

AD HOC COMMITTEE ON ETHICS MINUTES

August 6, 1998

The Ad Hoc Committee on Ethics of the City of Mesa met in the City Council Conference Room, 20 East Main Street, Suite 750, on August 6, 1998 at 4:03 p.m.

COMMITTEE PRESENT

Dennis Kavanaugh, Chairman
Mike Hughes
Marianne Jennings
Bonnie Koppell
Joan Newth
Marty Whalen

COMMITTEE ABSENT

Dan Brock
Bernard Butts
Wanda Kay

STAFF PRESENT

Cindy Barris
Neal Beets
Barbara Jones
Ellen Pence
Tom Remes

Chairman Kavanaugh excused Committeemembers Brock, Butts, and Kay from the meeting.

1. Approve minutes of April 14, 1998 meeting.

It was moved by Committeemember Newth, seconded by Committeemember Hughes, that the minutes of April 14, 1998 be approved.

A tabulation of votes showed the motion carried unanimously by those present.

2. Review and consideration of final draft of ethics handbook.

Chairman Kavanaugh stated that a final draft of the ethics handbook has been prepared which incorporates recommendations made by the Committee at the April 14, 1998 meeting. Chairman Kavanaugh requested input from the Committee relative to the final language and proposed layout in preparation for tentative presentation to Council at the September 3, 1998 Policy Session. Chairman Kavanaugh stated that it is his intent to prepare a written report for the Mayor and Council summarizing the activities of the Committee and to meet with the Mayor prior to the Policy Session. Chairman Kavanaugh advised that Council will not take action at the Policy Session but will be asked to place the issue on a future Council agenda for approval.

Chairman Kavanaugh commended the members of the Committee and staff for their efforts and expressed appreciation to each for their work.

Chairman Kavanaugh indicated that Committeemember Butts has conveyed his approval of the final draft of the ethics handbook.

In response to a question from Committeemember Whalen, Chairman Kavanaugh stated that the Committee's recommendations pertaining to the establishment of an Ethics Advisory Board will be presented in a report to Council along with the ethics handbook. Assistant to the City Manager Ellen Pence indicated that an ordinance can be prepared similar to those appointing other boards and commissions.

Committeemember Koppell suggested inclusion of the proposal in the Appendix.

Members of the Committee recommended format changes to the ethics handbook as follows. (Items were discussed out of order but for purposes of clarity will remain as listed in the handbook.)

SECTION I. CITY OF MESA ETHICS POLICY

Committeemember Newth requested further definition of the term "all" in the last sentence of the first paragraph. Ms. Pence suggested reference to "all officials" affiliated with city government.

Committeemember Koppell requested that the word "improper" be removed from the phrase "improper personal gain" at the end of the second paragraph. The Committee recommended that the language be modified to state "never use their City position or powers improperly or for personal gain."

Committeemember Whalen suggested adding "directors and officers of City-sponsored municipal entities" to the list of members identified in the second paragraph. Following brief discussion, the Committee determined not to include the additional language. Chairman Kavanaugh commented that City appointees serving on other boards and committees can propose the adoption of similar ethics codes to govern their operation.

SECTION II: APPLICABLE LAWS AND POLICIES

A. General Character

1. Honesty and Integrity
2. Fairness and Respect
3. Effort

Committeemember Koppell recommended modification to language in the first paragraph reflecting that officials shall "adhere to" rather than "strive for" ethical standards. Committeemember Whalen expressed disagreement with the proposal. Following brief comments, Chairman Kavanaugh stated that it is the general consensus of the Committee to revise the language.

B. Conflict of Interest

1. Self-Dealing
2. Disclosure of and Policy on Acceptance of Gifts and Favors
3. Loyalty
4. Nepotism

Committeemembers Whalen and Jennings spoke in favor of amending text under Item B2 to state that elected and appointed officials are "encouraged to follow a higher ethical standard" on gifts and favors rather than "free to follow a more personal standard."

Committeemember Newth distributed an analysis from the Valley Citizens League of House Bill 2240 relating to gifts from lobbyists to legislators, elected state officers, and state employees. Committeemember Newth commented that the Committee may wish to consider material in the analysis for possible inclusion in the handbook.

Members of the Committee recommended that language defining the Ethics Advisory Board be moved from the paragraph following the bulleted items relating to gifts and favors and placed as a footnote or identified with an asterisk at the bottom of the page.

The Committee and staff suggested minor spelling/grammatical revisions to text.

C. Legal Compliance

1. Meetings
2. Attendance
3. Disclosure of Confidential Information
4. Discrimination and Harassment

Committeemember Koppell expressed concern relative to language under Section C2 indicating that meetings missed shall be "cleared" with the chairperson. Committeemember Koppell noted that members serve as volunteers and suggested text reflecting a notification process. Following brief discussion, the Committee recommended that members notify the chairperson or staff liaison regarding meetings missed or to be missed for good cause.

D. Political Activities

In response to a question from Committeemember Whalen, City Attorney Neal Beets stated that the City's ordinance governing the resign-to-run regulation addresses the time frame for an individual to resign from a City board. Committeemember Whalen suggested the addition of language to the handbook to state that the resign-to-run regulation requires boardmembers to resign from their City board when they seek a City Council "or Mayoral" position.

At the request of Committeemember Newth, Chairman Kavanaugh and Committeemember Jennings provided clarification pertaining to the phrase "association of City employees."

E. Facilities, Resources, and Expenses

1. Expense Reports and Travel
2. Use of Equipment and Facilities
3. Use of Staff

Discussion ensued pertaining to the potential modification of language included under "Use of Staff" and the inclusion of examples. Chairman Kavanaugh encouraged suggestions for illustrations from the Committee.

(Chairman Kavanaugh excused Committeemember Whalen at 4:28 p.m. for the remainder of the meeting.)

SECTION III: PROCEDURES

A. Where to Seek Advice

B. What to Do if You Are Uncertain

Committeemember Jennings suggested the modification of text to reflect that requests related to conflicts of interest "must be kept confidential" and that official opinions of the City Attorney "are required by law to be a public record."

The Committee and staff spoke briefly concerning official opinions from the City Attorney.

Committeemember Koppell questioned whether statutes differentiate between written and verbal opinions. Committeemember Jennings recommended that the issue be researched and language utilized that conforms to statutory provisions.

C. How to Declare a Possible Conflict

Committeemember Jennings suggested that the text referring to conflict of interest be revised to state that officials should "disclose the conflict" rather than "simply announce that fact." Committeemember Jennings additionally recommended that the term "reasonable" be removed from the last sentence of Section C to indicate that officials should declare possible conflicts to avoid any "appearance of impropriety."

Summary Remarks

In response to a question from Committeemember Newth, Assistant to the City Council Tom Remes stated that statutory references will be included in the appendices of the handbook.

Chairman Kavanaugh spoke concerning the importance of training as a key component and stating that training provisions (e.g., an annual training session each Fall) will be included in the Committee's written recommendations to Council.

3. Handbook layout and design suggestions.

Ms. Pence distributed a sample illustrating the proposed handbook layout and design. Ms. Pence suggested that in an effort to avoid confusion with the City's existing ethics handbook, the title be amended to *Ethics Code and Handbook for City of Mesa Elected and Appointed Officials*. Ms. Pence advised that it is staff's intent to utilize color bands and include quotations provided by Committeemember Jennings. Ms. Pence recommended that the dimensions of the handbook be conducive for mailing.

Committeemember Jennings noted recent trends and suggested the development of a "theme" for the handbook.

4. Discussion of Council presentation.

Chairman Kavanaugh reiterated that he will be meeting with Mayor Brown to review the Committee's activities and recommendations prior to presentation to Council, which is tentatively scheduled for the September 3, 1998 Policy Session. Chairman Kavanaugh indicated that copies of the Committee's minutes will be provided to Council for their review.

In response to a question from Committeemember Newth, Chairman Kavanaugh stated that it would be his intent to request that Council proceed to schedule the ethics code for adoption at a Regular Council Meeting in September and refer the proposed Charter amendments to the next election ballot, currently scheduled for Spring 2000. Chairman Kavanaugh encouraged Committeemembers to attend the Policy Session.

Mr. Beets explained that the referral of Charter amendments would necessitate the preparation of an ordinance for introduction, public hearing, and adoption.

5. Adjournment.

Chairman Kavanaugh reiterated his appreciation to the Committeemembers and staff for their time and effort and thanked each for their participation.

Without objection, the meeting of the Ad Hoc Committee on Ethics adjourned at 5:02 p.m.

Carried unanimously.

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I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the Ad Hoc Committee on Ethics of the City of Mesa, Arizona, held on the 6th day of August 1998. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1998

BARBARA JONES, CITY CLERK