

**CITY OF PHOENIX  
ETHICS COMMISSION  
Summary Minutes  
April 18, 2024**

Phoenix City Hall  
12<sup>th</sup> Floor, Central Conference Room  
200 W Washington St.  
Phoenix, AZ 85003

Committee Members Present

Jose Samuel (Sam) Leyvas III  
Cheryl Pietkiewicz  
Patricia Sallen  
Peter Schirripa

Committee Members Absent

**1. Call to Order/Roll Call**

Ms. Inger Erickson, Deputy City Manager, called the meeting to order at 3:00 p.m. with Commission Members Sam Leyvas, Cheryl Pietkiewicz, Patricia Sallen, and Peter Schirripa present.

**2. Approval of Meeting Minutes from March 21, 2024**

Ms. Erickson asked if the Commission would make a motion.

Ms. Sallen made a motion to approve the minutes of the March 21, 2024, Ethics Commission Meeting. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

**3. Introduction of City Counsel and Outside Counsel**

Ms. Erickson asked Mr. David Benton, City of Phoenix Chief Counsel, and Ms. Beth Nillen, Commission's Counsel, to introduce themselves and provide an overview of their roles as it relates to the Commission.

Mr. Benton introduced himself and shared information about his current role at City of Phoenix. He shared details about his previous work experience with public entities and his education.

Ms. Nillen introduced herself and shared information about her previous work and current work with Spencer Fane. Her experience includes working as a City Attorney for municipalities within Wisconsin, and after moving to Phoenix, she continued working on employment law, conducted workplace investigations, and provided outside counsel to government agencies.

Mr. Leyvas asked about their respective roles and responsibilities within the Commission, specifically relating to the roles of counsel and investigator.

Ms. Nillen explained the Commission is the final decision-making body for any ethical complaints brought to the Commission. However, as an investigator, Ms. Nillen will support with fact-finding during the investigation process and present the information in a report for the Commission. Ms. Nillen will separately provide legal advice and act as Counsel to help the Commission interpret the rules they need to operate within.

Mr. Leyvas asked Ms. Nillen to clarify if she would be acting as both Counsel and an independent investigator for the Commission.

Ms. Nillen clarified typically an independent investigator would make a finding of fact for the client. She stated the rules clearly delineate that the investigator's role would be to support the needs of the Commission by researching and presenting the facts in a neutral and unbiased manner but would not include providing a finding of fact for the Commission. The Commission will be the final decision-making body. Ms. Nillen explained the type of information she could provide and examples.

Mr. Leyvas asked to clarify Mr. Benton's role in the Commission.

Mr. Benton explained Ms. Nillen is the Commission's lawyer and to work with her for any questions the Commission has. He stated his role is to provide counsel to staff and City Council and support administrative needs for the Commission within the City. He stated it would be a clear conflict of interest for his position to provide counsel to the Commission.

Commission Member Pietkiewicz asked if Mr. Benton would be attending all meetings moving forward.

Mr. Benton responded he will not be attending all meetings but will be available for the first few meetings as the processes are new.

Ms. Erickson asked if there were any additional questions from the Commission.

The Commission had none.

**4. Review and Adopt Bylaws**

Ms. Erickson asked the Commission if there were any questions or concerns with Bylaws as red-lined in the posted packet.

Mr. Leyvas made a motion to approve the Bylaws as red-lined in the posted packet. Ms. Sallen seconded the motion which passed unanimously 4-0.

**5. Elect Chairperson and Vice Chairperson**

Ms. Erickson asked if there was a consideration for a Commission Member to serve as Chair or Vice Chair and opened the floor for discussion.

Ms. Pietkiewicz stated she would not like to be nominated.

Ms. Sallen asked if Mr. Schirripa or Mr. Leyvas were interested in the position.

Mr. Schirripa asked if the Commission needed to wait until the fifth and final commissioner was sworn in.

Ms. Nillen recommended to move forward with electing a Chair and Vice Chair now to provide order for the Commission.

Mr. Schirripa stated he would not like to be nominated.

Ms. Nillen clarified that the rules of order are the City's Rules of Conduct, which are unique from Robert's Rules of Order.

Ms. Sallen asked Mr. Leyvas if he was interested in the role of Chair.

Mr. Leyvas stated he would be interested in the role.

Ms. Sallen nominated Mr. Leyvas as Chair. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

Ms. Pietkiewicz nominated Ms. Sallen as Vice Chair. Mr. Schirripa seconded the motion which passed unanimously 4-0.

Ms. Erickson turned the meeting over to Chair Leyvas to lead the remainder of the meeting.

**6. Review and Adopt Initial Rules of Procedure**

Chair Leyvas asked if there were questions or possible action for the Initial Rules of Procedure as red-lined in the posted packet.

Vice Chair Sallen asked about the review limitation written in Section 4 Rule 3 and how the rule works as the Commission only began in 2024.

Ms. Nillen clarified the Section states the complainant must make their complaint within one year after the incident. For any of the complaints that have not been acted upon yet, the complaints will remain open until the Commission acts on it. The rule does not indicate a limitation on the Commission's review and actions.

Vice Chair Sallen asked how Rule 10.C applies to the Commission.

Ms. Nillen clarified Rule 10.C is in relation to the gift clause, referencing special occasions (such as weddings).

Chair Leyvas asked if there were other questions or feedback from the Commission.

Ms. Erickson stated that there is a draft Request for Inquiry Form.

Chair Leyvas asked for clarification if the City Manager considers the Initial Rules of Procedure still to be in draft form.

Ms. Nillen indicated they are in draft form so the Commission may act upon and approve the Initial Rules of Procedure once the Commission was seated.

Mr. Benton confirmed that any future recommended changes to the Initial Rules of Procedure would need to be taken to Council for approval.

Chair Leyvas expressed his appreciation and thanks for the opportunity to review and adopt the Initial Rules of Procedure.

Chair Leyvas asked for a motion.

Vice Chair Sallen moved to approve the Initial Rules of Procedure as red-lined in the posted packet. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

**7. Call to Public**

There were no public available to comment.

Ms. Erickson mentioned the public records request and information requested during the March 21 meeting by Mr. Thacker was provided to him.

**8. Future Agenda Items and Meeting Dates**

Chair Leyvas opened the floor to discuss future agenda items and meeting dates.

Ms. Erickson verified meeting dates for 2024 have been set.

Chair Leyvas asked how many complaints there are currently.

Ms. Erickson stated there are eight complaints. She stated the complaints can be sent to the Commission and discussed at the next meeting.

Ms. Pietkiewicz asked if the complaints and any other relevant information could be placed in a shared drive or site.

Ms. Nillen expressed concerns about potential open meeting law violations when posting information in a shared drive.

Ms. Pietkiewicz asked about conversations the Commission may need to have in a confidential setting, not in a public setting.

Ms. Nillen explained executive session is a confidential portion of the meeting for the Commission to obtain legal consultation on a specific agenda item, and she referenced the executive session statement on the agenda. She clarified that during executive session, no member of the public may attend, and there is no recorded or written record. As per the Ordinance, the complaints are confidential and may only be referenced in public by the EC number assigned to them. The Commission's final decision would be made in open, or public, session.

Ms. Pietkiewicz asked to clarify what is considered public record.

Ms. Nillen clarified any written communication is subject to a public records request after the conclusion of the investigation of the specific matter.

Mr. Schirripa asked about the process and workflow as defined by Rule 5 in the Initial Rules of Procedure. He also asked if it is recommended to create a specific email address for Commission matters.

Ms. Nillen recommended each of the Commission Members create specific emails for Commission related correspondence, to simplify collecting information related to any public records requests in the future.

Mr. Benton reiterated the importance of deciding how the Commission wants to communicate with each other and stressed the importance of adhering to Open Meeting Law. He recommended to direct any invitations, questions, or emails from the public to staff, and staff can provide the Commission Member with a recommendation on how the inquiry should be dealt with.

Ms. Erickson stated the City has established an Ethics Commission email where information may be sent to. Staff can share information to the Commission using the email, without sharing the Commission members' emails publicly.

Ms. Pietkiewicz asked if a complaint would be sent directly to their emails.

Ms. Erickson clarified a complainant would provide the Request for Inquiry, or complaint, to the City Clerk. The City Clerk then has five business days to assign a matter number to the Request for Inquiry and refer the Request for Inquiry to the Ethics Commission for initial evaluation at the Ethics Commission's next available meeting.

Chair Leyvas asked for clarification on the workflow of the current eight complaints.

Ms. Erickson confirmed staff will send the complaints to the Commission, and during the next meeting, the Commission may convene in executive session to discuss the complaints.

Ms. Nillen explained that during the initial review, the Commission can decide how to move forward with each complaint.

Chair Leyvas recommended the Commission reread the Bylaws and Initial Rules of Procedure to better understand the process and the conditions on how to assess each item.

Chair Leyvas asked about Ms. Nillen's availability for each of the Commission Members.

Ms. Nillen stated she is available for any questions and shared her contact information.

Ms. Erickson stated staff will meet with the Chair to discuss the next meeting's agenda and compile the agenda packet for posting.

Ms. Erickson confirmed staff will wait to send the complaints until the Commission Members have established new emails, if they choose to.

Chair Leyvas asked if there were any other future agenda items.

The Commission had none.

**9. Adjournment**

Chair Leyvas adjourned the meeting at 3:33 p.m.