

AD HOC COMMITTEE ON ETHICS MINUTES

April 14, 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 April 14, 1998 at 3:13 p.m.

COMMITTEE PRESENT

Mike Hughes
Marianne Jennings
Wanda Kay
Joan Newth
Marty Whalen

COMMITTEE ABSENT

Dennis Kavanaugh, Chairman
Dan Brock
Bernard Butts
Bonnie Koppell

STAFF PRESENT

Cindy Barris
Neal Beets
Barbara Jones
Ellen Pence
Tom Remes

OTHERS PRESENT

Bev Hart

(Due to the absence of Chairman Kavanaugh, the meeting was conducted by Committeemember Whalen.)

Committeemember Whalen excused Chairman Kavanaugh and Committeemembers Brock, Butts, and Koppell from the meeting.

1. Approve minutes of March 31, 1998 meeting.

It was moved by Committeemember Newth, seconded by Committeemember Jennings, that the minutes of March 31, 1998 be approved.

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

2. Review preliminary draft of ethics handbook.

Committeemember Whalen reported that Committeemember Jennings has submitted quotations for possible inclusion in the ethics handbook.

At the request of Committeemember Whalen, Committeemembers provided input relative to the draft language of the handbook.

(Issues were discussed out of order, but for purposes of clarity are listed in the order in which they appear within the handbook.)

SECTION I: CITY OF MESA ETHICS POLICY

Committeemember Newth questioned the use of "The City of Mesa and its elected and appointed officials" in the last paragraph. Committeemember Whalen commented that the "City of Mesa" refers to the City as an entity and body politic.

SECTION II: APPLICABLE LAWS AND POLICIES

A. General Character

Committeemember Newth noted the repeated use of the term "various" and "simple" in the first two paragraphs and requested that language be deleted or substituted.

Committeemember Whalen advised that the "third person" writing style is utilized throughout the text but that the word "you" is included in the second paragraph of this section. Committeemember Whalen recommended modifications to maintain consistency.

B. Conflict of Interest

2. Disclosure of and Policy on Acceptance of Gifts and Favors

To improve understanding and ease of reading, Committeemember Newth suggested that the bulleted items be reordered as follows:

- could lead to favoritism or the appearance of favoritism in performing their official duties, or
- consists of sports, athletic, or entertainment tickets, or
- have a value of \$50, amount subject to periodic review by the Ethics Advisory Board.

The Committeemembers concurred with Committeemember Newth's recommendation.

Brief discussion ensued concerning items intended for the City rather than as a personal gift to a Councilmember or a Boardmember. Committeemember Whalen commented that some items may not be intended for display and should merely be turned over to the City Manager.

3. Loyalty

Committeemember Whalen recommended substitute language, noting that officials have an obligation to put the interests of the City over all "personal" rather than "other" considerations.

Mr. Beets questioned the use of the words "as a whole," particularly in the event that district representation is approved by the voters at the upcoming May 19, 1998 General Election. Assistant to the City Council Tom Remes suggested that consideration be given to deleting the phrase.

Following additional brief comments, Committeemember Whalen requested that Mr. Remes further review the language.

C. Legal Compliance

1. Attendance

In response to a question from Committeemember Newth, members of the Committee advised that forfeiture of office is automatic should a member be absent from three consecutive meetings without being excused.

Committeemember Newth expressed concern relative to the use of the term "desires" in the *Comment* section. Following brief discussion, the Committee determined that the word "desires" should be retained.

2. Disclosure of Confidential Information

Committeemember Whalen commented that the handbook is designed for officials rather than employees and recommended appropriate modifications to the language.

D. Political Activity

1. Public Access: Open Meetings and Public Records

Committeemember Newth stated the opinion that Item D1 would be more appropriately listed as Item C1. The Committeemembers concurred with Committeemember Newth.

Committeemember Whalen suggested a heading such as "Meetings."

Committeemember Jennings recommended that the last sentence in the paragraph and the statutory reference be moved to the beginning of the paragraph.

a. Electronic Mail

Committeemember Newth suggested that this issue be moved to Item E ("Facilities, Resources, and Expenses") and renumbered as 2(b) (under the heading "Use of Equipment and Facilities").

Committeemember Jennings noted that two paragraphs will be retained under the heading of "Political Activity."

Committeemember Hughes referred to the second paragraph and recommended that the term "putting pressure" be replaced with alternative language.

Discussion ensued concerning the use of the words "Electronic mail systems, including Internet...." Mr. Remes suggested language such as "City-assigned electronic mail accounts."

E. Facilities, Resources, and Expenses

1. Expense Reports and Travel

Committeemember Newth recommended that the words "and should not bring discredit to the City" be deleted from this section. Members of the Committee concurred with Committeemember Newth.

2. Use of Equipment and Facilities

Committeemember Whalen questioned the use of the phrase "shall not use City equipment or City facilities for private purposes, except to the extent that they are available to the public." Following brief discussion, the Committee recommended no changes to this language at this time.

3. Use of Staff

Committeemembers and staff spoke concerning communication between Councilmembers or Boardmembers and City staff and the ability of members to contact staff for informational purposes. The Committee requested that Mr. Remes develop language pertaining to this issue.

SECTION III: PROCEDURES

A. Where to Seek Advice

and

B. What to Do if You Are Uncertain

Members of the Committee and City Attorney Neal Beets spoke concerning the role of the City Attorney's Office and the Ethics Advisory Board, ethical issues versus legal issues, and to whom ethical matters should first be presented.

Following discussion, Committeemember Jennings recommended that situations first be presented to the City Attorney, who will then respond to issues governed by statutes and refer other items to the Ethics Advisory Board.

In response to a question from Committeemember Newth, Mr. Beets noted that legal opinions are considered public record, while requests are not.

D. Where to Report Improper Behavior

In response to a question from Committeemember Whalen, Committeemember Jennings suggested that the reference to the City Attorney's Office be deleted from the second paragraph of this section.

The Committee and staff commented concerning applicability to private citizens, potential for misuse by the public, and provisions for anonymity when registering a complaint.

Assistant to the City Manager Ellen Pence outlined current procedures relative to public input and spoke regarding publicity pertaining to the creation and availability of the Ethics Advisory Board. Ms. Pence commented that a staff person will likely be assigned to the Ethics Advisory Board, similar to the arrangement for the Planning and Zoning Board, and could be used as a point of contact.

In response to a question from Mr. Beets, Committeemember Whalen indicated that inquiries relating to ethics should be presented to the City Attorney, who will then decide either to respond or to forward such inquiries to the Ethics Advisory Board.

3. Discussion of adding new meeting dates.

Mr. Remes outlined a recommendation to delay scheduling an additional meeting until staff has had an opportunity to prepare the text in handbook format, along with graphics and quotations.

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

Committeemember Whalen requested that Mr. Remes begin preparation of a summary for presentation to Council.

Ms. Pence suggested that a draft layout of the handbook be provided to the Committee following the General Election.

5. Adjournment.

Without objection, the meeting of the Ad Hoc Committee on Ethics adjourned at 4:10 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 14th day of April 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