

**Minutes of a Meeting of the
Ethics Ad Hoc Committee
Of the City of Georgetown, Texas**

Monday, January 29, 2018

The Ethics Ad Hoc Committee met on Monday, January 29, 2018 at **6:00 PM** in the Main Floor Conference Room of City Hall, 113 E. 8th Street, Georgetown, Texas.

REGULAR SESSION

- A. Call Meeting to Order – Tim Smith, Chair

Chair, Tim Smith, called the meeting to order at 6:02 PM.

All of the Ethics Ad Hoc Committee member were present, with the exception of Peggy Moore. Bob Glandt, Jerry Lawhon, Kelly McClennahan, Camarie Perry, Tim Smith, Paula Trietsch Chaney and Cass Wheeler were in attendance.

- B. Consideration and possible action to approve the minutes from the meeting held November 8, 2017 – Tim Smith, Chair

Chair, Tim Smith, asked the Committee if they had reviewed the minutes of the November 8, 2017 meeting and if anyone had any comments or concerns.

Motion by Glandt, second by Trietsch Chaney to approve the minutes from the November 8, 2017 meeting.

Approved: 7-0 (Moore, absent)

- C. Discussion, consideration and possible action regarding recommendations to the City of Georgetown City Council on amendments to the City of Georgetown Ethics Ordinance – Tim Smith, Chair

The Committee discussed suggestions provided to them from Councilmember Steve Fought and his note regarding additional language on professional services in addition to business interests. It was suggested that the Ethics Ordinance from San Marcos addresses these concerns.

The Committee discussed some pros and cons of other cities' Ethics Ordinances. These had been requested by the Ethics Ad Hoc Committee at the previous meeting and provided to the Committee Members for their review prior to the current meeting.

Discussion took place regarding economic interest language and how to better define and clarify its role. Economic benefit was discussed as well and the Committee agreed that definitions are key. Discussion followed regarding violations of economic interest and how to better define this or make it more understandable. Language of economic benefit was discussed.

The Committee discussed the first and second degrees of consanguinity or affinity and whether 2nd degree, including cousins, was appropriate, or language that did not even include siblings. The Committee agreed that they were most comfortable with the first degree.

The Committee asked to look at Ethics Ordinances from San Marcos, Round Rock and Sugarland to review their language for economic interest. Copies were passed out to each Committee Member, as well as anyone attending the open meeting. The Committee thought it best to amend the City's old ordinance (2012-09) with amendments thought to be helpful from other cities' Ethics Ordinances.

The Committee then examined the 2012-09 City of Georgetown Ethics Ordinance. Each section was examined and discussed. Section E of Chapter 2.20.010, Declaration of Policy, was discussed at length. Definitions of "Substantial Financial Interest" and "Economic Interest" were examined. It was determined that "Substantial Financial Interest" was well defined and easily understood, but that "Substantial Economic Interest" was more vague and unclear. Conflicts of interest were discussed.

Discussion followed regarding quorum issues when conflicts of interest are filed. The Committee said that there is language addressing this issue in the City of Sugarland Ethics Ordinance and could be included as a possible solution in the Committee's recommendation to the City Council, following the Council's direction to clarify perceived conflicts, but also give boards and commissions the opportunity to conduct business. The Committee suggested using the "Standards of Conduct" language from the City of Sugarland Ethics Ordinance, as well. It was suggested to insert the entire block from Chapter 2.20.030 from the City of Sugarland Ordinance.

Discussion took place on the enforcement mechanism for ambiguous language. It was suggested to implement Local Government Code Chapter 171 in the City of Georgetown Ethics Ordinance recommendations.

Section 2.79 from the City of Sugarland's Ordinance No. 2095 was discussed – Abstention from Participation. It was suggested that this whole section be implemented into the City of Georgetown Ethics Ordinance recommendations and that the City's Legal Department be asked to change the language to fit the City of Georgetown and to define the terms for continuity.

City Attorney, Charlie McNabb, explained some issues with Section E and said that, in Georgetown, the City Council cannot be required to resign. Discussion followed to strike the Section E. McNabb explained that an elected official with a violation would actually be brought to the Ethics Commission for review. He explained that an ordinance cannot require something that the City Charter does not. McNabb said he would research if the Commission can compel the Council to appear. McNabb said that Boards & Commissions members can be governed by Council, but not Council itself. He noted that the removal of a Councilmember would be done by a court. McNabb said he would research this further, because the definition of a covered official is broad. He said that in the City of Georgetown, a covered official would be a Board or Commission member, the City Manager, the City Attorney and the City Secretary.

Section 2.20.030, Item C, of the City of Georgetown Ordinance 2012-09 regarding conflict of interest was discussed. Substantial Economic Interest was discussed. The Committee agreed that all of the other city's ordinances contained similar language. It was agreed that the law is always subject to interpretation and that the ordinance may actually be crafted well, proven by the fact that there have not been any violations reported. Discussion followed regarding substantial economic interest, although not clearly defined, would require common sense to come into play. It was mentioned that the other city ordinances have a dollar amount listed for substantial economic interest. It was decided that economic interest could not be eliminated all together in the language as it would render the government incapable of conducting business.

McNabb said the ordinance discussion has not addressed the full issue of Standards of Conduct because the term "business negotiations" has caused more confusion than the term "economic interest". It was noted that the State combines this all into one term called "substantial interest in business entity". McNabb noted that the state statute allows for stricter City language as well. He explained that it is not all encompassing and the City can make things more restrictive, but not less restrictive. He said that Substantial Economic Interest picks up things not covered in financial economic interest.

Discussion followed regarding not meeting quorum and how this would need to be resolved. McNabb noted that a business opportunity negotiation is hard to interpret and the language could cause interpretation issues. Discussion took place on what constitutes a business negotiation. McNabb noted that one could not possibly cover all, and he would suggest leaving this as is, with a remedy in the case of a stalemate.

Disclosure of Interest and Recusal, Section D of the City of Georgetown Ordinance 2012-09, was discussed next. McNabb said that he would revise the section as requested by the Committee. He explained that he would conduct some further research, and bring a draft back to the Committee for their review. McNabb said that his would be able to track the state law, and provide a red-line version of the old ordinance, amended.

The Committee spoke on recommending the reinstatement of the Ethics Commission. It was asked if all of the concerns of the City Council have been addressed. It was decided that the quorum issue had been addressed, as well as having an Ethics Commission. It was determined that the Council also spoke on adding more teeth to reprimanding ethics violations. Ordinance 2012-09, Section 2.20.090 Sanctions & Violations was discussed. McNabb explained that the language places the discipline with the Ethics Commission. He explained that there is no capacity to fine for a violation, and this would have to be handled through a court. He also explained that there is not a lot that can be done because of the Charter. McNabb said it is actually not much of a concern, because the state would trump the City's lower restrictions anyway. He said that the state law makes violations a misdemeanor, which a judge could decide, as defined in Chapter 171. He noted that Chapter 171 governs officials but not Board and Commission appointees, like the City ordinance. McNabb said misdemeanor language could be added. When asked if there was a down side to this, McNabb said that the Ethics Ordinance might be better served by the Commission's opinion rather than the courts. The Committee spoke on adding the misdemeanor language to the draft, even if it was taken out later.

D. Discussion regarding future agendas and meeting dates and times – Tim Smith, Chair

Discussion took place to determine the date and time of the next meeting. It was decided to set the next meeting for Monday, February 26, 2018, at 6 PM in the Main Floor Conference Room of City Hall, 113 E. 8th Street, Georgetown, Texas.

ADJOURNMENT

Motion by Trietsch Chaney, second by Wheeler, to adjourn the meeting.

Approved: 7-0 (Moore, absent)


Chair, Tim Smith adjourned the meeting at 7:04 PM.

Approved by the Ethics Ad Hoc Committee

2/26/2018

Date


Board Chair


Board Secretary