

ETHICS POLICY & MEETING RULES REVIEW COMMITTEE
Battle Creek City Hall, Room 302A
10 N. Division Drive,
Battle Creek, MI 49014
September 20, 2022
6:15 PM

Committee Members Present: Commissioners Lance, Reynolds, Sofia and Szenda Wilson

Committee Members Absent:

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

Call to Order: Comm. Sofia called the meeting to order at 6:15 p.m.

Approval of Minutes:

A motion was made by Comm. Lance, supported by Comm. Reynolds, to approve the November 23, 2021 meeting minutes. All yes, none opposed. Motion carried.

Committee Discussion

A. Annual Review of the Code of Ethics and Meeting Rules for Battle Creek City Commissioners:

Comm. Sofia confirmed she did not receive any requests from Commissioners for changes to the Code of Ethics or Meeting Rules.

B. Consideration of Amending Ordinance 212.05(b)(16)(C) addressing the need to meet annually

- a. **Annually**
- b. **Per Commission Term**
- c. **As Needed**

Attorney Steele stated the committee would meet annually to consider 212.05(C) in August, but suggested discussion if the meeting annually is necessary, or if it should be done at a minimum of once per commission term, and if a different month would be more accommodating. If recommendation is to meet once per term, any month would be appropriate.

A motion was made by Comm. Szenda Wilson, supported by Comm. Reynolds, to recommend an amendment to City Ordinance, Section 212.05(b)(16)(C) to require the Ethics Policy & Meeting Rules Review Committee meet once per commission term, and as needed, but no less than once per commission term, with no specific month set. All in favor, none opposed. Motion approved.

Attorney Steele stated she would prepare the amendments to the ordinance, and the committee would reconvene to approve the recommended changes, which could meet virtually.

Public Comment: There were no public comments.

Commission Comment:

Attorney Steele noted the City Clerk did receive 4 resident concerns about commissioners wearing ear buds during the meeting, with the residents expressing concern the commissioner could receive outside influence or communication during an open meeting, thus violating the Open Meetings Act.

Mr. Dearing noted one commission mistakenly forgot the earbuds were still in her ears, and the other commissioner stated she would continue to wear the earbuds due to some health concerns.

Attorney Steele noted commissioners were required to follow conduct during public meetings, to focus on the business at hand, and were not allowed to post on social media or send or respond to text messages or emails during an open meeting.

Comm. Sofia agreed this could be perceived as a violation of the Open Meeting Act.

Comm. Lance commented that simply wearing earbuds does not mean they were communicating with anyone outside of the meeting, or in violation.

Attorney Steele, noting technology continues to evolve, suggested more emphasis on Open Meeting Act violations, or perceptions of violation, during the commission orientation, noting some violations of OMA are misdemeanors. Attorney Steele noted that even when a commissioner is not in violation, the appearance of a violation can become a challenge the City Attorney's office will need to address, believing the misdemeanor would be to the commissioner, not the body as a whole, which no matter how innocent, it could be difficult to defend.

As to medical concerns, and provided the commissioner is not deliberating with outside persons, Attorney Steele noted it is the appearance of a violation that is the issue, stating it is best to avoid the appearance of a violation, whenever possible, stating it may be best to address with commissioners individually.

Attorney Steele also discussed a request from an applicant to be allowed more than 3 minutes public comment time, stating the Commission informally has not held the applicant to the 3 minute limitation, as there could be concern an applicant was not allowed to present information if the resolution is denied. Attorney Steele stated the agenda language regarding public comment could include information extending time limits for applicants who have a resolution on the agenda. Attorney Steele stated she was reluctant to specify a time frame, but a speaker could still be distinguished as an applicant or member of the public, noting the Mayor would need to ensure the speaker is not redundant and speaks relative to the agenda item.

Attorney Steele confirmed it would be best to consider adoption of the ordinance amendments at the November 1st meeting, with the introduction to take place at the October 18th meeting.

Adjournment: Commissioner Sofia adjourned the meeting at 6:42 pm.