

AD HOC COMMITTEE ON ETHICS MINUTES

February 26, 1998

The Ad Hoc Committee on Ethics of the City of Mesa met in the Gold Room of the Council Chambers, 57 East 1st Street, on February 26, 1998 at 3:38 p.m.

COMMITTEE PRESENT

Dennis Kavanaugh, Chairman
Mike Hughes
Wanda Kay
Bonnie Koppell
Joan Newth
Marty Whalen

COMMITTEE ABSENT

Dan Brock
Bernard Butts
Marianne Jennings

STAFF PRESENT

Cindy Barris
Neal Beets
Barbara Jones
Tom Remes

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

1. Review of status report to Council.

Chairman Kavanaugh advised that a status report outlining the progress of the Committee to date was presented to the Mayor and City Council at the Study Session held on Friday, February 20, 1998. Chairman Kavanaugh indicated that material was submitted for informational purposes and that Council was apprised of the Committee's ongoing endeavors and anticipation that proposed Charter amendments could be referred to the ballot at some point in the future. Chairman Kavanaugh noted concerns expressed by the Mayor relative to the recommended appointment process for members of the proposed Ethics Advisory Board.

Committeemember Hughes commented that the proposed method of appointment was designed to protect the integrity of the process as well as the integrity of elected and appointed officials.

In response to a question from Committeemember Koppell, Chairman Kavanaugh said that a copy of the draft ordinance was provided to Council and reviewed at the Study Session. Chairman Kavanaugh spoke regarding traditional authority relating to the Mayor's prerogative to appoint individuals to advisory boards and committees.

Committeemember Whalen expressed the opinion that the Mayor's concern relates to the obligation to defend the prerogative of the office to appoint members rather than a personal desire to maintain such a prerogative. Committeemember Newth noted the importance of communication between the Committee and Council and reiterated previous suggestions to share information. Committeemember Newth said that in addition to dialogue at public meetings, individuals may telephone Councilmembers. Committeemember Newth indicated a willingness to provide support as needed in the future.

Chairman Kavanaugh referred to a newspaper article and commented concerning previous discussion with the Mayor pertaining to the activities of the Committee. Chairman Kavanaugh stated the opinion that the Committee has established a valid recommendation. Chairman Kavanaugh indicated that he has received favorable comments from the public and fellow Councilmembers.

Committeemember Hughes questioned the availability of minutes to Councilmembers. Chairman Kavanaugh stated that copies have not been routinely submitted to Council but that staff will provide the minutes of meetings to date as well as any future meetings.

Chairman Kavanaugh commented that additional discussion pertaining to this matter may arise in the future but suggested that the Committee proceed with remaining issues at this time.

2. Discuss and consider policy on acceptance of gifts and favors.

Chairman Kavanaugh said that the Committee has previously considered options relative to a policy on the acceptance of gifts and favors, including a) a total ban and b) more reporting standards.

Committeemember Whalen suggested that consideration be given to establishing a monetary threshold limit, beyond which disclosure would be required.

Discussion ensued concerning gifts of nominal value, difficulties in defining and determining value, establishing to whom disclosure is reported, and the feasibility of complete prohibition.

Committeemember Koppell recommended that a review of disclosure forms be routinely included as an agenda item for meetings of the Ethics Advisory Board.

City Attorney Neal Beets stated that elected and appointed officials may be unable to prevent individuals from providing some gifts but could redirect such items to other entities. Mr. Beets spoke concerning differentiating between gifts provided to officials as individuals and gifts provided to officials as representatives of Mesa that are designated for display by the City.

Committeemembers Whalen and Hughes commented that a complete ban may be inappropriate and unenforceable.

Committeemember Kay stated that a total prohibition is unrealistic and that a reasonable threshold for disclosure should be established.

Committeemember Newth suggested a possible threshold equivalent to the price of a dinner, commenting that such a measurement would allow individuals to continue to participate in various organizations.

Committeemember Koppell noted the importance of attending various functions and expressed the opinion that officials should not be required to bear the expense to attend in their official capacity.

Committeemember Hughes requested assistance from Mr. Beets in drafting policy language relative to the acceptance of gifts and favors.

The Committee and staff spoke concerning practices established by surrounding communities, time frame for disclosure (City of Phoenix requires disclosure within two working days), filing of forms with the City Clerk's Office, and the ability of officials to seek direction from the Board relative to questionable items.

Committeemember Koppell spoke in favor of a \$25 threshold with an exception provided for participation in cultural events in an official capacity.

In response to a question from Committeemember Newth, Committeemember Whalen recommended that disclosure reports be presented to the Ethics Board on a monthly basis. Chairman Kavanaugh noted that this issue could be included in the training program.

Committeemember Newth noted the importance of reviewing reports on a regular basis.

Mr. Beets outlined text contained within the City of Phoenix policy which stipulates that items should not be accepted which would "lead toward favoritism or the appearance of favoritism in any way." Mr. Beets suggested that consideration be given to including a monetary threshold as well as language similar to that of the City of Phoenix.

Committeemember Whalen spoke in favor of drafting language as presented by Mr. Beets but indicated that he has not yet determined support for the proposal.

Assistant to the City Council Tom Remes advised that the City of Phoenix policy additionally includes a sample list of items subject to disclosure. Chairman Kavanaugh noted that individuals are not prohibited from accepting such items but are required to disclose them.

Additional discussion ensued pertaining to City "perks," potential positive and negative impacts of such "perks," the appropriateness of including a monetary threshold, and periodic reporting by the Ethics Board to the City Council. Chairman Kavanaugh noted that Councilmember "perks" are a matter of public record.

Chairman Kavanaugh stated support for full disclosure, with declarations to be filed with the City Clerk's Office and reports provided on a monthly basis to the Ethics Board.

Committeemember Koppell spoke in favor of establishing a list of items to be disclosed along with a monetary threshold of \$50 (plus provisions for cost-of-living increases) for all additional items.

Committeemember Kay said that she supports a threshold of not less than \$50.

Mr. Beets indicated that Committeemember Jennings may oppose the suggestion. Chairman Kavanaugh noted that a minority report can be prepared.

Committeemember Newth expressed concern that \$50 may be too generous.

It was moved by Committeemember Newth, seconded by Committeemember Koppell, that a monetary threshold of \$25 be included in the draft language to be prepared by Mr. Beets.

Upon a tabulation of votes, it showed:

AYES - Kavanaugh-Koppell-Newth
NAYS - Hughes-Kay-Whalen
ABSENT - Brock-Butts-Jennings

Chairman Kavanaugh declared the motion failed.

It was moved by Committeemember Whalen, seconded by Committeemember Hughes, to defer discussion of the monetary threshold until draft language has been prepared by Mr. Beets.

Upon a tabulation of votes, it showed:

AYES - Hughes-Kavanaugh-Kay-Whalen
NAYS - Koppell-Newth
ABSENT - Brock-Butts-Jennings

Chairman Kavanaugh declared the motion carried by majority vote of those present.

3. Review and consider handbook format proposed by Marianne Jennings.

Chairman Kavanaugh noted that Mr. Remes previously presented an option for the handbook format delineating policy provisions and corresponding references, and that Committeemember Jennings subsequently recommended an approach that would incorporate resources as a supplemental packet to the handbook.

Brief discussion ensued concerning ease of use provided by each of the formats. Committeemembers spoke in favor of the initial layout.

Committeemember Whalen suggested that consideration be given to utilizing different fonts or type styles to distinguish policies from references.

It was moved by Committeemember Newth, seconded by Committeemember Whalen, to adopt the original handbook format presented by Mr. Remes.

Chairman Kavanaugh declared the motion carried unanimously by those present.

Mr. Beets advised that Committeemember Jennings had suggested that the general character portion be moved to the beginning of the handbook. Chairman Kavanaugh stated that it was the consensus of the Committeemembers present to place the general character portion before the policy section.

4. Discussion of adding new meeting dates.

Current meeting schedule (March 12).

Chairman Kavanaugh reported that an additional Committee meeting will be held in the Gold Room of the Council Chambers on Tuesday, March 24, 1998, at 3 p.m.

5. Review other conflict of interest text.

Chairman Kavanaugh stated that this item will be considered at the March 12, 1998 Committee meeting.

6. Discussion and consideration of agenda items for next meeting.

Chairman Kavanaugh stated that the draft language to be prepared by Mr. Beets concerning the policy on acceptance of gifts and favors will be reviewed at the next Committee meeting.

7. Adjournment.

It was moved by Committeemember Newth, seconded by Committeemember Hughes, that the meeting of the Ad Hoc Committee on Ethics adjourn at 4:54 p.m.

Carried unanimously.

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 26th day of February 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