

Clerk Reid said he agreed. He added, one thing he is having an issue with is getting responsive documents from the police department. He hopes there will be direction that the police department deposits all responsive documents with the FOIA officer. Ald. Wilson moved that they make that direction. Ald. Braithwaite seconded. Motion passed.

FREEDOM OF INFORMATION ACT OFFICER:

Ald. Wilson moved to designate the City Clerk, Deputy Clerk or Clerks and a representative from the law department as the FOIA officers. Ald. Rainey seconded. Ald. Fleming stated she would like to move a friendly amendment that the Clerk's office be designated as the FOIA officers and have the legal department continue in the capacity that they currently serve. Ald. Braithwaite seconded.

Mayor Hagerty asked procedurally how would this work with the City Clerk, Deputy Clerk and Law department as far as the order. Mr. Farrar explained under FOIA, the City Council can designate one or more employees or officers to act as FOIA officers. Those FOIA officers are tasked under the statute with promulgating rules and regulations for responding to requests and providing the information accessible on a website that is required under the FOIA. The problem with the first motion is the problem of sequential order and different lines and spans of authority. If there is a Clerk with a Deputy Clerk and then a staff member in the law department that's not going to be very clear. It would be more appropriate if the City Clerk is designated as the FOIA officer with a Deputy Clerk, and apply to all staff across the board, that staff has the responsibility to comply with this fiduciary obligation to cooperate with the FOIA officer and timely and accurately respond to requests. Ald. Wilson moved that the City Clerk be designated as the FOIA officer and direct Corporation Counsel to prepare resolution appointing the City Clerk as the FOIA officer. Ald. Braithwaite seconded. Motion passed.

City Manager Bobkiewicz added the prepared resolution would be brought back on the October 23rd agenda.

NEW BUSINESS:

None

ADJOURNMENT:

Meeting adjourned 8:30p.m.

Respectfully submitted,
Darlene Francellno

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

MINUTES OF THE RULES COMMITTEE

Monday, December 11, 2017

The meeting will convene at the conclusion of the 6:00pm Administration and Public Works Meeting
Lorraine H. Morton Civic Center
Jay C. Lytle City Council Chambers

Present: Ald. Peter Braithwaite, Ald. Judy Fiske, Ald. Cicely Fleming, Mayor Steve Hagerty, Ald. Ann Rainey, Ald. Eleanor Revelle, Ald. Robin Rue Simmons, Ald. Thomas Suffredin, and Ald. Donald Wilson

Presiding: Ald. Ann Rainey

Absent: Ald. Melissa Wynne

Staff Present: Wally Bobkiewicz, City Manager

CALL TO ORDER/DECLARATION OF QUORUM:

Ald. Rainey declared a quorum and called the meeting to order at 7:20pm

CITIZEN COMMENT:

Dan Joseph spoke against the proposal to change citizen comment.

Carl Klein spoke against moving public comment to the end of the Council meeting. He stated it would be helpful to have a brief description on public comment.

REVIEW OF PROPOSED 2018 CITY COUNCIL MEETING DATES:

Ald. Revelle asked about the quarterly discussions on affordable housing. City Manager Bobkiewicz stated Council had committed to January 29th. Ald. Revelle moved to amend the proposed meeting dates to add January 29th as a Special meeting to discuss affordable housing. Ald. Fleming seconded. Motion passed.

Ald. Revelle said the next meeting would be in April. Ald. Rainey suggested setting the next date for the affordable housing discussion at the first meeting on January 29th. Ald. Wilson moved to adopt the schedule as amended. Motion passed to recommend the 2018 proposed meeting schedule to City Council.

ORDINANCE AMENDING HOUSING, HOMELESSNESS & HUMAN RELATIONS COMMISSION BACK TO HOUSING & HOMELESSNESS COMMITTEE WITH CREATION OF EQUITY AND EMPOWERMENT COMMISSION:

Ald. Fleming moved for staff to recommend the approval of ordinance 94-O-17 amending Title II, Chapter 4 of the City Council code to change the Housing, Homelessness, and Human Relations Commission back to the Housing and Human Relations Commission. Ald. Rue Simmons seconded. Motion passed to recommend to the Council.

RESOLUTION AMENDING COUNCIL RULES ON STANDING COMMITTEES QUORUM:

Mayor Hagerty moved that the rule for quorum for Standing Committees is at 4. They have 5 Aldermen on these committees. The resolution is proposing to comply with Robert's Rule of Order, which would mean 3 out of the 5 members would need to be present to make quorum. Ald. Simmons seconded. Motion passed.

DISCUSSION OF FUTURE RULES COMMITTEE MEETING SCHEDULE:

Ald. Rainey said the Rules Committee was a standing monthly meeting on the first Monday of the month, prior to the Human Services Committee. A review of boards, committees and commissions work, maybe 18 months ago, came up with the idea to amend the Council's rules so that the Rules Committee met, instead at the call of the Chair. To fit the Rules Committee in on a Council night makes no sense. The Rules Committee is a standing committee of the council and should be on a Monday night prior to the Human Services Committee. If they don't need a Rules committee meeting they just won't have one. She moved to have the Rules Committee meetings return to meeting the first Monday of the month, as the Human Services Committee meetings.

Ald. Braithwaite mentioned it is important that new members are aware that there may be a need to juggle the times of the Rules Committee and Human Services meetings. Rules met at 6 and Human Services at 7:00p. Ald. Rainey responded that the Rules Committee may not meet every month. They may just meet quarterly.

Ald. Donald Wilson suggested leaving the meeting schedule the way it is to avoid any confusion for members who are not on both committees. It is better to have the Rules Committee meet as needed rather than scheduling meeting dates and then canceling them. Ald. Rainey moved to have the Rules Committee meetings on Monday nights prior to the Human Services meetings and fit it in when needed. Ald. Braithwaite seconded.

City Manager Bobkiewicz stated the implication of Ald. Rainey's motion is that the Council rules will have to be amended to reflect that the meeting time of the Human Services Committee will be contingent upon the meeting of the Rules Committee. On the days the Rules Committee meets, the Human Services Committee meeting will start at 7pm and on the days that they don't meet, Human Services will meet at 6pm. Ald. Rainey concluded to put a hold on the decision to allow more time for thought.

DISCUSSION ON ALDERMANIC ATTENDANCE AT EXECUTIVE SESSIONS OF BOARDS, COMMISSIONS AND COMMITTEES INCLUDING BOARD OF ETHICS:

Ald. Rainey asked why the Board of Ethics has executive sessions and what allows them to do that. Her reason for asking was because the Board of Ethics has investigated Aldermen in the past and is actively investigating one presently. She had asked to attend an executive session once and was denied. Assistant City Attorney, Henry Ford, explained that unlike other committees, standing committees handle issues of fairness and partiality involving citizens. So having an Alderman at an executive session may influence the decisions made. He further explained that, ultimately, the presence or absence of an Alderman at an executive session is consistent with the rules of the Board of Ethics, and that although Aldermen cannot attend, they are allowed, under city code, to review the records of the committee.

Ald. Wilson added that under the city code, committees, boards, and commissions, are required to explain why they go into executive session. Ald. Rainey responded that the Board of Ethics does not do that and concluded that she needed more information from the Board of Ethics as to why they hold executive sessions.

DISCUSSION ON LENGTH/TIMING OF PUBLIC COMMENT. PROPOSE ADDING RULE THAT COUNCIL DELIBERATIONS SHALL BEGIN NON LATER THAN 9:15PM, AND REMAINING PUBLIC COMMENT MAY CONTINUE AFTER CALL OF THE WARDS:

Ald. Rainey stated she would like Council meetings to begin no later than 9:15pm and suggested that extraneous matters, such as awards and ceremonies, be conducted during the third Monday of each

month. She explained that many times public comments are repetitive as they would have already been aired at the Planning and Development Committee meeting and because public comment runs so late the Council may not get a chance to comment on an issue until about 11pm sometimes. It is better for city business to be conducted at a reasonable hour.

Ald. Suffredin suggested having public comment on items related to the agenda for 45 minutes at the beginning of Council meetings. Then have non-agenda public comments after the meeting which still gives people an opportunity to be heard. That way, people who want to comment on items not related to the agenda don't have to stay the entire duration of the meeting they just come after the meeting.

Ald. Fleming agreed with moving extraneous items to the third meeting and having public comment at the beginning of Council meetings. She also agreed with Ald. Rainey's point about the repetitiveness of public comments at Planning & Development meetings and Council meetings. She advised that citizens work together to structure comments to prevent repetitiveness, and give other people, who only come to Council meetings, a chance to be heard.

Ald. Fiske had concerns about moving proclamations to the third meeting. It would not be a productive use of time. She suggested having public comment on Saturday mornings at 9am and having no public comment on Monday nights, so Council meetings could start at 8pm on Monday nights.

Ald. Wilson suggested imposing time limits on public comments at committee meetings. He also encouraged citizens to be time sensitive when making comments and advised that they not just leave after making comments. They should wait to hear the Council's comments and if they can't watch the online videos of the meetings.

Mayor Hagerty supports the idea of re-envisioning public comments and considering other formats such as accepting videos from citizens or meeting with citizens on another weekday to give them a chance to air their views and prevent Council meetings from running so late.

Ald. Braithwaite was opposed to the idea of getting Council members to reconvene on an entirely different day to hear citizen comments since citizens already have so many opportunities to comment through their ward, neighborhood, and block meetings. He was concerned about the feasibility of having an extra meeting.

DISCUSSION OF ALDERMANIC REFERRAL REGARDING MORATORIUM ON NON-OWNER OCCUPIED VACATION RENTALS:

Ald. Rainey stated that this item will be referred to the Planning and Development Committee.

NEW BUSINESS:

None

ADJOURNMENT:

Meeting adjourned 8:03pm

Respectfully submitted,
Darlene Francellno

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

MINUTES OF THE RULES COMMITTEE
Monday, October 1, 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. Robin Rue Simmons, Ald. Thomas Suffredin, Ald. Donald Wilson, and Ald. Melissa Wynne

Presiding: Ald. Judy Fiske

Staff Present: Wally Bobkiewicz, City Manager and Johanna Leonard, Community Development Director, Mario Treto, Deputy Corporation Counsel

CALL TO ORDER/DECLARATION OF QUORUM:

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

CITIZEN COMMENT:

Nedona Nyomo spoke on the item of Council rules to allow board, commission and committee members with expired terms to continue serving until a replacement has been placed.

Mary Beth Berns spoke on the issue of conflict of interest on separate committees. Also allowing members with expired terms to continue is critical when trying to get a quorum. Lastly, combining the Zoning Board of Appeals and the Plan Commission is a really bad idea for a whole host of reasons.

Mitsy Witenberg spoke about items on the agenda not being within the stated jurisdiction of this committee. It feels like you are trying to limit efforts being made to open up engagement or to allow citizens to exercise their rights or face punishment. Asked that when proceeding be careful moving forward and look to resolve these issues in a more appropriate way.

Doreen Price spoke on the issue of combining certain boards and commissions and how it would not be the best way to go.

DISCUSSION OF REALIGNMENT OF CITY BOARDS, COMMITTEES AND COMMISSIONS:

City Manager Bobkiewicz said the number of boards and commissions is about 45 and as staff looked at staffing resources, they looked at the connectiveness between the work of the boards and commissions. It stood out during budget discussions that perhaps there are better ways to focus the time. Not only of staff but also citizen members and on the work they do and making sure that work is meaningful. They are not asking for any action but wanted to share because looking at the budget for 2019 and future years they need to have more connectiveness between the various parts of the city government to really meet the Council's goals and the community's goals.

Johanna Leonard, Community Development Director reported that the memo is proposing taking 17 boards and commission and moving them into 8. A lot of data was collected and then filter through to report to STAR. The 8 proposed new STAR boards and commissions would be Built Environment Commission to include Transportation/Parking, Housing & Homelessness, Parks, Recreations & Community Services Board and Lighthouse Landing Complex Committee. The Health & Safety Commission to include Mental Health Board, Animal Welfare Board and 911-Emergency Telephone System. The Arts & Recreation Board to include Arts Council, Parks & Recreation Board (recreation portion) and Commission on Aging. The Economic Vitality and Workforce Commission to include

Economic Development Committee and M/W/EBE Committee. The Climate & Energy Commission to include Utilities Commission and Environment Board. The Natural Systems Commission to include Environment Board and Lighthouse Landing Complex Committee. The Equity & Empowerment Commission to include Equity & Empowerment Commission, Age Friendly Evanston Task Force and Housing & Homelessness Commission and the Zoning & Development Board to include Plan Commission and Zoning Board of Appeals.

Ald. Wynne suggested setting a date to bring this back to the Rules Committee to hear what the various boards and commissions have said about this and continue their discussion. Mayor Hagerty added he would like a list of the other board and commissions not included. Would also be interested in reducing some of the terms, for example, the Parks, Recreation & Community Service has a 5 year term.

Ald. Rue Simmons asked for the purposes and duties of the various committees. City Manager Bobkiewicz said land use boards, for example, are set outside of the city code plus in the city code, so they have adjudication approval roles that are set. Another group has specific tasks that are annual, the Housing & Community Development Act Committee and Mental Health Board are groups that allocate dollars and have a set fixed purpose each year and an annual work plan to do that. The third group has been created over time to monitor and provide advice to the Council on specific policy areas and everywhere from the Animal Welfare Board to the M/W/EBE Committee to the Utilities Commission, all the various lines of business and the issues they have. Those boards do not have statutory authority to take independent action and do not allocated dollars, but provide advice and counsel to the Council on various matters. The majority fall in the third category and when a board or commission doesn't have a specific work plan or responsibilities it's challenging for both, the Council as well as the boards and commissions.

After a lengthy discussion the committee shared several concerns of consolidating certain committees, keeping certain committees as is, getting feedback from the current boards and commissions, and making sure the committees reflect the community. The committee asked that staff continue examining and reviewing their concerns.

City Manager Bobkiewicz said staff will go back to the boards and commissions for their feedback. From the discussion it sounds like the Zoning Board of Appeals, Plan Commission and Equity and Empowerment are perhaps on the lower end. An additional response could be regarding if they are looking at STAR or not. There may be areas of concern that none of the boards and commissions cover and staff will add that to part of the response back. Ald. Rainey asked that the Mental Health Board be added to that list.

ALDERMAN VACANCY ON ANIMAL WELFARE BOARD:

Ald. Rainey moved to require one Alderman to serve on the Animal Welfare Board. Ald. Braithwaite seconded. Motion passed.

DISCUSSION ON DISSOLVING TAXICAB ADVISORY BOARD:

Ald. Rainey moved to dissolve the Taxicab Advisory Board. Mayor Hagerty seconded. Motion passed.

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

Ald. Wilson stated he would prefer to see a red line version of what it's going to look like. He had a few reservations about the way it was drafted previously. For example, it said things like information about your significant other. Getting some of that language cleaned up in a redline format would be helpful.

City Clerk Reid said his office wanted to make sure that the forms could be accepted electronically. There are a few changes to the code that he discussed previously. Under Section C, as it stands now, the financial disclosure forms of all Aldermen are not to be disclosed until the Alderman is notified of who has requested their form. It also says that the financial disclosure forms of all members of boards, commissions and committees shall be maintained in confidence. He believes that flies in the face of their FOIA law so they can't hold these documents in confidence.

Ald. Wilson said along with the redline version of the actual form he would like this to come back to the next meeting. There has to be a balance, if someone serves on the 911 committee you don't want a stalker getting a lot of detailed personal information about them. Clerk Reid noted that addresses would be redacted. He added that there is a balance between ensuring that folks who participate on boards and committees feel comfortable doing that. But there is also the public interest to ensure that folks participating don't have a conflict of interest in their service. Ald. Fleming said whatever is decided on what falls under conflict of interest, somewhere it should be specified clearly on the form. Particularly as they talk about money, for example, if someone rents from someone, does that mean you have a conflict? She does not want people to be precluded from serving because they are not sure what a conflict really is and have the public come back and criticize them.

Ald. Fiske asked the Clerk if he had discussed his changes with the law department. Mario Treto, Deputy City Attorney said the law department has received the document and have tried to set up a meeting with the City Clerk but have not been able to fully vet it and discuss all the matters with the City Clerk. Ald. Fiske suggested before going forward that should happen. City Manager Bobkiewicz said they will come back at the December meeting with at least an update on where they are.

ELECTRONIC SIGN IN SHEET FOR PUBLIC COMMENT AT CITY COUNCIL MEETINGS:

City Clerk Reid said the Mayor can receive the public comment sheet directly on his phone and immediately see how many folks have signed up. It makes recording the minutes a bit easier and easier for the Mayor to read the names. One of his goals is to include a few optional questions. Currently on the paper sheet there is a column to list the Ward. The only thing that would be required to submit is their name, the agenda item they will speak to and if they choose, their Ward and ethnicity. Ald. Fiske said she has a problem with tracking trends.

Ald. Wilson pointed out that he has a lot of reservations about data collection. It is not the government's job to do that. Say somebody comes for a FOIA and wants to know every time Don Wilson came and spoke at a City Council meeting, the date and the subject matter and whatever else. Someone is going to have access to that information. Or someone wants to know every single person who came and spoke in favor of Harley Clark. Now they're going to be targeted by somebody who has a different view. City Clerk Reid said that list is the public comment sheet, which already exist. The only difference is one would be on paper and one would be an electronic database. He believes Mary Gavin from the Evanston Roundtable, who is here, has submitted a FOIA for the public comment sign-in sheet and they provided it to her. Ms. Gavin noted that she has never done that. Clerk Reid said someone has.

Ald. Wilson said his concern is about the compilation of data on citizens and residents and 5 or 10 years down the road they don't know what someone is going to do with that data or information.

Ald. Fleming said she thinks the electronic sign-up could be helpful because people can't always come early when the sheet is available. They do need to be very mindful about a turn-off time for that online sign up. As to collecting data, she was surprised that people come up and give their address. So she

assumes some people who come and give public comment don't mind writing down their address, ward or race. She is concerned about those hot-button topics that people will come in an FOIA whoever spoke on Harley Clark or whatever. Then somehow or another those people, either that would preclude them from speaking because they don't want to be on the anti-Harley Clark list or be harassed at some other point because they did sign up to speak. That would be her concern in terms of electronic sign up. They would have to be very clear on who could access that list only because it seems to be that our community is getting very divided over certain issues and I would hate for someone to come and give their opinion and then feel like they're going to be attacked because it's now under FOIA law. City Clerk Reid pointed out that that list could be compiled by anyone just by looking at the video.

Ald. Fleming asked if he would still have the paper copy. City Clerk Reid said he or someone from his office would be there to help folks sign in electronically.

Ald. Wynne point out that for years they required people, unknowingly, to state their name as well as their address. When they found out that it was not legal to have people give their addresses they stopped. She thought it was for good reason because as soon as you hear someone's address some people might make a judgement. It was actually interesting to find out how different citizen comment was when people didn't have to give their address. Regarding the electronic sign up, there will be tons of people who will come in and think they are going to sign up as always. Having a person there to help with signing in electronically will be needed. She also shares the concerns about data gathering. Already in the world there's too much data that's being gathered for purposes that they don't know about.

Ald. Braithwaite added that the electronic sign-up is a nice innovation and he likes the fact that people can submit their comments ahead of time. His concern is when they have hot topics and people flood whatever the internet channel is and then not show up. That displaces the folks that are here.

Ald. Suffredin stated they had discussed early on of kind of having a sign in similar to how funeral Homes do. You type in your own name and it auto-populates if you're a frequent person. If they basically had an electronic version of the existing sign-in sheet and then allow people to opt in to receive an email from the Clerk asking those questions later. That way they're not answering them at the time they sign in for public comment and can consider whether or not they would like to give that information.

Clerk Reid said he thinks it is important to understand who's coming out to speak. He is fine dropping the ethnicity if that is of great concern.

Ald. Fleming moved to pilot an electronic sign-up for public comment at City Council meetings to include name, agenda topic and optional Ward designation. Ald. Fiske feels there needs to be a paper sign in sheet as well. Ald. Fleming moved to pilot an electronic sign-in sheet for public comment at City Council to include an optional Ward column in addition to keeping with our same practice of paper sign in. Ald. Revelle seconded. Motion passed. 8-2 (Mayor Hagerty and Ald. Wilson voted no).

Ald. Fiske asked how long for the pilot program. Ald. Fleming said to the end of the year.

UPDATE ON CONSENT CALENDAR PILOT AT ADMINISTRATION & PUBLIC WORKS AND PLANNING & DEVELOPMENT:

City Manager Bobkiewicz reported it is going well from a staff perspective. Is it something the committee would like to do permanently? Ald. Wilson moved to continue moving forward with this

program permanently. Ald. Fleming seconded. Motion passed.

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

City Manager Bobkiewicz said it has been his experience that after eleven o'clock or so, decision-making becomes difficult for any City Council. Staff put together information for what other communities do around the country. Perhaps if there was a rule that at eleven o'clock if the Council was still meeting they would pause, review the agenda and make decisions as to how much further after eleven o'clock the Council wanted to continue.

Ald. Wilson said the work will still need to get done and the likely result would be they would have to come back for yet another meeting. The idea that there will be this option to roll it over items and it's going to be too easy to roll it over. He thinks things will pile up and they will not get stuff done.

Ald. Rainey commented that she reviews meetings on a random basis, without any knowledge of what time they ended. She noted that numerous meetings began, not when citizen comments began, when the first item on the agenda began. It was well after 9:30pm. If that is the case, then ending a meeting at 11 o'clock means they're not able to do the city's business. She recommends they have another survey as to when their first item on the agenda begins. Then take a look at requiring their meetings to begin at a certain time as opposed to when they should end. Their meetings need to begin no later than 8:30pm at the absolute latest. There have been meetings that did not start until 10:30pm.

Ald. Wynne shared that in many other communities, legislative bodies have time suggestions for topics. She does agree that they should look at when they start their meetings. Ald. Rainey added the problem does not have to do with members of the Council dragging out certain topics or taking too long on individual topics. The problem has to do with beginning the meeting. As a matter of fact, she feels they don't give enough time to a lot of the most important topics. Ald. Wynne said another solution is to go back to having simultaneous Administration & Public Works and Planning & Development meetings. You don't get the ability to observe the other committee.

Ald. Fleming noted that when she was chair of Administration & Public Works there were a lot of things they did not discuss. They now do the consent calendar in Administration & Public Works meetings. If interested, she would suggest maybe next year, after the budget, looking at merging Administration & Public Work with Council. There were things they pulled off and maybe had a small discussion but those are also things they could ask a couple of questions to staff beforehand or ask at Council. Planning & Development could still be held before Council and given the topic and how long the public comment is they could just have Administration & Public Works, bills and all that stuff discussed by the Council.

City Manager Bobkiewicz suggested coming back at the December meeting with some options for the Council to consider and discuss more. The committee agreed.

ALDERMAN COMMITTEE CHAIR ROTATION:

Ald. Fleming pointed out that she sits on the Transportation/Parking Committee that doesn't rotate chairs. She feels it is important that they rotate chairs to provide more opinions and so on and so forth so. All committees that have more than one Alderman should have rotating chairs. It also allows Aldermen to push themselves to take more responsibility for the different committees they sit on.

Ald. Braithwaite noted he serves on the M/W/EBE Committee whose chair has not rotated since he has been serving on the Council. Typically, the Alderman that serves also has to serve on the Economic Development Committee. He has no issue rotating. Ald. Wynne added she has served on Parking

and Transportation/Parking Committee the whole time the entire time she has been on the Council. She has served partly because no one else wanted to be the chair, but she is fine with rotating. Ald. Rainey stated she continued to chair the Housing & Community Development Act Committee because the chairs before her were non-rotating chairs and that was the way it was. But she would be glad to give it up to another Alderman if they want to do it.

Ald. Braithwaite moved that the three committees, M/W/EBE, Housing & Community Development Act Committee and Transportation/Parking Committee that don't rotate, have staff come back and get them in line with the other rotating committees and make a recommendation for their next meeting. Ald. Rue Simmons seconded. Ald. Rainey asked when would that be and why wouldn't the Rules Committee make that determination?

Ald. Braithwaite said have staff just look at it and bring a recommendation back. They would not move it until January. Ald. Fleming said they have to make a rule. She suggested if there are only two Aldermen serving let the current chair finish out the year and decide who goes next and make that schedule to give to the staff. If there are three Aldermen let the current chair finish and decided who will be the next chair.

Ald. Wynne noted there are two Aldermen on the 911 committee. Should they rotate? Ald. Braithwaite said yes that's why he suggested having the staff look at it.

Ald. Wilson suggest having each of the respective committees that are going to start rotating to be required to report back with a suggested rotation schedule more protocol to the Rules Committee. One committee that has two Aldermen may want to do every six months or maybe do one year term. This way each committee can do what's best for the respective committee and come back to the Rules Committee with those proposals. He asked can they come back straight to Council instead of Rules? The response was yes. Ald. Wilson moved that with regards to the committees discussed each of those committees prepare a proposed rotation schedule for the chairmanship and get that reported back to the Council prior to the first of the year, for adoption after the first of the year. Ald. Braithwaite seconded. Motion passed.

AMEND CITY COUNCIL RULES TO ALLOW BOARD, COMMISSION AND COMMITTEE MEMBERS WITH EXPIRED TERMS TO CONTINUE SERVING UNTIL A REPLACEMENT HAS BEEN PLACED:

Ald. Wilson moved to advance to Council for adoption, a change in the rules to allow for expired terms to continue serving until replacements are appointed. Ald. Braithwaite seconded. Motion passed.

BOARD, COMMISSION, COMMITTEE CONFLICT OF INTEREST WITH MEMBERS REPRESENTING PRIVATE INTEREST BEFORE SEPARATE COMMITTEES:

Mayor Hagerty explained when looking at vacancies to fill sometimes he is presented with a potential conflict of interest situation. He does have conversations with the corporation counsel to see if there is a conflict of interest. An example, a professional, who also does business in the city, is looking to come forward on some issues, but not necessarily issues to the committee they are appointed to. Another is an attorney and representing somebody on the Council or maybe they have in the past or maybe something they could do in the future and how should that be viewed. Another could be somebody is up for consideration but is in the process of having a potential legal dispute. It could actually be a real one where they're part of a group or they filed a suit against the city or they're threatening to file a suit against the city. Or another could be the financial disclosure form. A question asks whether you or your spouse or any relative living with you, owns property that receives any gifts or income, or has an economic interest or association which creates or give rise to a conflict of interest with the City.

Ald. Wilson said this is a city of 75,000 people with a lot of businesses. If a family member works for the university, arguably there's business being done with the city. With the assistance of the Corporation Counsel adjust some of the language to more of a disclosure and recusal type of direction and definition, as opposed to disqualification. Ald. Fleming agrees but questions the issue of suing. Say they are going to sue and it takes a long time. It's probably best to have them removed if that board can stand to have that vacancy. Or fill that vacancy verses meeting after meeting they are recusing themselves because of a conflict. Would like to see some language included explaining that.

Ald. Fiske asked if the ethics code considers use the word recusal as an option. Mr. Treto responded he would have to look at the code in more detail.

Mayor Hagerty said another example, take someone in town who is an architect serving on the Preservation Commission. The architect is representing a person in town and wants to come before the Zoning Board of Appeals. Ald. Revelle said that doesn't seem to be a conflict to appear before a board that's independent of the one they serve on.

Ald. Wilson moved to direct the law department to do a draft revision to the ordinance in line with what was discussed and come back to this committee. Ald. Rainey seconded. Motion passed.

REVIEW OF ELECTION ISSUES RELATIVE TO FILING DEADLINES AND ELECTORAL BOARD PROCEDURES:

Ald. Wilson moved to direct the law department to determine what is needed for candidates in the upcoming election. Ald. Braithwaite seconded. Motion passed.

OLD BUSINESS: LOBBYING ORDINANCE:

Ald. Wynne said several months ago, when she was chair, Clare Kelly requested an opportunity to present materials on a lobbying ordinance. She agreed and each meeting the agenda has been full. She suggested Ms. Kelly be given 10 minutes at the December 3 meeting to discuss lobbying ordinance.

NEW BUSINESS:

Ald. Fiske made a reference to the Plan Commission on Residential Care Facility's and whether or not correct classification of special use would be appropriate.

Ald. Revelle said pursuant to Council Rule 2.6 she will be asking the City Manager to put an item on the agenda for the next Council meeting to consider the request from the Landmarks Illinois organization to allow access to Harley Clark mansion so they can prepare for the Preservation Commission meeting. Ald. Wilson seconded. Motion passed.

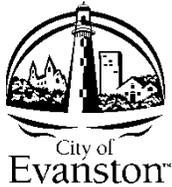
Ald. Fiske added she would like a history of who has been in the house.

ADJOURNMENT:

Meeting adjourned 8:12p.m.

Respectfully submitted,
Darlene Francellno

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



Memorandum

To: Members of the Rules Committee

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

Subject: Board of Ethics Advisory Opinions

Date: November 28, 2018

Summary

The Board of Ethics issued two advisory opinions finding that Alderman Rainey violated the Code of Ethics. The Rules Committee is in receipt of the opinions and must review the opinions to determine if censure is appropriate.

Background

On November 20, 2018, the Board of Ethics issued two separate advisory opinions stemming from Complaint No 18 BOE 0002 and 18 BOE 0003. Following a hearing, the Board found that Alderman Rainey violated the Code of Ethics. Attached for your reference are the advisory opinions issued per City Code Section 1-10-8(l). 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."

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.

BOARD OF ETHICS REPORT OF FINDINGS & ORDER

File Number: 18 BOE 0002

Complainant: Nancy Sreenan

Respondents: Alderman Ann Rainey

This matter coming before the Board of Ethics, and the parties fully advised on the premises, the following findings are entered as a matter of Record, and it is HEREBY ORDERED:

PROCEDURAL BACKGROUND

1. Nancy Sreenan (“Sreenan”) filed a complaint against Alderman Ann Rainey (“Rainey”) for violations of the Code of Ethics (the “Complaint”).
2. The Board of Ethics held three meetings, posted notice, and provided a packet on the City’s website: (i) on September 25, 2018, the Board held an initial intake of the Complaint; (ii) on October 16, 2018, held a jurisdictional hearing to consider jurisdiction; and (iii) on October 25, 2018, held a hearing to consider the allegations still at issue.
3. Upon conclusion of the hearing on October 25, 2018, the Board of Ethics deliberated on the pleadings and testimony provided prior to issuing this final Order.

ALLEGATIONS

4. Sreenan alleges that Alderman Rainey violated Code of Ethics § 1-10-4(A), Statement of Purpose, and 1-10-4(C)(1), Standards of Conduct, Impartiality. The documentation attached to the complaint included documents and allegations that the Board found that it does have jurisdiction over following the jurisdictional hearing on September 25, 2018. The source documents made allegations and provided documents within the scope of the Board of Ethics. These included: electronic communication from Nancy Sreenan to the City Council, and electronic communications between Alderman Rainey and other Evanston residents related to Evanston Lighthouse Dunes and Evanston Lakehouse and Gardens.
5. In summary, the Complaint sets forth allegations against Alderman Rainey for forwarding emails to private citizens, including member of the Evanston Lighthouse Dunes group, and that this act constitutes bias and collusion with the Evanston Lighthouse Dunes organization, as well as failing to act in an impartial manner.

FINDINGS & ORDER

6. During the consideration of the issues raised, the Board evaluated the Complaint and all statements on the Record on September 25, 2018, October 16, 2018 and October 25, 2018.
7. For the hearing on October 25, 2018, the Board considered the allegation of not acting in an impartial manner raised in the complaint under City Code Subsection 1-10-4(C)(1) and the

allegation of violating the Code of Ethics Statement of Purpose under City Code Subsection 1-10-4(A). The Board unanimously finds no ethical violation under City Code Subsection 1-10-4(A), Statement of Purpose. The Board unanimously finds that there was a violation under City Code Subsection 1-10-4(C)(1), "Impartiality." City Code Subsection 1-10-4(C)(1) states: "Impartiality. Every officer and employee shall perform his/her duties with impartiality and without prejudice or bias for the benefit of all citizens of the City. No officer or employee shall grant or make available to any citizen any consideration, treatment, advantage or favor beyond that which is available to every other citizen."

8. The Board's finding is based on the Board's review of electronic communication from Nancy Sreenan dated June 4, 2018 to the City Council and subsequent communications dated June 4, 2018 and June 5, 2018 attached as exhibits to the Complaint. The Board finds that language used by Alderman Rainey in multiple emails regarding the position of Sreenan and the content of Sreenan's email related to the Harley Clarke mansion's future, as well as the act of forwarding the June 5, 2018 correspondence from Nancy Sreenan to individuals who are in opposition of Sreenan's position rises to failing to act with impartiality. The Board finds that there is no violation of the Code of Ethics with regard to the sharing of information and that there is no expectation of privacy when sending information to elected officials.

9. The Board provides guidance to elected officials that in the event that they forward an email received by a constituent to a third party, that the original author of the email would be copied. The Board determines that as a result of Alderman Rainey's violation of the Code of Ethics, Alderman Rainey be prohibited from voting in all matters related to Harley Clarke. Finally, elected officials are reminded of the importance of avoiding any appearance of partiality in their dealings with their constituents, whether in writing, publicly, or otherwise, so as not to harm the faith in government that constituents should come to expect.

10. This is an advisory opinion pursuant to City Code 1-10-8(G).

Date: November 20, 2018

Entered: 
Chair

BOARD OF ETHICS REPORT OF FINDINGS & ORDER

File Number: 18 BOE 0003

Complainants: Lori Keenan and Clare Kelly

Respondent: Alderman Ann Rainey

This matter coming before the Board of Ethics, and the parties fully advised on the premises, the following findings are entered as a matter of Record, and it is HEREBY ORDERED:

PROCEDURAL BACKGROUND

1. Lori Keenan (“Keenan”) and Clare Kelly (“Kelly), collectively the “Complainants,” filed a complaint against Alderman Ann Rainey (“Rainey”) for violations of the Code of Ethics (the “Complaint”).
2. The Board of Ethics held three meetings, posted notice, and provided a packet on the City’s website: (i) on September 25, 2018, the Board held an initial intake of the Complaint; (ii) on October 16, 2018, held a jurisdictional hearing to consider jurisdiction; and (iii) on October 25, 2018, held a hearing to consider the allegations still at issue.
3. Upon conclusion of the hearing on October 25, 2018, the Board of Ethics deliberated on the pleadings and testimony provided prior to issuing this final Order.

ALLEGATIONS

4. Complainants allege that Alderman Rainey violated the following:
 - a. Prohibited Activity: Volunteer Fundraising and Organizing on Behalf of Interests of Private Individuals under 50 ILCS 105/3, “Prohibited Interest in Contract”;
 - b. Prohibited Activity: Volunteer Fundraising and Organizing on Behalf of Interests of Private Individuals under Evanston City Code 1-10-5, “Prohibited Political Activities”;
 - c. Prohibited Activity: Use of Property or Resources of the City in Connection with Any Prohibited Political Activity under Evanston City Code 1-10-5, “Prohibited Political Activities”;
 - d. Representing Private Interests Before City Bodies or Courts under Evanston City Code Subsection 1-10-4(C)(3)(b)(3);
 - e. Abuse of Power under Evanston City Code Subsection 1-10-4(C)(3)(b)(2);
 - f. Impartiality under Evanston City Code Section 1-10-4(C)(1); and
 - g. Intimidation by a Public Official under 720 ILCS 5/12-6, “Intimidation.”

The documentation attached to the complaint included documents and allegations that the Board found that it does not have jurisdiction over two allegations: (1) Prohibited Activity: Volunteer Fundraising and Organizing on Behalf of Interests of Private Individuals under 50 ILCS 105/3, "Prohibited Interest in Contract"; and (2) Intimidation by a Public Official under 720 ILCS 5/12-6, "Intimidation," following the jurisdictional hearing on September 25, 2018. The Board found that it does have jurisdiction to hear the remaining allegations that are within the scope of the Board of Ethics. Documentation presented include: electronic communications between Alderman Rainey and other Evanston residents and video recordings after the August 21, 2018 Evanston Electoral Board Hearing.

5. In summary, the Complaint sets forth allegations against Alderman Rainey for engaging in fundraising efforts and organizing on behalf of the "Evanston Lighthouse Dunes" group and that Alderman Rainey abused her power by swearing at a constituent, threatening her to "not mess with me," among other things. The Complaint also alleges that Ald. Rainey used her City email account to advocate on behalf of the "Evanston Lighthouse Dunes" group and that Ald. Rainey's vote to approve a Memorandum of Understanding ("MOU") with the "Evanston Lighthouse Dunes" group violated the City's Ethics' Code.

FINDINGS & ORDER

6. During the consideration of the issues raised, the Board evaluated the Complaint and all statements on the Record on September 25, 2018, October 16, 2018 and October 25, 2018. The Board denied the Motion to Reconsider or Clarify Jurisdictional Findings.

7. For the hearing on October 25, 2018, the Board considered the remaining five allegations it deemed it had jurisdiction. The Board finds no ethical violation for the following allegations:

- a. Prohibited Activity: Volunteer Fundraising and Organizing on Behalf of Interests of Private Individuals under Evanston City Code 1-10-5, "Prohibited Political Activities";
- b. Prohibited Activity: Use of Property or Resources of the City in Connection with Any Prohibited Political Activity under Evanston City Code 1-10-5, "Prohibited Political Activities"; and
- c. Representing Private Interests Before City Bodies or Courts under Evanston City Code Subsection 1-10-4(C)(3)(b)(3);

The Board finds that there is an ethical violation for the following allegations:

- a. Abuse of Power under Evanston City Code Subsection 1-10-4(C)(3)(b)(2); and
- b. Impartiality under Evanston City Code Section 1-10-4(C)(1).

City Code Subsection 1-10-4(C)(3)(b)(2) states: "Abuse Of Power Of Office. No officer or

employee shall, use the prestige, power or influence of his/her office or employment to engage in any transaction which is, or would to a reasonable person appear to be, in conflict or incompatible with the proper discharge of his/her official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties. This prohibition shall extend to any use of official position or employment for a purpose that is or would appear to a reasonable person to be for the private benefit of the officer, employee or any member of their family, rather than primarily for the benefit of the City." City Code Subsection 1-10-4(C)(1) states: "Impartiality. Every officer and employee shall perform his/her duties with impartiality and without prejudice or bias for the benefit of all citizens of the City. No officer or employee shall grant or make available to any citizen any consideration, treatment, advantage or favor beyond that which is available to every other citizen."

8. The Board's finding is based on: the mocking of a constituent, the use of City email for fundraising, the use of City mail to advocate, the use of profanity and aggressive language, the use of shared information otherwise requiring a FOIA request, the actively and disruptively avoiding alternative viewpoints while in a voting position and maintaining a voting position in light of the above described activities, the forwarding of Nancy Sreenan's email dated June 4, 2018 to the City Council, and review of video dated August 21, 2018 which depicts an interaction between Alderman Rainey and Lori Keenan after the City of Evanston Electoral Board hearing and Alderman Rainey's admission that she did swear at Ms. Keenan and tell her "not to mess with [Alderman Rainey]." The Board finds that Alderman Rainey's actions in light of the influence of her elected position appear to promote and advance the interests of the "Evanston Lighthouse Dunes" group, including forwarding correspondence which may have provided advance knowledge to the Evanston Lighthouse Dunes group.

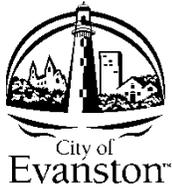
9. The Board provides guidance to elected officials that recusal is an appropriate way to handle concerns regarding acting impartially and the abuse of power. The Board recommends to the Rules Committee of the City Council and to the City Council that Alderman Rainey be prohibited from participating in and voting on matters underlying and related to Harley Clarke mansion. Further, the Board states that elected officials should seriously consider whether or not using City email to solicit donations is appropriate under the Code of Ethics.

10. This is an advisory opinion pursuant to City Code 1-10-8(G).

Date: November 20, 2018

Entered:

Chair



Memorandum

To: Members of the Rules Committee

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

Subject: Appeal Process to Preservation Commission Decisions on Certificates of Appropriateness

Date: November 28, 2018

Summary

We provide this memorandum to the Rules Committee at the Council's request for clarification on the proper body to consider the appeal of the Preservation Commission's denial of the Certificate of Appropriateness for the City's application to demolish the Harley Clarke Mansion. As more fully explained below, the based on past practice and plain meaning of the City Code language, the City Council is vested with the authority to review the request for the appeal to the denial of the Preservation Commission decision.

Background

On Monday July 9, 2018, the City Council considered an appeal from the Preservation Commission's denial of a Certificate of Appropriateness for the construction of a single family residence at 917 Edgemere Court. As part of the request for the Council to take the appeal, the Council discussed the proper body to hear the request for the appeal based on the City Code.

Pursuant to City Code Section 2-8-8(G)(7), "[t]he authority to review, grant, and/or deny appeals of certificates of appropriateness pursuant to this Subsection (G) shall vest in the Planning and Development Committee so long as the membership of said Committee consists of all seated Aldermen. Otherwise, said authority rests with the Council or its duly authorized committee." Since the Planning and Development Committee does not consist of all seated Aldermen, the City Council holds the power to review the request for an appeal and if accepted, subsequently hear the appeal.

In addition, the Community Development Department reviewed past appeals to a Certificate of Appropriateness decision and past practice confirms that appeals are handled by the full City Council given the current configuration of the Planning & Development Committee.

Subsection 2-8-8(G)(3) and (4) establish the appeal as a two-step process. First, a motion must be made and adopted to accept the application for appeal. If the motion is not made, the decision of the Preservation Commission is final and may be appealed to the Circuit Court. If the motion to accept the appeal is made and adopted, the appeal must be reviewed within 45 days.

In this case, on December 10, 2018, the City Council will consider the request to hear the appeal from the denial of the Certificate of Appropriateness issued by the Preservation Commission during a hearing on October 23, 2018. If the motion to accept the appeal is made and adopted, the Council would hear it at their next meeting on January 14, 2019.

Please note that City staff recently received feedback on the administration of the appeals process from individuals with historical knowledge of the original preservation appeals process from the 1970s. The individual submits that the legislative intent for the language was to address the possibility that the Planning and Development Committee at some point could be comprised of non-elected officials. Therefore, City staff understands that the intent was for only elected officials to review it. However, past practice and the makeup of the Planning and Development Committee for the past 20+ years leads to our current interpretation and view of the four corners of the code language.



Memorandum

To: Members of the Rules Committee

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

Subject: Board of Ethics – Appeals

Date: November 28, 2018

Summary

The Board of Ethics issued an advisory opinion in Complaint No. 18 BOE 0001 filed by Misty Witenberg against Alderman 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 for Reconsideration. The Rules Committee can also opt to recommend no action given that no appeals process is provided in the Code.

Background

The administration of the Code of Ethics is silent on appeals to Board of Ethics decisions. Typically, the City Code addresses appeals and outlines the process to appeal a decision. On November 5, 2018, Misty Witenberg filed a motion for reconsideration, viewed as an appeal by the Board, following a hearing on October 24, 2018 in Complaint No. 18 BOE 001. The Board found that it cannot conduct an appeal because the Board cannot review its own decision on appeal. In addition, the Board sought clarity on if an appeal can be afforded.

The Board reviewed the motion for reconsideration and addressed it in their findings, block quoted below:

“15. The Board of Ethics received on November 5, 2018 a request for reconsideration, which the Board determined at the November 20, 2018 Board of Ethics meeting was filed prematurely because there was not a written decision adopted by the Board of Ethics. Additionally, the request for reconsideration appears to be addressed to the wrong body because it in essence asks for an appeal of the determinations made by the Board of Ethics. Therefore, the Board of Ethics asks that the Rules Committee make a determination on how one

appeals a decision of the Board of Ethics 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.”

BOARD OF ETHICS REPORT OF FINDINGS & ORDER

File Number: 18 BOE 001

Complainant: Misty Witenberg

Respondents: Alderman Robin Rue Simmons

This matter coming before the Board of Ethics, and the parties fully advised on the premises, the following findings are entered as a matter of Record, and it is HEREBY ORDERED:

PROCEDURAL BACKGROUND

1. Misty Witenberg (“Witenberg”) filed a complaint against Alderman Robin Rue Simmons (“Rue Simmons”) for violations of the Code of Ethics (the “Complaint”).
2. The Board of Ethics held two meetings, posted notice and provided a packet on the City’s website, on March 20, 2018 the Board held an initial intake of the Complaint to consider jurisdiction and held a hearing on June 19, 2018 to consider the allegations still at issue. On June 27, 2018, Witenberg filed a Motion for Rehearing. On August 21, 2018, the Board granted the Motion for Rehearing. On September 18, 2018, C. Shawn Jones (“Jones”), Counsel for Rue Simmons, filed a Motion to Dismiss. The Board convened in open session on September 25, 2018 to schedule the next hearing and provided both parties time to reply and respond to filed motions. The Board held the rehearing on October 24, 2018. At the rehearing, Jones withdrew his Motion to Dismiss.
3. Upon conclusion of the hearing on October 24, 2018, the Board of Ethics deliberated in open session on the pleadings and testimony provided prior to issuing this final Order.

ALLEGATIONS

4. In her original Complaint filed February 11, 2018, Witenberg alleges that Alderman Rue Simmons violated several sections of the Code of Ethics § 1-10-4(C)(3)(b)(2),(4),(5),(6),(8),(9),(11) and (12). The documentation attached to the Complaint included documents and allegations that the Board found that it does not have jurisdiction at the jurisdictional hearing/intake on March 20th. The source documents made allegations and provided documents outside the scope of the Board of Ethics. These included: CDBG Program reporting and administration inquiries; Sunshine Enterprises Regulatory Filings and Assumed Name, a claim that Sunshine Enterprises is a fundamentalist religious group, Violations of Church and State, Economic Development Program Grant Administration, and Sunshine Enterprise use of Civic Center meeting rooms.

5. In summary, the Complaint sets forth allegations against Alderman Rue Simmons for conflicts of interest related to her full-time employment with Sunshine Enterprises and her actions prior to and after she took office as an elected official in May 2017.

FINDINGS & ORDER

6. During the consideration of the issues raised, the Board evaluated the Complaint and all statements on the Record on March 20, 2018, June 19, 2018, August 21, 2018, September 25, 2018, and October 24, 2018.

7. The Board already reviewed an ethics complaint in 2017 filed against Alderman Rue Simmons raising the same conflict of interest issue. The Board reviewed Robin Rue Simmons presentation to the Economic Development Committee for grant funding, on behalf of her employer, Sunshine Enterprises, prior to her becoming an alderman and while she was a member of another City board, MWEBE committee. In that case, 17 BOE 001, Board found that her presentation to the Economic Development Committee gave the appearance of impropriety and a personal benefit could be inferred and potential conflict of interest under 1-10-4(c)(3)(b)(2). In the 2017 case, the Board found that her presentation to the Economic Development Committee and her position on the MWEBE Committee was sufficiently tenuous that no violation of the Code of Ethics occurred.

8. For the hearing on June 19th, the Board considered the conflict of interest issue not yet reviewed by the Board for funding disbursements reviewed and approved after she took office in May 2017. The Board notes that the grant awarded to Sunshine Enterprises was for a 3 year term; 2 years of grant were performed by Sunshine Enterprises (2016 and 2017). The City of Evanston approved the grant prior to Alderman Rue Simmons taking office. Alderman Rue Simmons recused herself from a Council vote to approve a payment to Sunshine Enterprises. Sunshine Enterprises affirmatively stated that they are not seeking funding for the last year of the grant, 2018. Therefore, there no competing grant requests now or in the future to impair her ability to fairly evaluate requests. In order to for the City to meet its contractual obligations after grant performance by Sunshine Enterprises, funds must be approved for payment. Recusal from the vote, as Alderman Rue Simmons did at a Council meeting, is a reasonable solution to address the issue.

9. Several of the allegations and testimony by administration of the grant. Allegations of improper administration of the grant are not an ethics violations, rather compliance with the terms of the grant and applicable federal regulations.

10. On August 21, 2018, the Board granted a Motion to Rehear the hearing dated June 19, 2018 by the current Board of Ethics due to issues of the old Board Chair's term expiring mid-matter.

11. For the hearing on October 24, 2018, the Board reconsidered the issues raised on the June 19, 2018 hearing. The Board specifically discussed, reviewed, and analyzed all twelve questions/allegations of violations of the Code as elaborated upon in the October 24, 2018 minutes under the following City Code Sections: (i) 1-10-4(C)(3)(b)(4), "Acquisition of Interest"; (ii) 1-10-4(C)(3)(b)(6), "Payment Contingent Upon Specific Action"; (iii) 1-10-4(C)(3)(b)(12), "Entities Doing Business with the City"; (iv) 1-10-4(C)(3)(b)(3), "Representing Private Interests Before City Bodies or Courts"; (v) 1-10-4(C)(3)(b), "Prohibited [Conflicts of Interest]"; (vi) 1-10-4(C)(3)(b)(5) "Incompatible Employment"; (vii) 1-10-4(C)(3)(b)(9), "City's Relationship with Third Parties"; (viii) 1-10-4(C)(3)(b)(3), "Representing Private Interests Before City Bodies or Courts"; (ix) 1-10-4(C)(3)(b)(2), "Abuse of Power of Office"; (x) 1-10-4(C)(3)(b)(11), "Use of City Property"; (xi) 1-10-4(C)(3)(b)(7), "Personal Interest in Legislation"; and (xii) 1-10-4(C)(3)(b)(8), "Participant in Contract Making." During the October 24, 2018 meeting, the Board adopted the findings of the June 19, 2018 Board of Ethics hearing stated in Paragraph 8 of this Report of Findings and Order. The Board also amends the June 19, 2018 Report of Findings and Order to state that the Board did not have jurisdiction over an employer of an elected official, board or commission member and that an employee is not held responsible for the actions or inactions of its employer, with respect to the allegations made in the Complaint of CDBG Program Reporting and Administration, specifically allegations: (B) Sunshine Enterprises Regulatory Filings and Assumed Name; (C) Violation of Church and State; (E) Economic Development Program Grant Administration; and (F) Sunshine Enterprise Use of Civic Center Meeting Rooms. In summary, the Board finds no ethical violations under the Complaint by Alderman Rue Simmons and finds there is no evidence showing a conflict of interest under City Code Section 1-10-4(C)(3)(b)(12).

12. The Board also considered at the October 24, 2018 hearing the allegations relating to Ald. Rue Simmons vote on the regulations relating to receipt of an entrepreneurial grant requiring evidence that the grantee participated in a class such as those provided by Sunshine Enterprises. The Board found that this vote in particular did not violate the Code of Ethics because individuals are not required to take Sunshine's classes. The Board advises all elected officials to recuse themselves if their employer's name appears anywhere in a regulation or a statute to avoid challenges under the Code of Ethics.

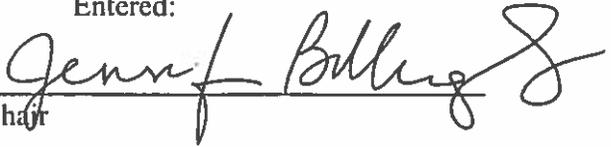
13. The Board provides guidance to all elected officials and people who have business with the City to critically examine how their actions are perceived by the citizens of the City of Evanston, specifically in the wards where local decisions are being made, and what an elected official can do to prevent a backroom view of politics. It is the burden of elected officials to self-reflect and make sure that their personal interests do not cloud decision-making.

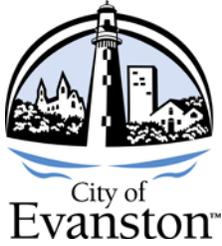
14. This is an advisory opinion pursuant to City Code 1-10-8(G).

15. The Board of Ethics received on November 5, 2018 a request for reconsideration, which the Board determined at the November 20, 2018 Board of Ethics meeting was filed prematurely because there was not a written decision adopted by the Board of Ethics. Additionally, the request for reconsideration appears to be addressed to the wrong body because it in essence asks for an appeal of the determinations made by the Board of Ethics. Therefore, the Board of Ethics asks that the Rules Committee make a determination on how one appeals a decision of the Board of Ethics 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.

Date: November 20, 2018

Entered:


Chair



DRAFT
2019 CITY COUNCIL MEETINGS

January	14 22 *(Tuesday) 28	July	8 15* (City Manager Evaluation?) 22
February	4 (Special: Affordable Housing) 11 18* (President's Day) 25	August	12
March	11 18* 25	September	9 16* 23
April	8 15* 22	October	14 (Columbus Day) 21* 28
May	13 20* 28 (Tuesday)	November	11 18* 25
June	10 17* 24	December	9

* This meeting is scheduled to begin at 6:00 p.m.

City Council meetings are scheduled to begin immediately following the conclusion of the Planning & Development Committee meetings that begin at 7:00 p.m.