

**CITY OF PHOENIX
ETHICS COMMISSION
Summary Minutes
May 16, 2024**

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

Committee Members Present

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

Committee Members Absent

1. Call to Order/Roll Call

Chair Leyvas called the meeting to order at 3:04 p.m. with Commission Members Cheryl Pietkiewicz, Patricia Sallen, and Peter Schirripa present.

2. City Attorney Explains Public Comment

Deryck Lavelle, Chief Assistant City Attorney, stated members of the public may speak for up to two minutes on agenda items and gave direction on appropriate decorum when providing comments.

3. Approval of Meeting Minutes from April 18, 2024

Vice Chair Sallen made a motion to approve the minutes of the April 18, 2024, Ethics Commission Meeting. Ms. Pietkiewicz seconded the motion which passed unanimously 4-0.

4. Review City of Phoenix Rules of Council Proceedings

Chair Leyvas introduced the public speaker, Mr. Jeremy Thacker.

Mr. Thacker discussed his concern with the City's position that the future complaints remain confidential from the public.

Ms. Elizabeth Nillen, Commission Attorney, indicated the comments being made are not applicable to the agenda item.

Mr. Lavelle agreed the comments do not go with the current topic of discussing the Rules of Council Proceedings and more align with Item 7.

Chair Leyvas made a clarification to the speaker on the Rules being discussed. The Rules of Council Proceedings for the City, similar to Robert's Rules of Order,

are the current Rules being discussed. These Rules are different from the Initial Rules of Procedure for the Commission, which were previously approved.

Chair Leyvas asked for staff and Counsel to explain the relevant sections of the Rules of Council Proceedings and how they apply to the Commission.

Ms. Nillen noted Rules 1, 5, 6, and 7 apply to the Commission. Ms. Nillen provided a more detailed summary of each section of Rule 7 and discussed how it applies to the Commission.

Ms. Nillen shared Rules 8, 9, 10, and 13 are general rules of engagement and decorum.

Mr. Lavelle stated the Initial Rules of Procedure are the Commission's governing procedures but the Commission may adopt any of the Rules of Council Proceedings as they deem appropriate.

Chair Leyvas opened the floor to questions from the Commission.

5. Review Process for Requests for Inquiry

Chair Leyvas introduced the public speaker, Mr. Thacker.

Mr. Thacker disagrees with the City's position that the future complaints remain confidential from the public and explained his concern.

Chair Leyvas turned to Ms. Nillen to discuss the process for the requests for inquiry.

Ms. Nillen reviewed the steps and general flow of procedures from when a request for inquiry is submitted to the City Clerk, to the different actions the Commission may take. She provided additional details about the investigation procedures, finding of fact reports, and steps that could be taken by the Commission after the initial investigation.

Chair Leyvas clarified the finding of fact discussed is the Commission's finding of fact.

Ms. Nillen confirmed it is the Commission's finding of fact. She explained the report would only include facts obtained during the investigation, and the Commission would make the determination if it constituted a violation of the ordinance.

Ms. Nillen continued reviewing the steps and actions.

Chair Leyvas opened the floor to questions from the Commission.

Mr. Schirripa asked for clarification if the “accused” is defined as the Respondent.

Ms. Nillen confirmed yes.

Mr. Schirripa asked for clarification on when the Commission needs a vote from the Council.

Ms. Nillen confirmed the Commission’s report and recommendation will be provided to the Council for a vote of at least seven members once the Commission’s investigation has fully concluded.

Ms. Schirripa asked how the Council and the Commission would proceed if the inquiry was against one of the seated Council members.

Ms. Nillen stated the Council member would need to recuse themselves from the vote, and the Commission would not have control over this. The Councilmember would have an obligation under their conflict of interest rules to make the determination. She confirmed the Commission’s only action at Council would be to present the recommendation and report.

Ms. Pietkiewicz asked if the Council could decide to not accept the Commission’s recommendation.

Ms. Nillen confirmed yes.

Mr. Schirripa asked if the Council operates under a time requirement to make their decision.

Mr. Lavelle confirmed the item would be on the next available Council agenda, and the Council would need to take an action on the item.

Ms. Sallen suggested to add a standing item on the agenda to discuss updates on pending matters and to review items that have gone to Council for action.

Ms. Pietkiewicz asked if there is a limitation on the number of times an individual may be accused of the same complaint.

Ms. Nillen stated the Initial Rules of Procedure state all Requests for Inquiry filed against an Elected Official or Board Member must be brought within one-year after the cause of inquiry accrues. An individual could make another filing. The Commission may choose to not conduct another investigation, unless additional evidence or information was included.

There were no other questions from the Commission.

6. Review of Ethics Regulations

Chair Leyvas asked to move Item 8 (Call to Public) to earlier in the agenda, prior to moving into Executive Session for Items 6 and 7.

Ms. Nillen suggested to take public comments for Items 6 and 7, followed by Item 8 for the Call to the Public. Ms. Nillen asked the Chair to clarify if the Commission would be taking any action after the Commission returns from Executive Session.

Chair Leyvas confirmed he does not anticipate taking any action after the Commission returns from Executive Session.

Chair Leyvas suggested to limit the conversation during the meeting to only legal advice, process and questions and to not make decisions on the inquiries at this meeting.

Ms. Nillen recommended to take public comments for Items 6 and 7, followed by Item 8 for the Call to the Public. She recommended the Commission then make a motion to enter into Executive Session to obtain legal advice from Counsel on the inquiry process, discuss relevant statutes and ordinances applicable for the Commission, and review the inquiries.

Vice Chair Sallen asked for clarification on the topics to be discussed under Item 6.

Ms. Nillen clarified Item 6 would include a discussion on the ordinances and Arizona Statutes, understanding the legal implications and terminology, discussing hypothetical scenarios, and providing general legal advice as needed.

Chair Leyvas stated the Commission will take public comment for Items 6 and 7, followed by Item 8 for the Call to the Public.

Chair Leyvas invited Mr. Thacker to speak for up to two minutes on Item 6 and two minutes on Item 7.

Mr. Thacker asked for further discussion on why the Commission needs to take the inquiries to Executive Session instead of discussing in public session and explained his concerns. He also asked for further discussion on why the inquiries will be confidential moving forward. He stated he submitted two of the complaints and does not agree with the City's decision to discuss the inquiries in a confidential setting.

Chair Leyvas asked the Commission to consider a motion to convene in Executive Session for Items 6 and 7 pursuant to A.R.S. Section 38-431.03(A)(2) and (A)(3) for discussion and possible legal advice with the Commission's Attorney.

Ms. Pietkiewicz made a motion to convene in Executive Session. Mr. Schirripa seconded the motion which passed unanimously 4-0.

Chair Leyvas asked all members of the public and staff to leave the meeting.

The Commission entered Executive Session at 3:42 p.m.

7. Review of Current Complaints

The Commission returned from Executive Session at 4:53 p.m.

8. Call to Public

There were no public available to comment.

9. Future Agenda Items and Meeting Dates

Chair Leyvas opened the floor to discussion.

Ms. Pietkiewicz requested to put the first four inquiries on the agenda again for further discussion.

Ms. Nillen asked if the Commission wants all eight inquiries included on the next agenda.

Chair Leyvas agreed to include all eight inquiries on the next agenda.

Inger Erickson, Deputy City Manager, confirmed the next meeting is set for June 20 at 3 p.m.

10. Adjournment

Chair Leyvas adjourned the meeting at 4:56 p.m.