



BOARD OF ETHICS MEETING

Tuesday, April 16, 2019

7:00 p.m.

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, Room 2404

AGENDA

1. CALL TO ORDER / DECLARATION OF QUORUM

2. PUBLIC COMMENT

3. APPROVAL OF MEETING MINUTES

December 18, 2018

4. NEW BUSINESS

- A. Discussion of Policy Related to Board of Ethics Public Comment
- B. Update from Subcommittee of the Rules Committee to revise the Code of Ethics
- C. Consider Adoption of Guidance on Voting on Matter Relating to Oneself
- D. Review and Respond to Correspondence Submitted to the Board of Ethics

ADJOURNMENT

Next Regularly Scheduled Meeting:
May 21, 2019 at 7:00 p.m. in Room 2404



MEETING MINUTES

BOARD OF ETHICS

Tuesday, December 18, 2019

7:00 p.m.

Lorraine H. Morton Civic Center
2100 Ridge Ave, Room 2404

Members Present: Jennifer Billingsley, Elizabeth Gustafson, Karena Bierman, LJ Ellul, and Vincent Thomas

Members Absent: N/A

Staff Present: Mario Treto, Jr., Deputy City Attorney

Presiding Member: Jennifer Billingsley, Committee Chair

1. **Quorum:** Chairwoman Billingsley declared that the Board had a quorum, with 5 of 5 members present and called the meeting to order.

2. **Public Comment:** The Board opened up the meeting for public comment. Lori Keenan made remarks on behalf of herself and Clare Kelly regarding the last Board of Ethics meeting, appreciation of the Board's service, and the December 3, 2018 Rules Committee meeting.

3. **Approval of Meeting Minutes:** Chair Billingsley stated that the next portion of the meeting relates to approval of meeting minutes.

November 20, 2018 Meeting Minutes Chair Billingsley confirmed that everyone had a copy of the minutes; the Board affirmed.

Chair Billingsley gave the Board time to review the meeting minutes. Upon conclusion of the meeting minute review, Chair Billingsley provided one comment related to the November 20, 2018 meeting.

Chair Billingsley asked if there were any other comments; there were not. Member motioned to approve the meeting minutes. Member Thomas seconded. Members voted and unanimously approved the minutes.

4. **Update on the Rules Committee Meeting:** Deputy City Attorney Treto provided the Board of Ethics with an update regarding the December 3, 2018 Rules Committee meeting. He indicated that the Rules Committee accepted and filed the Board of Ethics reports for 18-BOE-002 and 18-BOE-003. He also indicated that the Rules Committee

received and filed, and denied the appeal related to 18-BOE-001. The Rules Committee asked staff to place on the next Rules Committee agenda the review of Board of Ethics and Code of Ethics processes and procedures. Chair Billingsley stated that the Board takes note regarding Alderman Rainey's vote relating a matter concerning herself during the Rules Committee. Chair Billingsley asked whether the Board should take any further steps related to 18-BOE-002 and 18-BOE-003. Deputy City Attorney clarified that the approved meeting minutes from the December 3, 2018 Rules Committee shall serve as the written report back to the Board of Ethics. The December 3, 2018 Rules Committee meeting minutes are scheduled to be approved on January 22, 2019. Chair Billingsley opined that she believes the Code of Ethics prohibits voting on matters concerning herself, so when an alderman votes on a matter concerning herself, she has violated the Code of Ethics. She further stated that she believes the City Code states that where an alderman violates the Code of Ethics the City Council may censure them. Chair Billingsley stated that the Board of Ethics should tell the City Council that voting on a matter related to oneself is a violation of the Code of Ethics and she recommends censure during these instances.

Member Bierman analyzed whether it is appropriate to make the aforementioned comment to the City Council at this meeting or a future meeting. Board members proceeded to discuss how to best move forward in addressing Alderman Rainey voting on a matter that is related to herself. Deputy City Attorney indicated that this item is not on the agenda in a manner specified by the Open Meetings Act. Deputy City Attorney Treto indicated that he will work with Chair Billingsley to determine what will be placed on the next Board of Ethics agenda.

Member Ellul motioned for a five minute break. Member Gustafson seconded. Motion unanimously passes and the Board took a five minute break.

Chair Billingsley called the meeting to order and resumed the meeting.

5. Approval of the 2018 Board of Ethics Annual Report: Chair Billingsley indicated that Deputy City Attorney circulated the 2018 Board of Ethics Annual Report. Member Bierman inquired whether the report presented was similar to previous reports and Chair Billingsley confirmed that it in fact was similar to previous reports. Member Bierman inquired whether or not the 2018 Annual Report should include recommendations for the Illinois Attorney General so future board members are aware of any such recommendations. Deputy City Attorney indicated that the Illinois Attorney General recommendations can be placed into the Board of Ethics Open Meetings Act training. The Board then discussed whether they should put in the report any 2019 goals. The Board agreed that the 2018 Annual Report should be limited to 2018 actions and accomplishments.

Member Thomas moved to approve the 2018 Annual Report as amended. Member Gustafson seconded. The motion passes unanimously.

6. **Review of the 2019 Regularly Scheduled Meeting Dates:** Chair Billingsley asked whether the January Board of Ethics meeting should be moved after the January 22, 2019 Rules Committee meeting. Member Ellul moved to change the January 15, 2018 meeting date to January 29, 2019. Member Thomas seconded. The motion passes. Member Thomas moved to approve the 2019 Regularly Scheduled Meeting dates as amended. Member Member Ellul seconded. Motion passes unanimously.

6. **Adjournment:** Upon motion by Chair Billingsley and second by Member Billingsley, the meeting was adjourned with all voting in favor.

DRAFT



Memorandum

To: Members of the Rules Committee

From: Wally Bobkiewicz, City Manager
Michelle L. Masoncup, Corporation Counsel

Subject: Review of the City Code of Ethics, City Council Rules, and Administration of the Board of Ethics

Date: January 22, 2019

Recommended Action

Chair Fiske is recommending that the Rules Committee appoint an ad hoc committee charged with a review of the City Code of Ethics, related sections of the City Council Rules and the administration of the Board of Ethics. Chair Fiske recommends that the ad hoc committee be comprised of herself, Aldermen Braithwaite, Wilson, Suffredin as well as Mark Sheldon, a former chair of the Board of Ethics. The ad hoc committee would review issues and report back its findings and recommendations to the Rules Committee at its April 1, 2019 meeting.

In 2018, issues arose pertaining to the City's Ethics Code and Board of Ethics. Chair Fiske also polled members of the Rules Committee to identify issues of concern. This memo presents a preliminary list of issues that may be reviewed by the ad hoc City Council subcommittee:

1. Use of profanity by members of the public and City Council members during public meetings;
2. City Council Rules provisions related to the Mayor or Aldermen voting on Ethics Code violations brought forth against an individual and considered by the Rules Committee or City Council;
3. City payment of legal fees for the Mayor or Aldermen appearing before the Ethics Board;
4. Board of Ethics staffing and the retention of outside counsel;
5. Consideration of creating two codes of ethics for elected officials and staff; and
6. Lobbying issues raised by residents.

Issues:

1. Use of profanity by members of the public and City Council members during public meetings

Currently, the City Council Rules are silent with regards to the use of profanity in public meetings by City Council members and the public. At the previous City Council Rules Committee meeting, Aldermen recommended further review of the use of profanity and what safeguards can be put into place to minimize or eliminate the use of profanity due to community standards related to decency.

2. City Council Rules provisions related to the Mayor or Aldermen voting on Ethics Code violations brought forth against an individual and considered by the Rules Committee or City Council

Currently, advisory opinions related to ethics allegations are transmitted to the Rules Committee from the Board of Ethics for final action. Occasionally, the Board of Ethics reviews allegations where an elected official is the subject of the ethics violation. Given the procedural review of ethics decisions, aldermen may at times as sitting members of the Rules Committee be presented with ethics violations where they are the subject of said allegation. Currently, City Council Rules state that an alderman *may* abstain from voting where conflicts of interest arise. This begs a larger question that staff seeks direction from City Council: Should City Council Rules be revised to mandate that an elected official must abstain from voting where an ethics violation is made towards said specific elected official?

City Council Rule 24.5 states: "An Alderman may abstain from voting in the instances as set forth in Council Rule 11.1." Further, City Council Rule 11.1 states in relevant part: "An Alderman is expected to vote yea or nay on all matters when present except on any matter which involves a direct personal pecuniary interest or conflict of interest. The reason for an abstention shall be announced. If the Mayor or any Alderman believes there is a conflict of interest in any matter before the Council, consultation with the Board of Ethics is available." Therefore, where a direct pecuniary interest or conflict of interest presents itself to an alderman, they *may* abstain from voting. The permissive language therefore affords an elected official the option of voting. City staff asks that the Rules Committee provide direction whether or not the City Council Rules should be amended to mandate abstention or remain as is.

3. City payment of legal fees for the Mayor or Aldermen appearing before the Board of Ethics

Historically, the City has paid for legal fees associated with the representation of elected officials before the Board of Ethics. This practice went into effect due to the fact that attorneys in the City's Law Department are precluded from representing elected officials in their official capacities for ethics violations before the Board of Ethics. Therefore, elected officials who have allegations of unethical behavior have had the option to select their own outside counsel to represent them before the Board of Ethics in previous years.

Under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/2-301 et. seq., Illinois municipalities have a duty to defend “claim[s] or action[s] instituted against an employee of a local public entity based on an injury allegedly arising out of an act or omission occurring within the scope of his employment as such employee.” 745 ILCS 10/2-302. Further, municipalities are afforded options as to how to proceed with these matters, including indemnifying said individuals for their court costs or reasonable attorney’s fees, or both, incurred in the defense of such claim or action. 745 ILCS 10/2-302(b). Accordingly, the City has made a policy decision to pay for the attorney’s fees associated with defending claims against elected officials arising out of their acting in that capacity. City staff requests direction from the Rules Committee if it would like to continue this past practice or amend the practice moving forward.

4. Board of Ethics staffing and the retention of outside counsel

Currently, the City of Evanston Law Department provides administrative support to the Board of Ethics and procedural guidance to the Board of Ethics. The Board of Ethics is tasked with evaluating, making findings of fact, and issue advisory opinions for the City Council on questions of possible unethical conduct or conflict of interest. The Board of Ethics regularly has legal inquiries during the course of an alleged ethics violation hearing. The Law Department is precluded from providing the Board of Ethics with legal counsel related to the disposition of elected officials, city departments, and board and commissions as the primary legal advisor for the City of Evanston.

In 2018, various members of the public have made allegations of impartiality by the Law Department. Due to the aforementioned, best practices include the retention of an impartial third party as outside counsel solely to provide legal advice during the hearings of alleged ethics violations. Outside counsel could be retained at an hourly rate. Upon approval, the City will retain outside counsel effective immediately.

5. Consideration of creating two codes of ethics for elected officials and staff

At the December 3, 2018 Rules Committee meeting, members of the committee requested that the City consider bifurcating the City’s Code of Ethics into two codes which apply to elected officials and staff, respectively. Currently, the City implements one code of ethics which fails to take into account the relationship between the respondent and the City. Different enforcement and punitive measures are available to employees in a labor and employment capacity in contrast with an elected official who is not an employee of the municipal corporation. Similarly situated municipalities permit ethics charges against employees to be considered internally, while those against an elected official are reviewed by a municipal body charged with reviewing ethics complaints. Such municipal reviewing bodies take different forms in Illinois municipalities. For example, while some municipalities choose to have boards of ethics comprised of professionals, others opt to have boards consisting of elected officials, while others have Chief Ethics Officers or adjudicatory hearing officers. In moving forward with a comprehensive review of the City’s Code of Ethics, the ad hoc committee may choose to also review the implementation of the Code with an appropriate board that fits the community’s needs.

6. Lobbying issues raised by residents

At the direction of Alderman Fiske, she asks the City Council Rules Committee provide direction with regards to resident proposals related to lobbying in the City of Evanston. A resident has presented the possibility of enacting a lobbying ordinance and this ad hoc committee may choose to conduct a need assessment related to a lobbying ordinance in Evanston.

MINUTES OF THE RULES COMMITTEE
Monday, December 3, 2018
6:00 p.m.
Lorraine H. Morton Civic Center
Jay C. Lytle City Council Chambers

Present: Ald. Peter Braithwaite, Ald. Judy Fiske, Ald. Cicely Fleming, Mayor Stephen Hagerty, Ald. Ann Rainey, Ald. Eleanor Revelle, Ald. Thomas Suffredin, Ald. Donald Wilson, and Ald. Melissa Wynne

Absent: Ald. Robin Rue Simmons

Presiding: Ald. Judy Fiske

Staff Present: Wally Bobkiewicz, City Manager and Michelle Masoncup, Corporation Counsel

CALL TO ORDER/DECLARATION OF QUORUM:

Ald. Fiske declared a quorum and called the meeting to order at 6:08pm

CITIZEN COMMENT:

Junad Rizki spoke on issues getting resolve at meetings and if they can't get them resolved they have the option to go outside the community to get issues resolved.

James Genden spoke on the resistance of a FOIA request to reveal amounts paid by contributors on the demolition of Harley Clark.

Trisha Connolly, Allie Harned, Jen Shadur, Nancy Sreenan, Mary Rosinski, Chris Kruger, Clare Kelly, John Moore, Lorie Keenan and Nick Agnew spoke on the allegations of an ethics violation against 8th Ward Alderman.

Peter Keenan read parts of a letter sent by Parikh Law group representing Laurie Keenan and Claire Kelly regarding allegations of an ethics violation against 8th Ward Alderman.

Carl Klein spoke on the appeal to Preservation Commission to deny demolishing to Harley Clark and encouraged the committee to send to the Planning and Development Committee before sending to full Council.

Jeremy Pardoe read a portion of a letter from Adam Kingsley from the Merit Law Group regarding the allegation of an ethics violation against 8th Ward Alderman.

APPROVAL OF MINUTES OF THE REGULAR MEETINGS OF OCTOBER 16, 2017, DECEMBER 11, 2017 AND OCTOBER 1, 2018:

Mayor Hagerty moved approval of the October 16, 2017 minutes. Ald. Braithwaite seconded. Minutes approved.

Ald. Revelle moved approval of the December 11, 2017 minutes. Ald. Braithwaite seconded. Minutes approved.

Ald. Revelle moved approval of the October 1, 2018 minutes. Ald. Fleming seconded. Minutes approved.

REVIEW OF ADVISORY OPINION FROM BOARD OF ETHICS REGARDING ALDERMAN RAINEY:

City Manager Bobkiewicz read the memorandum regarding Board of Ethics (BOE) Advisory Opinions.

“On November 20, 2018, the BOE issued two separate advisory opinions stemming from Complaint No. 18 BOE 0002 and 18 BOE 0003. Following a hearing, the Board found that Ald. Rainey violated the Code of Ethics. Attached for your reference are the advisory opinions issued per City Code Section 1-10-8(I). The Rules Committee is the appropriate City authority to review the advisory opinions to determine if action will be taken. Section 10.4 of the Rules and Organization of the City Council provide: “Any Alderman who does not comply with the Evanston Code of Ethics may be censured by majority vote of members present at a Council meeting.”

City Manager Bobkiewicz pointed out that the Code of Ethics covers many official employees of the city not just members of the City Council. To his knowledge, only the City Council and its rules have addressed any violation of the Code of Ethics in any issues arising from that. The City Council has chosen, through its rules, to identify only one measure and that is censure. If the Council were to choose to do something different they would first have to address the issue of their rules before any other matter could take place. Continuing with the memo “The City Code, Council Rules, and Robert’s Rules do not contain a definition of “censure. Webster’s Third New International Dictionary includes among its definitions of “censure”, a “resolution by a legislative body expressing disapproval of a government official.” It is intended to be a public admonishment, either by resolution or motion, for the described conduct. As quoted above, censure is the only option provided for in the Council Rules. The Board of Ethics issued an advisory opinion, which has no legal effect and cannot be enforced by the City Council. Meaning, the directives provided in the opinion, including recusal from voting on Harley Clarke, are advisory to the respondent.”

Michelle Masoncup added under the city code 1-10-9 subsection D, many of the speakers have addressed that it does say may be subject to censure, suspension, removal from office or employment or any other disciplinary action as determined appropriate by the city authority. She wanted to give some context with this city code section in relation to City Council rules. Suspension speaks to employees. Her understanding is that City Council certainly can’t suspend an elected official. The city personnel rules for employees have elevated levels of discipline. She didn’t seek to explain further removal from office because that opinion doesn’t come close to that. So addressed more specifically censure because it applies to elected officials. Generally speaking this opinion and all of the past opinions the Board of Ethics states it is an advisory opinion. It is repeatedly stated that this is advice contained within the opinion that’s issued. These are recommendations to put forth to the Rules Committee. That was very clear that these were recommendations. Regarding whether or not it’s enforceable for the 8th Ward Alderman to recuse herself that she is not certain about. The City Council rules under conflict of interest, 11.1 indicates that an Alderman is expected to vote yea or nay on all matters when present, except on any matter which involves a direct personal pecuniary interest or conflict of interest. This is the remedy that’s available for 10.4.

Art Newman former 1st Ward Alderman spoke in support of Ald. Rainey. He stated there is a difference between an elected official and a city employee. Be very clear the BOE did not find any conflict of interest. Ald. Rainey isn’t accused of having any personal interest in Harley Clark. Some may say she should not have acted that way. That does not make a violation of ethics and does not empower a group of people to have her not vote on a certain subject. She is doing what she has always done. She has a position she believes in strongly. Things got very hot and she was subject to a lot of criticism and there were things that went on. Maybe a mistake was made which she apologized for. But that doesn’t give this Council the authority to disenfranchise 8,500 people on the issue of Harley Clark. He suggested having an ordinance for elected official and a separate one for employees. Ald. Rainey has spent thousands of hours on behalf of this city doing what she feels is best on behalf of this city. Whatever you do this evening vote for the best interest of the people of Evanston not for what one group comes to say at a specific time.

Peter Keenan read the letter he started reading earlier from Anish Parikh, attorney representing Ms. Lori Keenan and Ms. Clare Kelly for the ethics complaint against Ald. Rainey. “Recently the Evanston BOE addressed the complaints of my clients and ultimately found ethical violations by Ald. Rainey based on City Code subsection 1-10-4 c3b2 and subsection 1-10-4 C1. In its findings in order the BOE recommended that Ald. Rainey be prohibited from participating in voting on matter related to the Harley Clark mansion. I understand that the matter shall next be considered by your committee this evening and I’m writing today to express concerns with the advice that is being provided to you the City....” The letter, in its entirety will be on file as part of the minutes.

After a lengthy discussion Ald. Braithwaite moved to possibly table this or add it to the January Rules Committee agenda to take a look at the codes and flush it out a little bit more.

Ald. Fiske suggested they receive and file the report. She added, last year in conversation with Ald. Fleming, she had expressed concerns about the interpretation of the Code of Ethics at that time. She has talked to her colleagues long before any of this happened, about how she felt the Code of Ethics was confusing. Her hope is that the tentative agenda for the Rules Committee in January is looking at the code. It may make more sense to have a code for employees and a code for elected officials. She moved to accept the report of the BOE and place it on file. And then move to the January meeting to consider what they are going to do with the Code of Ethics. Ald. Braithwaite seconded.

Ald. Fiske asked if that language was acceptable. Ms. Masoncup stated under Council rule 10.4 it says the City Council may censure. Basically, if the City Council was opting to censure you may censure, but can choose to take no action. Her preference would be they take a vote on what they want to do. If it’s accepted and placed on file, that’s not provided for within the rules. It says a written report of any action taken, so the report would read, no action was taken, they accepted and placed on file. Ald. Wynne clarified that by receiving and placing it on file they are determining that to vote yes on receiving and putting this on file is the equivalent of voting no on censure. Ms. Masoncup replied it says a report can be issued. The report would essentially be the minutes of the Rules Committee in which you chose not to take censure. Therefore, she would suggest they take a motion and a vote on censure or not censure. Ald. Wynne said it should be made clearer that by receiving and putting on file the Council is voting no on censure. If you vote yes on that you’re voting no on censure. That’s very confusing to leave the motion like that. She suggested the maker of the motion modify the motion to be very clear in terms of what the outcome is.

Ald. Fiske asked what is the result of censure. Ms. Masoncup explained censure is a public admonishment. It is a statement of the public body of certain conduct. It was not acceptable to the City Council, that is censure. Ald. Braithwaite called the question. Motion passed 7-1 (Ald. Fleming voted no in favor of calling the question.)

Ald. Fiske asked Ms. Masoncup to repeat the motion. Ms. Masoncup said her understanding is that Ald. Fiske’s motion was to accepted and place on file the advisory opinions. Motion passed 5 to 4 (Mayor Hagerty, Ald. Suffredin and Fleming voted no).

Ms. Masoncup explained that the motion is that the Rules Committee accepted the advisory opinions and that the recommendations contained therein and accepted and placed them on file. The Rules Committee did not vote to make a censure.

Mayor Hagerty asked if there’s an ethics complaint of any of them there is nothing in the rules that prohibits them from voting on a complaint that’s filed against them. Ms. Masoncup said yes, but the Council rules do not speak to this, it is silent. Mayor Hagerty said if they are going to look at the ethics rules they ought to look at that one too. Ald. Wynne said she would like added to the January agenda a

discussion of the use of profanity by any member of the City Council towards another member of the City Council, toward the City staff and towards any member of the public while they are acting as an Alderman. Ald. Braithwaite added they've all experienced bad language in many different places. If they are going to focus on the public setting of their meetings they also need to focus on what happens if a resident uses that same type of language and threats toward them. He would like to explore that civility on behalf of the residents. He directed Corporation Counsel to research that to see if there's any municipalities that have that civility rule within their public setting.

PRESERVATION COMMISSION APPEALS TO THE CITY COUNCIL:

Ald. Wilson moved to accept and file the interpretation. Ald. Fiske seconded.

Ald. Wynne stated she would have preferred this came to Planning and Development (P&D) first. In the past appeals from the Preservation Commission, the P&D Committee has looked in really great details at the issues of preservation with respect to the applicant. The Preservation Commission had denied the family on Edgemere Court the type of addition they wanted because it would have destroyed the aspects of the house that were a landmark. They spent a lot of time in P&D discussing this back and forth and ultimately supported the Preservation Commission, which had made a very thoughtful suggestion to the owners on how they could add to their house and not lose their landmark status. P&D reviews what the Preservation Commission does in a lot of detail, which is what a committee is supposed to do. Mayor Hagerty stated his understanding was that in the past when there have been appeals of the Preservation Commission they have come to the full City Council.

Ms. Masoncup reported that the Community Development Director and her staff did some research. In the past, appeals for at least the last ten years, they have all gone to the full City Council. Staff went back to the mid-90s and found that was still the case. In 2006 ordinance 1-17-06 Ald. Wollin noted that one of the concerns of the Preservation Commission is that the City Council could change from presently being all 9 Aldermen to a decreasing number in the future. Alderman motioned to amend the ordinance to state that all 9 Aldermen be present on the Planning & Development Committee. Ald. Wynne actually seconded that motion to amend. It passed 9 to 0 to address the concern that all nine Aldermen be present. Ald. Fiske noted that means they should consider it as a full Council.

City Manager Bobkiewicz said the request of the appeal will be brought back to Council on December 10th. If that request is granted the actual appeal would come before the Council in January. Ald. Fiske asked if a vote was needed. City Manager Bobkiewicz said no.

DIRECTION TO BOARD OF ETHICS ON APPEALS/MOTION FOR RECONSIDERATIONS REGARDING REHEARING ISSUES:

City Manager Bobkiewicz reported the BOE asks that the Rules Committee make a determination on how one appeals a decision of the BOE. And if the matter should be addressed by the Rules Committee or referred to the City Council who can appoint a hearing officer and hold a hearing on this matter. This is the request from the BOE to the Rules Committee for some guidance regarding a respect to a motion for reconsideration. The states "The BOE issued an advisory opinion in Complaint No. 18 BOE0001 filed by Misty Witenberg against Ald. Rue Simmons, attached is a copy of the opinion. The Complainant filed a Motion for Reconsideration of the decision. In the opinion, the Board requests, in part, that the Rules Committee provide direction on the motion and if any action can be taken with respect to the Motion of Reconsideration. The Rules Committee can also opt to recommend no action given that no appeals process is provided in the Code....."

Shawn Jones, representing Ald. Robin Rue Simmons stated his client first received a BOE complaint in 2017. The BOE found no impropriety. Again, BOE complaints were filed on February 11, 2018. It was heard on March 20th, June 19th, August 21st, September 25th, October 24th and November 20th. Her

mother was accosted in the hallway by people talking about this BOE complaint. Even after all of these hearings there's a request from the complainants for another rehearing. Hopefully the committee will revisit the code of ethics. Part of that has to be streamlining this process so that a client, whether it be an employee or an elected official, doesn't have to go through seven or eight hearings on a single BOE complaint. He agrees, as a community they need to do better. They need to treat elected officials better and need to be more civil as a whole. He hopes they will do the right thing and say that there is no appeal and accept and place this on file and move on. There has to be a better way to conduct BOE hearings and to deal with these matters.

Meg Welch read comments from Ms. Witenberg regarding complainant 18 BOE 0001. The advisory opinion being read tonight is not representative of Ms. Wittenberg's complaint. Both the consideration, the arguments provided, and the findings were drafted by the respondents primary legal, as listed on the city's website, and provided to the Board in memos dated March 20th and May 22nd. Ms. Wittenberg is seeking consideration by an impartial body or hearing officer and would prefer to keep this case within the city, if the City Council allows her that opportunity.

Ald. Wynne suggested when they bring back their ethics ordinance they need to have a provision in it that provides for the equivalent of a rule 11 in which prohibits constant filing of frivolous complaints. In the Code of Civil Procedure, anyone is prohibited from continually filing a complaint on penalty of sanction from a judge. In this instance she'd like to find out what other BOE have done. This is unfair and they need to have some ability to stop someone from weaponizing a BOE complaint and causing the type of repeated hearings that Ald. Rue Simmons has had to go through. A decision has been reached. They need to reach conclusion and have something in their rules, just as in Federal Rules of Civil Procedures that prohibits someone from making a slight modification and filing again. It's a waste of other people's time and the public's tax dollars. They need to make sure they have that in a new ethics ordinance. With respect to this complaint the BOE decision should be considered final. Ald. Braithwaite moved to receive and accept this report and put it on file and deny the appeal.

Ms. Masoncup said the memo indicates that the board is seeking guidance to confirm that the code doesn't provide for an appeal. So the Rules Committee needs to state that. Ald. Braithwaite repeated the motion stating to receive and file the appeal. Ald. Fiske seconded.

Ald. Revelle commented that she agrees they can't let the code of ethics be used as a tool to harass elected officials. One suggestion to maybe look at would be whether some of the complaints, when you look at the details, could be handled administratively because some of them very clearly weren't issues that fell under the jurisdiction of the BOE. Then it could have streamlined with what the BOE would have to deal with.

Ald. Fleming said not sure if it is beneficial to the city or the complainant to pay for outside Counsel in a case like this where there is the continuation of what seems to be the same case. They do need to look at their ethics code and there does need to be some kind of ability for people to appeal or re-appeal their case. In this case it does seem like it has gone through as much as it can with the information the current Ethics board has. If Ms. Witenberg has a new case to bring forward, obviously that's available for her. But she sees no benefit of having the same people with the same rules look at what seems to be the same facts and assume they're going to come up with another decision. She will not be supporting the continuation of this case. Also wants to publicly encourage staff to make sure that people are notified when their topic is going to be on an agenda.

Motion passed 9-0

UPDATE OF FINANCIAL DISCLOSURE STATEMENT AND REVIEW/AMENDMENT OF REQUIREMENT FOR NOTARIZATION OF FINANCIAL DISCLOSURE STATEMENTS:

This item moved to next meeting.

BOARD OF ETHICS ANNUAL REPORT:

This item moved to the January meeting.

DISCONTINUATION OF ADMINISTRATION & PUBLIC WORKS COMMITTEE AND SETTING OF START TIME FOR CITY COUNCIL MEETINGS:

This item moved to the January meeting.

AMEND CITY COUNCIL RULES TO SET TIME TO END COUNCIL MEETINGS:

This item moved to the January meeting.

ALDERMEN COMMITTEE CHAIR ROTATION:

Ald. Fiske moved this item to the January meeting because the schedule was not completed. Ald. Fleming asked that the committee accept the Transportation/Parking Committee schedule that was provided because that rotation is set to start in January. Ald. Wilson moved to approve the Transportation/Parking Committee rotation. Ald. Rainey seconded. Motion passed.

City Manager Bobkiewicz said staff will come back in January with a full report on the balance.

REVIEW OF PROPOSED 2019 CITY COUNCIL MEETING SCHEDULE:

Ald. Rainey moved to remove the March 25, 2019 date due to Spring break. Ald. Braithwaite seconded. Motioned passed.

Ald. Wynne moved approval of the City Council meetings for 2019. Ald. Suffredin noted they had talked about doing an intermediate City Manager's evaluation in the spring and that is not reflected on this schedule. City Manager Bobkiewicz noted he and the Mayor have been talking about when to have that meeting. They are going to try to have a goal setting meeting for the City Manager in January. Once that is done schedule the next one.

Motion passed. 2019 City Council scheduled approved.

SETTING OF A SPECIAL RULES COMMITTEE MEETING IN JANUARY TO DISCUSS CODE OF ETHICS:

City Manager Bobkiewicz stated Mayor Hagerty asked that a time be set for the City Manager's goal objective setting. Then have a Rules Committee meeting. The 22nd of January they could have Rules to discuss code of ethics and potentially the City Manager discussion both on the same evening.

Ms. Masoncup said that would be a good opportunity to hear more from the Council about exactly what they want the structure to look like. They will certainly come forth with models from other communities.

Ald. Fiske agreed and added they will look at other communities Best Practices, talk amongst themselves about changes they think need to be made, and hear from the public. This will be the beginning of the discussion. City Manager Bobkiewicz said they will go ahead and do that on the 22nd. All agreed.

OLD BUSINESS: LOBBYING ORDINANCE:

Ms. Kelly pointed out that she feels it's very important for Evanston to adopt a lobby ordinance. A lobby ordinance would promote and enhance public confidence overall in our city government. Create greater openness and trust in government decision making by ensuring minimal secrecy. Shed light on transparency on who is influencing government decisions and would advance principles of good

government. She included an article that was recommended to her by the executive director of the BOE of Chicago who worked very closely with her. He's also very much in favor of seeing Evanston adopt a lobby ordinance and is prepared to work pro bono to help draft and create an appropriate ordinance. Lobbying is communicating in writing or orally speaking with the intent to influence decision of a government person or a city staff. It's a legal activity, an exercise of the First Amendment right to petition the government. But ultimately it is about communicating with government officials or government employees to influence their decisions. It's also about primarily influencing city officials on behalf of another individual or entity. Lobbying also does a lot of good in society and has had positive impact to children, elderly and others. On a calling card a lobbyist could be like the director of economic development for an institution. Frequently they are lawyer lobbyists. A lobbyist is always determined by his or her activity. A lobbyist lobbies on behalf of another person and usually for some sort of compensation but not always. So you don't always have to get paid to be a lobbyist. She also included some links from the City of Chicago. There are thousands of lobby ordinances out there. She hopes the committee will consider this given the state of affairs between the residents and the city right now and the lack of trust. People who represent themselves as homeowners, citizens or taxpayers are exempt from registering as lobbyists. The press is also exempt. So if a newspaper writes an editorial in favor of something that's not considered lobbying. People who testify at public comment are not considered lobbyists. But it is important that they identify themselves and disclose any material interest if they're acting on behalf of someone else at public comment they should disclose it. But because it's out in the open that's why they are not considered lobbyists. The point of a lobby ordinance is secrecy. Minimize secrecy so that the residents have a right to know how you all are being influenced. What meetings you're having with what lobbyists, etc, etc. So residents have a better sense as to understanding why you're making the decisions you are.

How does a lobby ordinance work? People register annually, usually through the BOE, an independent Lobby commission or Clerk's office. Registered lobbyists provide periodic disclosures quarterly or every six months (or other determined interval) about who they're lobbying for. If they've been paid to lobby and if so how much, which government officials or departments they've lobbied. On which matters, a complete list of any gifts, means, etc they paid for as part of their lobbying efforts and the recipient of those and the amount and the date as well as your political contributions.

She took a screen shot from Chicago's data portal on lobbying to give an idea and see the accessibility and how important this would be for residents. For example, there seems to be a lot of discussion regarding Airbnb and maybe changing zoning or something. If she wanted to see if someone is in town lobbying she can put in their portal Airbnb. She then is given the name of the lobbyist. I can then take that name and put it into search lobbyists and get that person's lobbyists activities for Airbnb. Also if someone fails to register as a lobbyist they could be fined. In terms of fees this doesn't cost the city anything. You would set appropriate registration fees that would cover appropriate administrative cost as well as cost to create a web data portal. She provided a couple of ordinances, one being Chicago's which is a fabulous resource. Revenue is generated through fees, fines and savings through fewer lawsuits and fewer FOIA requests and ethics hearings. Who enforces the lobby ordinance? Most municipalities administer their lobby provisions or ordinances. Some through BOE, separate and independent Lobby Commission or the Clerk's office. In talking with Steve Berlin, Executive Director, City of Chicago BOE maybe something for Evanston would be an independent commission that would work in conjunction with our legal department. She asked that the committee direct the legal department, with the assistance from experts such as Mr. Berlin to draft a lobby ordinance or lobby provision for consideration at a future Council meeting.

Mayor Hagerty thanked Ms. Kelly for her report and stated as with any ordinance they need to understand what problem is trying to be solved. He asked for concrete examples of problems that exist here. Ms. Kelly said the point is about secrecy. There have been many decisions taken here that have

been very unpopular. People wonder why City Council is making this decision when so many people have poured out saying no. People stop wondering when you have a lobby ordinance. It would help to sooth those tensions.

After a lengthy discussion Ald. Braithwaite thanked Ms. Kelly very much for the presentation and the thought that went into it. He moved to file this report. Ms. Kelly asked what does file mean and can it be brought up again. Ald. Braithwaite said it is making knowledge that you submit your report and they have received it and will make it part of the record. Ms. Kelly asked can a resident bring it up again. Ald. Fleming said yes, work with an elected official and see if it could be brought back up.

ADJOURNMENT:

Meeting adjourned 8:35p.m.

Respectfully submitted,
Darlene Francellno

A video of this meeting is available at www.cityofevanston.org/government/agendas-minutes/agendas-minutes--rules-committee.



MEETING MINUTES
RULES COMMITTEE –
ETHICS SUBCOMMITTEE
Monday, February 11, 2019
4:00 p.m.
Lorraine H. Morton Civic Center
2100 Ridge Ave, Room 2750

Members Present: Alderman Judy Fiske, Alderman Donald Wilson, Mark Sheldon

Members Absent: Alderman Peter Braithwaite, Alderman Thomas Suffredin

Staff Present: Wally Bobkiewicz, City Manager
Mario Treto, Jr., Deputy City Attorney
Hugh DuBose, Assistant City Attorney

Presiding Member: Alderman Judy Fiske

1. **Quorum:** Alderman Fiske declared a quorum, with 3 of 5 members present and called the meeting to order.

2. **Public Comment:** Alderman Fiske provided a description and purpose of the Subcommittee. Alderman Fiske asked if there was anyone on the sign-up sheet or if anyone would like to speak; no one signed up or provided public comment.

3. **New Business:**

Subcommittee Chair: Alderman Fiske inquired if anyone would like to be Subcommittee Chair. Alderman Wilson volunteered to be Chair. Alderman Fiske nominated Alderman Wilson. **Nomination approved 3-0.** Subject to approval of Mayor Hagerty and the City Council, Alderman Wilson will be the Subcommittee Chair.

Approval of Subcommittee Rules and Procedures: Chair Wilson proposed that Robert's Rules of Order be adopted. Attorney Treto affirmed further stating City Council Rules are controlling against Robert's Rules. In cases where it is applicable, City Code controls over City Council Rules.

Mr. Sheldon suggested rules with regard to public comment be addressed as well. Discussion to limit public comment to 3 minutes, maximum of 30 minutes total.

Chair Wilson moved to have the Subcommittee adopt Robert's Rules of Order. **Motion approved 3-0.** Alderman Wilson moved that public comment be limited to 3 minutes per

person or a maximum of 30 minutes total being equally divided between the commenters. **Motion approved 3-0.**

Review of Preliminary Issues Relative to the Code of Ethics and Its Administration:

All received a packet containing a list of issues with their meeting materials.

Chair Wilson began the discussion with introducing the proposal of two separate Ethics Ordinances: for officials and for staff. Alderman Fiske expressed the importance of adopting rules because of previous needs to interpret various rules for staff and officials; using impartiality as an example.

Chair Wilson discussed the importance of distinguishing between legal, ethical and moral issues.

Chair Wilson turned to Attorney Treto for examples of issues the Subcommittee should be addressing with regard to City Code and ordinances. Alderman Fiske asked for a background on the origination of the City's Ethics Ordinance. Attorney Treto led discussion with regard to the origination of the City's Ethics Ordinance. Attorney Treto advised against having a City Attorney or City Manager as part of the committee as the issue of impartiality arises quickly as to who their allegiance lies with. Attorney Treto further advised hiring a third party to advise the Board of Ethics to provide counsel at Board of Ethics meetings that involve any allegations. Chair Wilson agreed, but questions the expense.

City Manager Bobkiewicz suggested that amending the Code will limit the issues addressed by the Board of Ethics to questions related to non-staff and create a separate administrative procedure for staff members, granting the Law Department and City Manager jurisdiction over staff related issues and employee conduct, which he believes will limit the expense of hiring outside counsel to advise the Board of Ethics.

Chair Wilson moved on to discuss elected officials relationships with staff and staffing. Alderman Fiske asked to define what an appropriate relationship between an elected official and staff or the public. Chair Wilson suggested that would be discussed at some other point, to look at other ordinances and take notes from those to apply to the City ordinance. The current ordinance is focused on campaign finance, but the current issues are unrelated to that. The ordinance needs to be expanded to cover elected officials receiving advantages from City resources because of their position; or any improper use of City assets.

Alderman Fiske asked about Alderman appearing before the Board of Ethics and the City reimbursing them for hiring outside counsel. She would like to clarify whether the City Council members would be represented by City Attorney's or staff if the Board of Ethics is no longer being advised by in-house counsel. Chair Wilson said that he would think that it would still be inappropriate for City staff to represent Council members.

Alderman Fiske asked Attorney Treto if he noticed any other areas that should be addressed with regard to the Board of Ethics. Attorney Treto suggests clarification of the intent of the ethics ordinance; he believes the procedural component is outdated. With regard to the intake to processing of complaints need to be updated to quickly determine whether the complaint is appropriately heard by the Board or dismissed. The appeal process to follow after the Chair determines jurisdiction. The Board will then review it. The attorney for the Board can then be reviewed, and timing.

Mr. Sheldon suggested drafting a formal format for findings and significant clarity on the penalties and repercussions for the respective findings of violations.

Alderman Fiske asked if there is a code for behavioral conduct for the Board of Ethics with regard to political and personal comments. Suggesting that should be part of the training. Attorney Treto stated this should be something that should be addressed in the Board of Ethics Rules and Organization.

Chair Wilson proposed that if there is a question of someone's conduct that the person whose conduct is in question not be allowed to weigh in on the matter.

Attorney Treto will draft two proposed ordinances, one for staff and one for elected officials, to bring to the next meeting for discussion and edits.

Alderman Fiske asked for clarification of what the Board of Ethics is. Alderman Wilson described it as an advisory board with the authority to make recommendations to the City Council.

Chair Wilson asked for public comment; no one spoke.

Discussion held regarding necessity to have an attorney present when appearing before the Board of Ethics.

Discussion held regarding impartiality and the necessity to clarify impartiality in various scenarios.

Scheduling of Next Meeting: Chair Wilson asked for a meeting request to be circulated. Attorney Treto asked for 4 weeks to complete the draft ordinances. March 11 or March 13, 2019.

4. **Adjournment:** Upon motion by Chair Wilson, the meeting was adjourned, 3-0.

BOARD OF ETHICS RULES OF PROCEDURE

These Rules of Procedure (the “Rules”) for the Evanston Board of Ethics (the “Board”), as amended, replace and supersede all prior versions. The effective date is the date of adoption of Ordinance XX-O-19 by the City Council, _____, 2019.

I. ADMINISTRATION

A. Intent: It is the intent of the Evanston Board of Ethics that these Rules establish procedures that are timely and are fair to officers, officials and employees of the City and also to citizens who wish to report possible violations of the Code of Ethics. These Rules are intended to set forth the procedures to implement the requirements of Title 1, Chapter 10 “Board of Ethics”, of the Evanston City Code of 2012, as amended (the “City Code”). The City Code and these Rules govern the procedures by which the Board must operate. Adherence to the City Code and all other applicable Federal, State, and local regulations are of paramount concern and consideration. The Rules shall fully replace all prior rules of procedure for the Board. In the event of any contradiction between these Rules and the City Code, the Code shall prevail, and if the Code is silent on an issue, the Rules shall prevail.

B. Definitions:

1. “Board” or “Board of Ethics” shall mean and refer to the Evanston Board of Ethics appointed by the Mayor and approved by the City Council, pursuant to Title 1, Chapter 10 of the City Code.
2. “Board member” shall mean a member of the Evanston Board of Ethics.
3. “Code of Ethics” shall mean and refer to Section 1-10-4 of the City Code, as it may be amended from time to time.
4. “City” shall mean the City of Evanston, Cook County, Illinois.
5. “Corporate Authorities” shall mean the Mayor and City Council of the City of Evanston.
6. “City Code” shall mean the City of Evanston Code of 2012, as amended.
7. “Officer” any of the following: the Mayor, the members of the City Council, City Clerk and City Manager.
8. “Official” shall mean and refer to a member of a City board or committee.

C. Board Members: The Board shall consist of five (5) members appointed annually by the Mayor with the advice and consent of the City Council. A member shall not serve more than four (4) annual terms on the Board of Ethics. A Board Chair will be appointed by the Mayor annually.

D. The Board

1. Board Roles. The Board will consist of a Chairperson and a Vice-Chairperson. The Board will elect a Vice-Chair each year at the first meeting in January or at a meeting as close to that date as practicable.

2. The Chair responsibilities include:

- (a) Preside at all meetings;
- (b) Execute written advisory opinions issued by the Board; and
- (c) If needed, the Chair may appoint a board member to be hearing scribe and take notes during testimony from the complainant, respondent and any other persons.

2. Vice Chair: In the absence of the Chair, the Vice Chair must exercise all powers of that Chair.

E. Meetings:

1. Regular meetings of the Board shall be held on the third Tuesday of the month at 7:00 p.m. in the Civic Center at 2100 Ridge Avenue, Evanston, Illinois. Notice shall be posted of all meetings and conducted in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.*

2. Special meetings shall be open. Notice of a special meeting shall be posted at least forty-eight (48) hours prior to convening and it shall set forth the time and place of such special meeting and the specific agenda items to be discussed. No other business shall be discussed at such a special meeting except for the agenda items listed.

3. All meetings shall be open to the public except for deliberations on inquiries and advisory opinions and pursuant to those exceptions set forth in the Illinois Open Meetings Act 5 ILCS 120/1 *et seq.* During any regular or special meeting, a closed session may be held upon a proper motion made by any single member of the Board for the purpose of discussing personnel. Closed sessions may be limited to Board members and such invited persons as the Board deems necessary. The secretary will record the motion to close the meeting and keep minutes of the closed session. Closed sessions shall be taped, audibly or visually, with said tapes being maintained for a period not less than 60 days.

4. Written minutes of the Board meetings which are open to the public shall be taken either by a designated Board member or the Board staff attorney.

5. Abstention. If any member of the Board wishes to abstain from participating in a particular case, he/she shall announce that fact on the record, stating the reason for such abstention.

F. Quorum: A quorum of the Board shall be three (3) members.

G. Order of Business: The order of business shall be dictated by a packet and agenda prepared and presented to the Board in advance and the order of business shall typically be as follows:

- I. Approval of the minutes
- II. Communications
- III. Old Business
- IV. New Business
- V. Adjournment

The Chair may alter the Order of Business.

H. Rules of Procedure: The Board shall be guided by parliamentary law as prescribed in *Roberts Rules of Order*, as amended, unless in conflict with these Rules and if such a conflict exists, these Rules shall govern.

I. Amendments to the Rules: Proposed amendments to these Rules may be proposed at any open meeting of the Board and shall be done in consultation with the Corporation Counsel. Any and all amendments proposed by the Board shall be transmitted to the Rules Committee of the City Council for its consideration and approval.

J. Citizen Comment: All meetings open to the public shall provide time for public comment. The following rules apply:

1. The comments of individual citizens shall not exceed three (3) minutes.
2. The comments of a group of citizens, such as an organization, association, or similar assemblage of individuals shall not exceed ten (10) minutes.
3. All time limits may be modified at the discretion of the chairperson. Reasonable adjustments may be made on a case by case basis to accommodate the requirements of extraordinary situations.
4. Citizen comment will be permitted at a preliminary hearing as provided in Section III(D). It will not be permitted at a full hearing as provided by Section V, in which the Board only allows testimony from the Complainant, Respondent, or counsel for either party.

II. DISQUALIFICATION

A Board member or the Board staff attorney shall disqualify himself/herself from participating in any matter before the Board in which his/her impartiality might reasonably be questioned, including, but not limited to, instances where he or she has a personal bias or conflict of interest concerning a party or personal involvement in the

matter to be addressed. In the event that the Board staff attorney has been disqualified from advising the Board of the subject matter, the Board shall request a different attorney from the Law Department to perform all functions the employee would otherwise perform with respect to the subject case resulting in the disqualification.

DRAFT

20-O-19

AN ORDINANCE

**Amending Title 1, Chapter 10 of the Evanston City Code,
“City of Evanston Code of Ethics and Board of Ethics”**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: Title 1, Chapter 10, “Board of Ethics,” of the Evanston City Code of 2012, as amended, is hereby deleted in its entirety and further amended to read as follows:

Chapter 10 – City of Evanston Code of Ethics and Board of Ethics.

1-10-1.- PURPOSE.

It is the policy of the City of Evanston that its elected officials, appointed officials and employees shall, in all cases, exercise good judgment and perform their duties for the sole benefit of the residents of the City. To this end, except as is expressly permitted by this Code of Ethics, each City employee, each elected official and each appointed official is prohibited from soliciting, accepting or retaining any personal economic benefit or opportunity as this may impair or present the appearance of impairing the ability to fulfill their duties solely for the benefit of the residents of Evanston. It is further the policy of the City that all appearances of impropriety shall be avoided. The Board of Ethics hereby determines that a policy setting forth ethical principles and regulations applicable to all City elected officials, appointed officials and employees is in the best interests of the City of Evanston and its residents. Such a policy will contribute to the public confidence in the integrity and honesty of employees, elected officials and appointed officials and in their ability to perform their duties solely for the public good. To that end this Code of Ethics is adopted.

1-10-2.- DEFINITIONS.

<i>Affirmation.</i>	Telling a truthful statement.
<i>Change in status.</i>	Any change of any kind or nature in the information required to be filed or disclosed pursuant to this Code of Ethics.
<i>City approval.</i>	Any contract, legislative action, administrative action, transaction, zoning decision, permit decision, licensing decision, or other type of approval action that may be the subject of an

	official City act or action.
<i>Code.</i>	The City of Evanston Code of Ethics.
<i>Compensated time.</i>	With respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment. For purposes of this Code, compensated time shall not include any designated holidays, vacation periods, personal time, compensatory time or any period when the employee is on a leave of absence. For employees whose hours are not fixed, "compensated time" includes any period of time when the employee is on premises under the control of the City and any other time when the employee is executing his or her City duties, regardless of location.
<i>Compensatory time.</i>	Authorized and documented time off from work earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with the City.
<i>Covered person.</i>	Unless otherwise stated or expressly limited, this shall mean every elected official, appointed official or employee of the City.
<i>Director.</i>	Each City department head.
<i>Elected official.</i>	The Mayor and any member of the City Council chosen by the City electorate and any duly appointed member of the City Council.
<i>Employee.</i>	Any person employed by the City (whether part-time or full time and whether or not pursuant to a contract) whose duties are subject to the direction and control of the City Council or a City supervisor with regard to the material details of how the work is to be performed. Employee does not include an independent contractor.
<i>Ethics.</i>	Matters of right and wrong behavior.
<i>Gift.</i>	Any money, fee, commission, credit, gratuity, thing of value including a discount, entertainment, hospitality, loan, forbearance, other tangible or intangible item having monetary value. This includes compensation of any kind including, but not limited to, cash, food and drink, or honoraria for speaking engagements related to or attributable to government employment or the official position of a covered person.
<i>Indirect or indirectly.</i>	When used in the phrase "directly or indirectly," "indirectly" shall mean a connection to a decision, transaction or property, through another person, entity or remote document that, while the connection is not direct, enables the covered person to accrue some benefit from the decision, transaction or property.
<i>Inspector General</i>	Chief investigative officer for all alleged violations of the City of Evanston Public Employees Ethics Act.
<i>Interest in real property.</i>	This shall include, but is not limited to any legal or beneficial interest whatsoever in real property through (i) a trust; or (ii)

	contract to purchase where title may not have been yet conveyed; or (iii) a corporation, an investment group or limited liability company or partnership; or (iv) leasehold or rental agreement.
<i>Intra-governmental and inter-governmental gifts.</i>	Intra-governmental gift means any gift given to a covered person from another covered person. Inter-governmental gift means any gift given to a covered person by an elected official, appointed official or employee of another public body.
<i>Other members of a person's household.</i>	A person who is not a spouse or minor child a of covered person who resides at the same residence of the covered person at least 180 days per year and does not pay fair market value rent.
<i>Political activity.</i>	Any activity in support of or in connection with any campaign for elective office or any political organization, including but not limited to the following: <ul style="list-style-type: none"> (a) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event; (b) Soliciting contributions, including but not limited to the purchase, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event; (c) Soliciting or planning the solicitation of (by preparing any document or report regarding) anything of value intended as a campaign contribution; (d) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question; (e) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question; (f) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question; (g) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls; (h) Initiating for circulation, preparation, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question; (i) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office; (j) Preparing or reviewing responses to candidate questionnaires;

	<p>(k) Distributing, preparing for distribution or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question;</p> <p>(l) Campaigning for an elective office or for or against any referendum question;</p> <p>(m) Managing or working on a campaign for elective office for or against any referendum question;</p> <p>(n) Serving as a delegate, alternate or proxy to a political party convention;</p> <p>(o) Participating in any recount or challenge to the outcome of any election.</p> <p>Political activity shall not include activities (i) relating to collective bargaining, or (ii) that are otherwise in furtherance of the person's official village duties or governmental and or public service functions.</p>
<i>Political organization.</i>	A party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the state board of elections or a county clerk under the Illinois Election Code, but only with regard to those activities that require such filing with the state board of elections or a county clerk.
<i>Prohibited source.</i>	<p>Any person or entity who (that):</p> <p>(a) Whether directly or indirectly seeks or solicits any official action from a covered person or from a public body or a person who directs a covered person;</p> <p>(b) Whether directly or indirectly, does business with or seeks to do business with a covered person or with a public body or a person who directs a covered person;</p> <p>(c) Whether directly or indirectly, is regulated by a covered person or by a public body or a person who directs a covered person;</p> <p>(d) Whether directly or indirectly has any interest that may be substantially affected by the performance or non-performance of the official duties of a covered person; or</p> <p>(e) Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise considered to be a prohibited source does not become a prohibited source merely because a registered lobbyist is a member of that entity or serves on its board of directors.</p>
<i>Protected activity.</i>	<p>For purposes of this Chapter, protected activities means the following:</p> <p>(a) Disclosure or threat to disclose an activity, policy or practice that the covered person reasonably believes is a violation of a federal, state or City law, rule or regulation;</p>

	<p>(b) Providing of information to or testimony before any public body conducting an investigation, hearing or inquiry of any kind into any possible violation of a federal, state or City law, rule or regulation; or</p> <p>(c) Cooperation with or participation in any federal, state, or municipal proceeding to enforce the provisions of this Code of Ethics.</p>
<i>Public body.</i>	<p>(1) The federal government, federal agency, federal judiciary, federal official or employee, any federal law enforcement agency or office, or federal grand jury or petit jury;</p> <p>(2) a state government, state agency, state judiciary, state official or employee, any state law enforcement agency or office or state grand jury or petit jury;</p> <p>(3) a municipal government, municipal agency or department, municipal committee, municipal judiciary, municipal official or employee, any municipal law enforcement agency or office; or</p> <p>(4) county, township, special districts, or other taxing entity.</p>
<i>Retaliatory action.</i>	<p>(a) Retaliation against an employee: Adverse action of any kind against any employee including but not limited to the reprimand, discharge, suspension, demotion or denial of promotion or transfer of any employee, or the imposition of a punishment as set forth in this Code of Ethics that is administered to an employee because of the employee's involvement in protected activity as set forth in this Code of Ethics;</p> <p>(b) Retaliation against an elected official or appointed official: Adverse action of any kind against an elected official or appointed official including, but not limited to, the filing of a bad faith complaint by a covered person against an elected official or appointed official for a violation of this Code of Ethics or the imposition of discipline as set forth in this Code of Ethics that is administered against an elected official or appointed official because of an elected official's or appointed official's involvement in a protected activity as set forth in this Code of Ethics;</p> <p>(c) Retaliation against any individual or entity: Adverse action of any kind by a covered person against any individual or entity including, but not limited to, the refusal of services, threats of any kind including the threat of applying stricter requirements or restrictions or standards of any kind, monitoring with excessive visits, differential or discriminatory behavior of any kind, harassment, delay, changing deadlines or changing required standards of performance or conduct, or the initiation of investigations without a good faith cause that is taken because of the individual's or entity's involvement in a protected activity as set forth in this Code of Ethics.</p>

<i>Supervisor.</i>	An employee who has the authority to direct and control the work performance of another employee or who has authority to take corrective action regarding any violation of a law, rule or regulation.
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1-10-3.- REQUIREMENTS FOR FINANCIAL DISCLOSURE AND AFFILIATION.

- (A) Disclosure of interest in real property. Each elected official, appointed official, director and coordinator shall file with the City Clerk, a statement disclosing any ownership interest in real property located within the corporate limits of the City by the elected official, appointed official, director or coordinator.

The real property in which an elected official, appointed official, director or coordinator resides shall be exempt from the reporting requirements of this section, unless that property contains more than one residential unit.

- (B) Disclosure of business interests. Each covered person shall annually file with the City Clerk, a statement disclosing the ownership in or the employment by any business, firm, corporation or entity of any kind doing business with the City. This shall not include an interest in a publicly traded entity where the covered person holds less than one percent of the stock.
- (C) Disclosure of other employment. Each covered person shall file annually with the City Clerk, a statement specifying all employment for the previous calendar year of the person filing the statement. This statement shall include the name of the employing entity, the number of hours typically worked per week, the nature of the service performed in the course of such employment, and a statement of whether the services performed were connected in any manner to the individual's employment with the City or with City business.

This statement shall further disclose whether the covered person or covered person's employer performed any service or work for the village for which the covered person was compensated. This shall not include compensation for work performed in the person's official capacity with the City.

- (D) Filing and disclosure.
1. All disclosure statements described in this section shall be filed with the City Clerk on or before July 1 of each calendar year, except as otherwise set forth in this Code of Ethics, or within sixty (60) days of a change in status. The City Manager or the Mayor and City Council shall have the authority to require more frequent filings.
 2. A person who is specially appointed as an officer, a person who is an appointed official, a person who is elected in a special election, and all newly hired employees shall have thirty (30) calendar days from election, appointment or date of hire to file the disclosures required by this section.
 3. Persons obligated to file disclosure statements pursuant to the laws of the state shall also file copies of such disclosure statements with the City Clerk.

4. Any disclosure required by this City Code Section 1-10-3 shall include the disclosure of interests of the covered person's spouse, minor child and other members of the covered person's household.

1-10-4.- REQUIREMENTS WITH RESPECT TO CONFLICTS OF INTEREST AND STANDARDS OF CONDUCT.

- (A) Impartiality. All Employees shall perform his/her duties with impartiality and without prejudice or bias for the benefit of all of the residents of the City. No Employees shall grant or make available to any resident, including other covered person any consideration, treatment, advantage or favor beyond that which is available to every other resident.
- (B) Recusal and abstention. When an elected official or appointed official must take official action on a legislative matter or in connection with their performance of City duties as to which they have a conflict of interest or as to which a reasonable person in their position would believe that there is an appearance of a conflict of interest created by a personal, family, client, legislative interest, or economic interest, they must disclose, in writing, to the Inspector General and to the City Council the existence of the potential conflict of interest. This official must then either eliminate the cause of the conflict of interest or, if that is not feasible, abstain from any direct or indirect official action relating to the matter including but not limited to participating in any discussion, debate or vote relating to the matter.
- It is understood that there are certain statutory conflicts of interest which may not be cured by recusal and abstention. Conflicts of interest such as are set forth in 65 ILCS 5/3.1-55-10 and 50 ILCS 105/3a may be cured only by resignation from office or as otherwise set forth in those statutes.
- (C) Prohibition against interests in City contracts and business: No covered person, whether paid or unpaid, shall have any direct or indirect interest in any contract, work or business with or of the City except as permitted by 65 ILCS 5/3.1-55-10 of the Illinois Municipal Code.
- (D) Prohibition against interests which are in conflict with or appear to be in conflict with the performance of official duties. No covered person shall directly or indirectly engage in any business or transaction or shall directly or indirectly have a financial or other personal interest in a business or transaction that is in conflict with or gives the appearance of being in conflict with the proper discharge of their official duties or that impairs or may give the appearance of impairing their independent judgment and/or independent action in the performance of his/her official duties. For purposes of this Section, "personal interest" shall include the financial interest of a spouse, minor child or other household member of the covered person.
- (E) Interest in a City approval. Each covered person having the power or duty to directly or indirectly perform an official act or action that is related to a City approval shall:
1. Disclose any direct or indirect interest in the City approval being sought;

2. Disclose any direct or indirect interest in any business entity seeking the City approval or in any entity representing, advising or appearing on behalf of that business entity or person, whether paid or unpaid, in seeking the City approval;
3. Not solicit, or discuss and or accept, while a covered person, an offer of present or future employment with a person or business entity seeking the City approval;
4. Not encourage, make or engage in any ex parte or unilateral application or communication where a determination is to be made after a public hearing and if such communication is made, the contents of the communication shall be made part of the public record;
5. Not directly or indirectly solicit, accept or grant a future gift, favor, service or anything of value from or to an entity or person seeking the City approval or from any person or entity who was expected to receive a material benefit, directly or indirectly on account of the City approval, except:
 - a. A one-time consumable non-pecuniary gift with a value of less than fifty dollars;
 - b. A non-pecuniary award publicly presented in recognition of public service.

(F) Prohibited political activity:

1. No covered person shall intentionally require any employee to and no employee while on compensated time shall intentionally:
 - a. Use of any City property or resources in connection with any political activity;
 - b. Participate in any political activity for the benefit of any campaign for elective office or any political organization;
2. No covered person shall intentionally:
 - a. Use the service of any employee by requiring performance by that employee of any political activity;
 - b. Require any political activity as a part of an employee's City duties or as a condition of continued City employment or advancement;
 - c. Require an employee, at any time, to participate in any political activity as consideration for the employee being awarded any additional compensation or employee benefit in the form of a salary adjustment, bonus, compensatory time, uncompensated approved leaves of absence, or as a condition of continued employment or advancement for that employee, or requiring such participation for any other reason;
 - d. Award an employee additional compensation or employee benefit(s), in the form of a salary adjustment, bonus, compensatory time off, uncompensated approved leaves of absence, continued employment, advancement, or otherwise, as consideration for that employee's participation in any political activity;
 - e. Require any other covered person to make any campaign contribution whether in money, in time, or through the provision of

any goods or services in consideration for the continued employment or advancement of the covered person.

- (G) Pre-acquisition of interest. No covered person shall directly or indirectly acquire an interest in or an interest affected by any City approval at a time when the covered person knew or reasonably should have known that the acquired interest might be directly or indirectly affected by an official act or action of such covered person.
- (H) Appearances. No covered person shall appear on behalf of or against any private person before any City board or commission. This shall not include appearances on behalf of himself or herself, his or her spouse or minor child or other member of the person's household.
- (I) Disclosure and/or use of confidential information. No covered person shall, without proper legal authorization, directly or indirectly disclose confidential information concerning the property, government or affairs of the City or use such information to directly or indirectly advance the financial, personal or other private interest of the covered person or any other person or entity.
- (J) Public property. No covered person shall permit the use of or engage in the unauthorized use of City owned funds, vehicles, equipment, materials or property of any kind for political activity, personal convenience or profit or for any other matter not related to official City business. This prohibition shall apply irrespective of whether or not the public property is returned or reimbursed. This prohibition shall not apply to the use of non-powered traffic control items such as cones or other barricades used for civic events or block parties.
- (K) Attorney restriction on representation. No attorney or law firm providing legal representation to the City, in any capacity, may represent any interest that is adverse to the interest of the City.

1-10-5.- OFFICIAL MISCONDUCT.

Covered person commits official misconduct when in his/her official capacity intentionally commits any one of the following acts:

- (A) Performs an act in excess of their lawful authority, with intent to obtain a personal benefit or advantage for himself, herself or for another person.
- (B) Solicits or knowingly accepts for the performance of any act in connection with their official duties any fee or reward which they know is not authorized by law and which is not part of his/her regular compensation for the performance of their official duties.
- (C) Knowingly performs an act that he/she knows he/she is forbidden by federal, state, or municipal law to perform.

1-10-6.- GIFT BAN.

- (A) Gift ban. Except as otherwise provided in this section, no covered person shall directly or indirectly solicit or accept any gift from any prohibited source in violation of any federal or state statute, rule or regulation or in violation of any

City ordinance, rule or regulation. This ban applies to and includes the spouse, minor child, immediate family member, or other member of the household of the covered person.

- (B)** Gift ban exceptions. The restrictions above do not apply to the following:
1. Opportunities, benefits, and services that are available on the same conditions as for the general public;
 2. Anything for which the covered person pays the market value;
 3. Any (i) contribution that is lawfully made under the election code or under this Chapter; or (ii) activities associated with a fundraising event in support of a political organization or candidate;
 4. Educational materials and magazines that have been reviewed and approved by the Inspector General;
 5. Travel expenses paid for by the City for a meeting to attend to City business that have been reviewed and approved by the City Manager or his or his designee;
 6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée;
 7. Anything provided by an individual on the basis of a personal friendship unless the covered person has reason to believe that under the circumstances the gift was provided because of the official position or employment of the covered person and not because of personal friendship;
 8. In determining whether a gift is provided on the basis of personal friendship, the covered person shall consider the circumstances under which the gift was offered, such as:
 - a. The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
 - b. Whether in the actual knowledge of the covered person, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift;
 - c. Whether in the actual knowledge of the covered person, the individual who gave the gift also at the same time gave the same or similar gifts to other covered person; and
 - d. Whether in the actual knowledge of the covered person, the individual who gave the gift had any matter proposed or pending before the City that related directly or indirectly to the covered person.
 9. Food or refreshments not exceeding fifty dollars (\$50.00) per person in value that are provided and consumed on a single calendar day and that

are provided in connection with a meeting associated with official City duties provided (1) that the food or refreshments are consumed on the premises from which they were purchased, prepared or catered; (2) that the anticipated provision of food or beverages is disclosed to the supervisor of the employee(s) in writing no less than twenty-four (24) hours in advance; or (3) that the receipt of the food or refreshments is disclosed in writing to the Inspector General within twenty-four (24) hours after receipt of food and beverages. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and that are delivered by any means. This provision is not intended to allow employees to receive food or beverages which are not part of an official preapproved meeting in connection with City duties;

10. Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the City duties of the covered person as an office holder or employee) of the covered person, if the benefits have not been offered because of the official position or employment of the covered person, and are customarily provided to others in similar circumstances;
11. Intra-governmental and inter-governmental gifts;
12. Bequests, inheritances and other transfers at death; or
13. Anything provided as a gift to a covered person because that person is retiring or leaving office or City employment provided that each such gift is disclosed to the Inspector General within twenty-four (24) hours of receipt.

Each of the exceptions listed in this section is mutually exclusive and independent of one another.

- (C) Disposition of gifts. A covered person does not violate this Section if the covered person makes timely disclosure in writing of the receipt of the gift to the Inspector General and informs the Inspector General in writing that the prohibited gift has been returned to the source identified in the written disclosure, or provides written disclosure to the Inspector General of the receipt of the gift along with appropriate documentation which demonstrates that the gift or an amount equal to its value has been given to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered or succeeded.

1-10-7.- WHISTLE BLOWER PROTECTION.

No covered person shall take any retaliatory action against any person because that person has engaged in protected activity.

1-10-8.- ETHICS TRAINING.

- (A) Ethics training: Beginning in 2019, each covered person must complete, on an annual basis, an ethics training program disbursed by the Law Department. This training program shall:

1. Require each covered person to review this Code of Ethics and to sign a statement attesting to the fact that the covered person has read and understands this Code of Ethics; and
 2. Discuss the requirement that each covered person must act in accordance with federal and state law and City regulations and in compliance with this Code of Ethics. Each director must also implement an ongoing ethics training program for that department's employees. This ongoing ethics training program shall be overseen by the City Manager. The director of each department and the City Manager, on an annual basis shall submit a written statement to the City Council attesting to the fact that the ethics training has taken place during that calendar year.
- (B) Each calendar year, the City of Evanston Law Department shall meet with the City Manager to review the implementation of this Code of Ethics, the status of ongoing training and discuss any needed changes. The Law Department and City Manager shall make an annual report to the City Council in writing about this meeting, the status of the implementation of this Code of Ethics, and any recommended changes.

1-10-9.- ABUSE OF THE CODE OF ETHICS.

It shall be a violation of this Code of Ethics for any covered employee to knowingly engage in the following conduct:

- (A) Intentionally and in bad faith make a false report alleging a violation of any provision of this Code of Ethics.
- (B) Intentionally and in bad faith obstruct or attempt to obstruct the implementation of this Code of Ethics or an investigation of any alleged violation of this Code of Ethics.

1-10-10.- ENFORCEMENT AND PENALTIES.

- (A) Discipline for elected officials and appointed officials. The City Council may take action against any elected official or appointed official who has been found by the City Council to violate the Code of Ethics. Actions that the City Council may take against elected officials and appointed officials include but are not limited to: counseling, reprimand or public censure. The City Council, may where appropriate, discharge appointed officials. The City Council may not discharge an elected official.
- (B) Discipline for employees. In each instance where the City Manager takes such action, the City Manager shall make a written report to the City Council of the facts surrounding the violation of this Code of Ethics and explain what action, if any, was taken, to discipline the employee. For those employees covered under a collective bargaining agreement, discipline will be given in accordance with their collective bargaining agreement.

1-10-11.- BOARD OF ETHICS ESTABLISHMENT, MEMBERSHIP, QUALIFICATIONS, TERMS OF OFFICE, AND ORGANIZATION.

- (A) The City of Evanston Board of Ethics is hereby established. The Board of Ethics shall consist of five (5) members appointed by the Mayor with the consent of the City Council.
- (B) Five (5) voting members shall be appointed annually to the Board of Ethics by the Mayor with the advice and consent of the City Council. Each member of the Board of Ethics may not serve more than four (4) annual terms. The Chair of the Board of Ethics shall be appointed by the Mayor. The appointed board members shall be residents of the City who are known for personal integrity and sound judgment, who are not employees of the City, who have no claim pending against the City and who have no contractual relationship with the City. The members shall serve without compensation for their services.
- (C) If a vacancy occurs before the end of a term, a member shall be appointed by the Mayor with the consent of the City Council for the unexpired portion of the term.
- (D) At the first meeting in January of each year, or at a meeting as close to that date as practicable, the Board of Ethics shall elect a Vice-Chair. The Chair shall preside over all meetings. The Vice-Chair shall perform all duties of the chair in the absence of the Chair.

1-10-12.-CALL OF MEETING

The Chair or in their absence or inability to act, the Vice-Chair, shall call such meetings as are necessary for the conduct of the Board of Ethics business. A meeting may be called by any three members of the Board. This Board of Ethics will operate in full conformance with the Illinois Open Meetings Act 5 ILCS 120/1 et seq. and in accordance with the Board of Ethics Rules.

1-10-13.- POWERS AND DUTIES

The Board of Ethics shall have the following powers and duties:

- (A) Where an investigation occurs by the Board of Ethics, , to give advisory opinions to the Hearing Officer on proposed action(s);
- (B) To investigate complaints concerning unethical conduct as to any official or employee of the City and render its opinion to the Hearing Officer;
- (C) To make recommendations to the City Council for changes in the City's Code of Ethics;
- (D) The Board of Ethics may adopt such rules as it deems necessary for the conduct of its business. The findings of the Board of Ethics are advisory only and all final decisions are made by the Hearing Officer; and
- (E) The Board of Ethics does not have the power to issue subpoenas.

1-10-14.- FORMAL COMPLAINTS AND FINDINGS OF VIOLATION.

Formal ethics complaints. Any person (complainant) may file a formal ethics complaint with the Board of Ethics through the Inspector General or by written complaint to the Board of Ethics.

- (A) The complaint shall state the name of complainant (complainant), the name of the person accused (respondent) and set forth the specific act or acts alleged to constitute a violation against the ethics code along with all facts known to the complainant that support the complaint.
- (B) An acknowledgment of receipt of the complaint shall be sent by the Inspector General via email to the complainant within seven (7) calendar days of receipt of the complaint.
- (C) The Inspector General and Chair of the Board of Ethics shall make up the Advisory Panel. The Advisory Panel will make a preliminary determination as to whether the complainant has stated sufficient facts to constitute a violation of the Ethics Code. If the Advisory Panel determines that the complaint fails to state a violation of the ethics code, the Advisory Panel will give their findings to the Board of Ethics to review in closed session at the next regularly scheduled meeting of the Board of Ethics. The Board of Ethics shall determine whether the complaint should be dismissed. If the Board of Ethics determines that the complaint should be dismissed, the Inspector General will communicate that finding to the complainant within seven (7) calendar days from the determination and the complaint or findings is not subject to disclosure under the Illinois Freedom of Information Act.
- (D) Upon agreeing that the complaint alleges sufficient facts to state a violation, the Board of Ethics shall conduct an investigation and hearing in accordance with Section 1-10-17-6 led by the Inspector General, of the facts in the complaint; such investigation may include, but is not restricted to interviewing the complainant, the respondent, officials and employees of the City, and any other person who might reasonably have information relevant to the complaint and who agrees to speak to the Board of Ethics. The investigation shall also include a review of all relevant documents and records.
- (E) The Board of Ethics shall render its opinion in writing as soon as practicable after its investigation is concluded. The opinion shall include a finding of facts, the identification of the specific ethics ordinance provision that was allegedly violated, and an opinion based upon the factual findings as to whether the alleged violation was sustained or not.
- (F) A copy of the Board of Ethics opinion shall be sent to the respondent. Within seven (7) business days from receipt of the opinion, the respondent may object and ask for reconsideration in writing of the opinion; said objection must set forth in detail the basis for the objection. The objection must be received by the Inspector General, within the seven (7) business day period set forth above.
- (G) Upon receipt of a timely objection and request for reconsideration, the Board of Ethics shall evaluate the objection and take whatever steps are necessary to reach a conclusion on the objection.
- (H) After due consideration of any objection and request for reconsideration, if made, the Board of Ethics shall render its final opinion in writing. The final opinion shall

be sent to the respondent. Only if, and when, the respondent objects to the final opinion, the City Council shall act as a Board of Appeals.

1-10-15.- REFERRAL OF FINAL OPINIONS OF THE ETHICS BOARD TO THE CITY COUNCIL FOR FINAL ACTION.

The following are the procedures to be followed when a final opinion of an ethics complaint is forwarded to the City Council for action.

- (A) The Chair of the Board of Ethics shall forward the Board of Ethics Opinion to the City Manager. Upon receipt, the City Manager shall put the Board of Ethics Opinion on the Executive Session Agenda at the next regularly scheduled City Council meeting.
- (B) At the Executive Session of the City Council, Final Opinion will be considered.
- (C) Any time prior to the issuance of the final opinion by the City Council, the Board of Ethics amend the Opinion to address the allegations and penalties against the respondent ordered per Section 1-10-10. Any Final Settlement must be approved by the City Council. Whether the settlement is made public or not is determined by the City Council. For settlement purposes the hearing may be continued from time to time at the discretion of the City Council.
- (D) If an Elected Official, a member of the City Board of Ethics, or the City Manager are the subject of the Complaint, they are barred from all participation directly or indirectly in the complaint process including voting on said Complaint, except where they are to provide testimony or evidence relating to the Complaint, or provide testimony or evidence to refute said Complaint.

1-10-16.- ESTABLISHING THE OFFICE OF INSPECTOR GENERAL.

- (A) The Office of Inspector General is hereby established.
- (B) The Inspector General shall be appointed by the Mayor with the consent of the City Council and will have duties as outlined in this Chapter. The Office of the Inspector General will be administered through the City Manager's Office and an independent contractor.
- (C) The Inspector General shall create their own rules and regulations to execute their duties as outlined in this article. The rules and regulations shall be published in pamphlet form available to the public.
- (D) The Inspector General on his or her own action can initiate an ethics investigation. The findings of such an investigation shall be provided to the Advisory Panel as outlined in City Code Section 1-10-4(D).

1-10-17.- ADMINISTRATIVE HEARING PROCEDURES FOR ETHICS HEARINGS CONDUCTED BY THE INSPECTOR GENERAL.

1-10-17-1. - Definitions.

The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code.	City of Evanston Code of Ethics.
Hearing Officer.	Inspector General will act as a Hearing Officer whose duty it is to: <ol style="list-style-type: none"> (1) Preside at an administrative hearing called to determine whether or not a Code violation exists; (2) Hold conferences for the settlement or simplification of the issues; (3) Administer oaths and affirmations; (4) Hear testimony and accept evidence from all interested parties relevant to the existence of a Code violation; (5) Rule upon motions, objections and the admissibility of evidence; (6) At the request of any party or on the administrative hearing officer's own motion, subpoena the attendance of relevant witnesses and the production of relevant books, records or other information; (7) Preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and regulate the course of the hearing in accordance with this division, or other applicable law; (8) Issue a final order which includes findings of fact and conclusions of law; and (9) Impose penalties and issue orders that are consistent with applicable Code provisions and assess costs upon finding a party liable for the charged violation.

1-10-17-2. - Creation of ethic administration adjudication.

- (A) Establishing a system of administrative hearings, pursuant to this Section, shall provide for enforcement of Code violations within the City of Evanston. The ordinance shall establish the jurisdiction of a Code hearing that is consistent with this division.
- (B) Adjudicatory hearings shall be presided over by the Hearing Officer.

1-10-17-3. - Rules of evidence.

Rules of evidence shall not govern. The formal and technical rules of evidence do not apply in an administrative hearing permitted under this division. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

1-10-17-4. - Subpoenas.

- (A) Hearing Officer may issue a subpoena only if he or she determines that the testimony of the witness(es) or the document(s) or item(s) sought by the subpoena are necessary to present evidence that:
 1. Is relevant to the case; and
 2. Relates to a contested issue in the case.
- (B) A subpoena issued under this division shall identify:
 1. The person to whom it is directed;
 2. The documents or other items sought by the subpoena, if any;
 3. The date for the appearance of the witness(es) and the production of the document(s) or other item(s) described in the subpoena;
 4. The time for the appearance of the witness(es) and the production of the document(s) or other item(s) described in the subpoena; and
 5. The place for the appearance of the witness(es) and the production of the document(s) or other item(s) described in the subpoena.
- (C) In no event shall the date identified for the appearance of the witness(es) or the production of the document(s) or other item(s) be less than seven days after service of the subpoena.
- (D) Within three business days of being served with a subpoena issued in accordance with this division, the recipient of the subpoena may contest the order authorizing the issuance of the subpoena to the Hearing Officers, setting forth in detail the recipient's objections to the subpoena. Upon receipt of the contest to the subpoena, the Hearing Officer shall review the objections and, upon review, enter the appropriate order.

1-10-17-5. - Representation at hearings.

- (A) The case for the City may be presented by any City Employee or by an attorney designated by the City.
- (B) The case for the respondent may be presented by the respondent, any agent of the respondent or an attorney. An agent shall present a written authorization signed by the respondent giving the agent power to act and to bind the respondent to any order(s) entered by the hearing officers.

1-10-17-6. - Conduct of hearings.

The Hearing Officer shall conduct the hearing in an orderly manner and insist upon proper decorum by all persons present at the hearing. The intent of the hearing is to provide the City and the respondent full and fair presentation of the issues.

Conduct of the hearing shall be as follows:

- Opening arguments if requested by either party;
- Ethics Board case in chief;
- Examination of witness;
- Cross-examination of witness;
- Rebuttal;
- Respondents case in chief;
- Examination of witness;
- Cross-examination of witness;
- Rebuttal;
- Closing remarks if requested by either party.

1-10-17-7. - Documentary evidence.

Relevant documents may be received into evidence without formal proof of authenticity. The Hearing Officer shall determine the weight, if any, to be afforded documents received into evidence.

1-10-17-8. - Transcript of proceedings.

Either party may request that the proceedings be taken and transcribed by a certified court reporter. The cost of the reporter shall be borne by the party requesting the reporter. The City shall, at its cost, tape record the proceedings. If a tape recording is made, a respondent may obtain a transcript at respondent's cost.

1-10-17-9. - Continuances.

All hearing proceedings shall be conducted on the date set. For good cause shown, a postponement may be granted at the discretion of the Hearing Officer. The purpose of hearing proceedings is to provide a prompt resolution of alleged code violations and, accordingly, the request for and the grant of, continuances shall be curtailed to the extent fairness permits.

1-10-17-10. - Administrative hearing procedures not exclusive.

Notwithstanding any other provision of these procedures, neither the authority of the Administrative Hearing Officer to conduct administrative hearing procedures nor the institution of such procedures under these procedures shall preclude the City from seeking any remedies for Code violations through the use of any other administrative procedure or court proceeding.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 4: Ordinance 20-O-19 shall be in full force and effect after its passage and approval.

SECTION 5: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: _____, 2019

Approved:

Adopted: _____, 2019

_____, 2019

Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

Devon Reid, City Clerk

Michelle L. Masoncup, Corporation Counsel