

ETHICS ADVISORY COMMISSION

MINUTES

December 19, 2003, Room 5ES

Members Present: Calvin Bluiett, Vice-Chair
Rebecca B. Bergstresser
Jim Clark
Margaret Donnelly
Linda Sorrells
Gloria Tarpley

Members Absent: Daniel Perez, Chair

Staff Present: Deborah Watkins, Assistant City Secretary
Gwen Satterthwaite, City Attorney's Office
Jesus Toscano, City Attorney's Office
Michelle Calloway, City Secretary's Office
Debbie Brown, City Secretary's Office
Yolanda Hernandez, City Secretary's Office

With a quorum being present, Vice-Chair Bluiett stated that Chair Perez would not be attending and called the meeting to order at 9:07 a.m.

Vice-Chair Bluiett called for a motion to approve the minutes of the November 21, 2003 meeting as presented by the city secretary. Commissioner Tarpley moved to approve the minutes with the correction of "as presented in the" instead of "adopted and" on page 2, paragraph six. Commissioner Bergstresser seconded the motion. The motion passed unanimously.

Vice-Chair Bluiett called for a motion to approve the minutes of the December 5, 2003 minutes. Commissioner Tarpley moved to approve the minutes with the correction of "cause" instead of "case" in bullet number five. After discussion, it was determined that the original swearing under penalty of perjury of a complaint is required, and should likewise apply to all supplements for sworn complaints. Commissioner Clark seconded the motion. The motion passed unanimously.

Vice-Chair Bluiett called for discussion on proposed rules and procedures and amendments to Chapter 12A, Code of Ethics. The city attorney advised the committee to determine what they want in the complaint form and they will determine what recommended changes are necessary in the code.

Vice-Chair Bluiett called a recess at 10:08 a.m.

Following the recess, the commission reconvened in open session at 10:17 a.m.

Vice-Chair Bluiett called for discussion on the recommendations from the EAC subcommittee meeting of December 5. Commissioner Tarpley volunteered to review the complaint form and make modification recommendations for the next EAC meeting in January. The following amendments to Chapter 12A of the code of ethics were taken under advisement until their January meeting for further discussion before forwarding their recommendations to the council:

- **Section 12A-26(a) Require the complaint to be filed on the form provided by the City Secretary's Office. Rationale: increases probability that complaint is correctly filed.**
- **Section 12A-26(e)(2) Eliminate provision that reason for dismissal must be identified. Rationale: proceedings of preliminary panel should retain highest degree of confidentiality consistent with the law.**
- **Section 12A-28(d)(e) Revise to make rights of complainant and rights of respondent the same as stated in section (d). Rationale: eliminate source of confusion and appearance of partiality at full hearings.**
- **Section 12A-26(a) Personal knowledge/penalty of perjury**

Rules and Procedures

- **Revise complaint form to include date of notarization. (done)**
- **Supplement to original complaint form may be filed within 7 days of the date received in the City Secretary's Office. Supplements must be sworn to at the same level as the original complaint (under penalty of perjury).**
- **Procedural motions by parties to complaint must be filed with the City Secretary's Office 7 days prior to the preliminary panel hearing. Other motions must be filed with the City Secretary's Office 7 days prior to the scheduled hearing of the full EAC.**
- **Create form for preliminary hearing panel to verify the validity of the complaint and proper disposition, including:**
 - *Proper use of complaint form**
 - *Complaint form is properly sworn**
 - *Residency requirements or status for filing complaint are met**
 - *Correct status of respondent as employee or official**
 - *Correct reference of section of code alleged by complainant to be violated**
 - *If applicable, correct citation of additional sections deemed by preliminary panel to have been violated**
 - *The acts complained of cannot have occurred more than one year prior to the filing of the complaint**
- **During each calendar year, maintain continually updated record of complaints received with dates of hearing (preliminary and full), sections of code alleged to be violated, and action taken. Annually update complete record of all complaints since inception of code as part of Annual Report.**

Additional Recommendations include:

- **A comprehensive policy be adopted regarding rules for the use of city resources, facilities and equipment by employees and officials for political purposes.**

Vice-Chair Bluiett called for discussion on the annual report. Staff will provide the status of recommendations made last year. The city attorney's office agreed to provide the number of advisory opinions and inquiries based on the ethics code issued by their office to employees to be included in the report.

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The next full commission meeting is scheduled for Friday, January 16, 2004 and the annual report would be discussed on that agenda.

The meeting adjourned at 11:46 a.m.