.

A motion was made by Comm. Szenda Wilson, supported by Comm. Reynolds, to make a recommendation to set one public comment opportunity for 3 minutes for all items on the consent agenda and resolutions not on the consent agenda.

B. Engagement with members of the public during meetings, via texts and/or social media

Attorney Steele stated there have been some concerns of potential Open Meetings Act violations, and possible suggestions of unfairness or discrimination, when commissioners communicate with members of the public via phone, text or email during a public meeting.

Comm. Szenda Wilson noted virtual meetings have the potential for a lot of distractions as elected officials or committee/board members are participating within their homes or offices, where others may be present. Comm. Szenda Wilson suggested the Code of Ethics include language as to how elected officials are to participate in virtual meetings.

Attorney Steele clarified the concern was not related to distractions, but to elected officials texting or responding to posts on Facebook during the meeting, stating this could present a violation of the Open Meetings Act, noting personal texts are not available to the general public. As to distractions during virtual meetings, Attorney Steele noted elected officials may not have a separate room in their home to participate in meetings, and it would ultimately be up to the voters to determine if a commissioner was too distracted to do their job.

Comm. Szenda Wilson agreed that some standards needed to be set restricting elected officials from communicating via social media or text messages during the public meetings.

Attorney Steele agreed to draft a proposed amendment, stating the committee could meet again to review the draft and make any additional changes before presenting an ordinance amendment introduction at a commission meeting.

Comm. Sofia noted meeting recordings are saved on the city website and social media, which would allow a commissioner to make a comment after the meeting, stating the draft ordinance would only prohibit an elected official from commenting on social media or texting individuals during the public meeting.

Committee members agree to have the City Attorney draft an amendment to the ordinance.

Referencing workshops, Attorney Steele noted that workshops are not public meetings, but study times, noting no votes are taken, but there is still a requirement to comply with the Open Meetings Act. Attorney Steele, noting continued increase in Covid cases in the community, asked the committee members their opinions of conducting workshops virtually, which would not need legislative approval, noting the workshops would still be live streamed and public notices would be issued.

Comm. Sofia asked if a virtual option would apply to other committees/boards/commissions, such as the Planning Commission or the Historic District Commission.

Attorney Steele stated that if the committee votes on any action, the meeting would need to be in-person. However, Attorney Steele noted that they may still meet virtually if the State Legislature extended the sunset date of the emergency order allowing remote, virtual meetings. Attorney Steele stated she has seen some suggestions the Open Meetings Act may be amended for all bodies, except elected officials.

Comm. Szenda Wilson stated it was important to recognize an accessibility issue for several elected officials, noting several have other employment, which makes it difficult for some elected officials to attend committee and board meetings that are held during work day hours. Comm. Szenda Wilson stated remote, virtual meetings allow elected officials more flexibility to attend meetings.

Attorney Steele noted both commission meetings and workshops, along with committee and board meetings have had more resident attendance when conducted virtually.

Comm. Lance expressed support of more virtual meeting options, agreeing it is normally difficult to attend in-person meetings during regular working hours.

C. Committee Review of the Code of Ethics and Meeting Rules

Attorney Steele noted City ordinance provides that this committee meet once a year to review the Code of Ethics, allowing an opportunity to address any issues in the ordinance.

Comm. Sofia, along with other committee members, confirmed no other changes were suggested, other than those discussed earlier in the meeting.

Attorney Steele agreed to draft an ordinance amendment reducing the one time public comment from 5 minutes to 3 minutes for items on the consent agenda and resolutions not on the consent agenda, to allow workshops to continue to be virtual, and to prohibit electronic interaction of an elected official with the public during the meetings as this could present an Open Meetings Violation. Attorney Steele noted the committee would need to meet to review/consider the draft ordinance amendment before recommending it to the City Commission.

Committee members agreed to meet on Tuesday, November 23, 2021 to review the amended ordinance language.

Public Comment: There were no public comments.

Commission Comment: There were none.

Adjournment: Commissioner Sofia adjourned the meeting at 11:38 am.