

**CITY OF PHOENIX
ETHICS COMMISSION
Summary Minutes
May 15, 2025
*As Amended – Page 8***

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
Ann Hart
Cheryl Pietkiewicz
Peter Schirripa

Committee Members Absent

1. Call to Order/Roll Call

Chairman Sam Leyvas called the meeting to order at 3:05 p.m. with Vice Chairwoman Patricia Sallen and Commissioners Ann Hart, and Peter Schirripa present. Commissioner Cheryl Pietkiewicz joined virtually.

2. Commission Attorney Explains Public Comment

Elizabeth Nillen, Commission 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 17, 2025

Vice Chairwoman Sallen made a motion to approve the minutes of the April 17, 2025, Ethics Commission Meeting. Commissioner Schirripa seconded the motion, which passed unanimously 5-0.

4. Updates from City Staff – Ethics Website

Chairman Leyvas introduced the item and requested staff provide updates.

Ms. Becca McCarthy, Special Projects Administrator, shared the phoenix.gov/ethics webpage and reviewed the new format with top of page navigation. She stated under the “Guidance for Elected Officials” and “Guidance for Boards and Commission Members” sections, there is a new statement about submitting an Ethics Inquiry under the Ethics Commission section. Under the Ethics Commission section, there is a new blue “call to action” button to “Submit an Ethics Inquiry”.

Chairman Leyvas asked if there could be an option to “Submit an Ethics Inquiry” at the navigation section on top of the page, similar to the “Integrity Line/Online Fraud Reporting” section.

Ms. McCarthy provided a recommendation to include an option to “Submit an Ethics Inquiry” in the top navigation panel of the page under the Ethics Commission.

The Commission agreed with the updates and additional recommendation.

Commissioner Schirripa asked if the page was live.

Staff confirmed the page is live and not in draft form.

Ms. McCarthy stated the other departments, who have content on this page, are actively working on revisions to their sections.

Ms. Erickson noted all of the work relating to the Commission, such as the reports, are included on the page as well.

Chairman Leyvas asked staff to discuss the subsections under the Ethics Commission.

Ms. McCarthy stated the agendas, results, and approved minutes are added to the webpage, in addition to publicly posting the documents, through the City Clerk Department, to comply with Open Meeting Law requirements. The section also includes resources and ethics complaints.

Ms. Nillen suggested adding the verbiage “Resolved Complaints” under the “Ethics Complaints” section.

Chairman Leyvas requested to add a short statement to further explain why only the resolved complaints are posted to the website.

Commissioner Hart agreed with the recommendations of both Ms. Nillen and Chairman Leyvas.

Chairman Leyvas asked if the remaining complaint numbers, waiting to be considered, could be included on the website as well.

Ms. Nillen clarified per the rules, only the assigned complaint numbers could be displayed, not a copy of the complaint itself.

Ms. Erickson stated there could be a section for “Resolved Complaints” and “Pending Complaints”.

Commissioner Schirripa asked if the individuals who submitted the complaint are aware of the assigned complaint number.

David Benton, City Chief Counsel, confirmed the City Clerk assigns the complaint number and the petitioner receives the number for their reference.

Vice Chairwoman Sallen agrees with the recommendation to include the section for "Pending Complaints".

Ms. Erickson stated staff could make the changes before next meeting and include the same item on the agenda.

Chairman Leyvas asked for each Commissioner to review the webpage in preparation for the next meeting.

5. Discussion of proposed revisions to the Ethics and Gift Policy and Ethics Handbooks

Chairman Leyvas introduced the item and asked if there are updates from staff. He asked if the Commission could have ownership of, or input on, the contents of the Ethics Handbooks (handbooks), since the handbooks were published prior to the Commission being seated.

Ms. Erickson asked the Law Department if there is a reason why the Commission could not have ownership of or provide input on the handbooks.

Deryck Lavelle, Chief Assistant City Attorney, stated anything in the City Code is under the purview of the Law Department. He provided an overview of the process to develop the City Code and provided an example. Mr. Lavelle stated the Commission could have input on the contents of the handbooks but does not believe complete ownership would be appropriate.

Ms. Erickson asked if making edits to the handbooks would require a specific number of votes from the Commission.

Mr. Lavelle stated there are no rules specifically for changes to the handbook.

Ms. Nillen confirmed any voting or changes to the handbooks would only require a quorum and a majority vote.

Chairman Leyvas discussed the opportunity for the Commission and the Law Department to collaborate on the opinions provided in the handbook.

Vice Chairwoman Sallen agreed on the request to have input in the handbook. She recommended the Commission review and vote on proposed revisions to the handbook to provide to the City Departments for further review. She stated both parties could collectively work through any issues.

Mr. Lavelle noted the handbooks should be viewed as living documents, as new examples could be formed after review of future ethics inquiries.

Chairman Leyvas noted he wants to make sure the Commission has informal tools, such as the handbooks, to help provide proper guidance, in addition to the City Code. He explained his concerns with the Commission not having some ownership or input into the handbooks. He stated it would be an opportunity to be more transparent and provide additional guidance to those serving in City government.

Mr. Lavelle explained there may be differences in opinion across the City regarding whether it's within the Commission's authority to make changes to the handbooks.

Ms. Nillen clarified the Commission is only requesting to change or provide additional opinions and examples to the handbooks based on their review of the ethics inquiries.

Chairman Leyvas stated per the Commission's enabling ordinance, there are opportunities to offer opinions. He stated there may need to be further discussions with the Commission's Counsel on the process to provide revisions to the handbook and to issue advisory opinions.

Commissioner Hart stated the law provides the parameters, basis and foundation for the complaints. She provided an example from her previous work investigating complaints with a school board. She emphasized the Commission needs to step lightly in terms of how they integrate opinions, as it is already addressed by law.

Mr. Benton noted the distinction between the handbooks and the City Code. He stated the handbooks are designed to help the practitioner with understanding the City Code, in addition to Law Department's ethics training provided to each Commission or Board member. He summarized that while many situations are determined on a case-by-case basis, the basis for decision making is always the City Code. He explained that the City attorneys are available to help in Board and Commission members' decision-making process for determining whether a situation is ethical or not. He stated the Commission could provide support by improving the examples and coming up with new fact patterns.

Chairman Leyvas provided a hypothetical example and asked Mr. Benton to provide his opinion whether the situation is an ethical violation.

Mr. Benton responded that, in this hypothetical situation, he would ask more questions, inquire about the background, and remind the individual that the

obligation to make the decision is theirs. He stated the individual needs to make the final decision whether the situation is ethical or not.

Chairman Leyvas stated one of the Commission's tasks is to provide elected and appointed officials a new venue to ask for an advisory opinion. He asked if the creation of the Commission relieves the Law Department from providing their opinion for these ethical questions asked by Board and Commission members.

Mr. Lavelle clarified the Law Department cannot provide a legal opinion or advise individuals in these hypotheticals, as their client is the City. He further clarified the advisory opinions are only advisory, not legal opinions.

Chairman Leyvas asked what type of opinion the Law Department is providing if not "legal" or "advisory".

Mr. Lavelle stated in the hypothetical, he would provide his thoughts and discuss the situation, but the individual must make their own decision. The Law Department could not provide legal advice.

Chairman Leyvas confirmed the Commission is not providing legal advice, only providing advisory opinions to ethical scenarios.

Mr. Lavelle explained the ethics City Code was drafted with a group of lawyers who tried to address as many scenarios as possible. He stated it would be difficult to address every possible ethical scenario within the City Code. He noted the Commission could help identify additional scenarios or loopholes in the City Code that were not addressed during the original development of the City Code.

Commissioner Pietkiewicz asked if Ms. Nillen could provide legal advice in these scenarios.

Ms. Nillen stated that in addition to acting as an investigator, she is providing independent legal counsel to help the Commission to make an independent determination, since the Law Department represents the City. She stated her role is to help the Commission interpret the City Code and relevant laws and look at the inquiry from different angles. It is the Commission's responsibility to make the final decision whether the situation constitutes an ethical violation.

Chairman Leyvas stated the Commission issued an opinion that differed from an example in the handbook. He asked if the Commission could revise the example in the handbooks.

Mr. Benton stated the fact pattern used by the Commission may be different but is not aware of the background on the complaint referenced.

Mr. Lavelle stated if the fact patterns are inconsistent, the Law Department would need to review the handbooks and the final decision, or Investigative Report, and try to reconcile them. If they could not be reconciled, they would return to the Commission with a proposed change. He stated the Commission could review the proposed change and both parties could work collaboratively to make the change.

Mr. Benton stated in some situations, the examples in the handbook may not be sufficient enough to provide guidance, and the Commission could use these opportunities to provide better examples.

Chairman Leyvas agreed the Commission has the opportunity to give shape to help inform the example.

Ms. Nillen noted each situation will have unique facts and circumstances involved and even similar situations may have different outcomes. She stated the handbooks may never fully address each situation.

Mr. Benton stated during the City ethics training, the Law Department informs individuals their obligation is circumstantial, and the Law Department would ask questions to understand the background and individual facts for each situation.

Vice Chairwoman Sallen recommended the Commission review the previous complaint and public investigative report, which included the example cited from the handbook. She recommended they review the resolution and analyze it compared to what is written in the handbook. She stated if the Commission decides the example in the handbook needs to be revised, they can develop a proposal for further review.

Mr. Lavelle asked the Commission to provide the Investigative Report for the Law Department's review in preparation for the next discussion.

Chairman Leyvas agrees with the recommendation and next steps.

6. Review of Current Complaints

Chairman Leyvas asked if the Commission would make a motion to enter into Executive Session to address the complaints.

Vice Chairwoman Sallen made a motion to convene in Executive Session to obtain legal advice on EC-23-01 and EC-21-01. Commissioner Schirripa seconded the motion, which passed unanimously 5-0.

Chairman Leyvas noted he has recused himself for EC-21-01 and will refrain from participating if the Commission begins to discuss the item in Executive Session.

The Commission entered Executive Session at 3:56 p.m.

The Commission returned from Executive Session at 4:44 p.m.

No action was taken on EC-23-01.

Vice Chairwoman Sallen stated EC-21-01 was tabled last year until the Commission had a fifth member. She asked if there was a motion from the Commission to reconsider the item.

Commissioner Pietkiewicz made motion on EC-21-01 to reconsider the item. Commissioner Schirripa seconded the motion. Chairman Leyvas recused himself from the vote. The motion passed 4-0 by the following vote:

Yes: 4 –Vice Chairwoman Sallen, Commissioner Pietkiewicz, Commissioner Schirripa, and Commissioner Hart

No: 0 –

EC-21-01 will be reconsidered.

Ms. Nillen noted Chairman Leyvas has recused himself from the discussion and left the meeting.

Commissioner Pietkiewicz made a motion to open an investigation.

The motion did not receive a second.

Vice Chairwoman Sallen stated the motion fails due to lack of second.

Commissioner Schirripa made a motion to discard the inquiry. Commissioner Hart seconded the motion.

Commissioner Pietkiewicz stated she disagreed with the inquiry being discarded.

Ms. Nillen clarified the appropriate language is to “dismiss” the inquiry and asked if the Commissioners would make a friendly amendment to correct the language of the motion.

Commissioners Schirripa and Hart agreed to the friendly amendment.

Vice Chairwoman Sallen moved to a vote on the motion to dismiss the inquiry. The motion failed 3-1 by the following vote:

Yes: 3 –Vice Chairwoman Sallen, Commissioner Schirripa, and Commissioner Hart

No: 1 – Commissioner Pietkiewicz

EC-21-01 is *deemed closed*.

Ms. Nillen explained there needs to be a four-person vote in the affirmative to investigate or the matter is *closed*.

Vice Chairwoman Sallen asked if the letter to the complainant will discuss the vote and *explanation on why the matter is deemed closed*.

Ms. Nillen asked if the Commission would like to *provide an explanation*, to include in the letter to the complainant.

Vice Chairwoman Sallen asked if the Commission wants to provide additional reasoning or comment for their vote.

The Commission did not have additional commentary.

Vice Chairwoman Sallen stated the letter should include the vote and explain the Commission chose not to investigate as the inquiry was facially insufficient to pursue.

Chairman Leyvas came back into the public session at 4:52 p.m.

7. Call to Public

No call to the public.

8. Future Agenda Items and Meeting Dates

Chairman Leyvas opened the floor to discussion.

Commissioner Schirripa noted he will be attending the next meeting virtually.

Chairman Leyvas discussed an agenda item for next month to continue discussing revisions to the ethics handbooks, specifically regarding the zoning concern identified in the investigation of EC-22-01.

Ms. Nillen clarified the previous discussion. She stated she understood that the Commission would use the next meeting to discuss their recommendations to revise the handbook and the response from the City Law Department would occur at the subsequent meeting.

Staff confirmed the meeting would be on June 12.

Chairman Leyvas asked to add EC-23-01 to the next meeting agenda.

Ms. Erickson confirmed EC-23-01 is the only outstanding ethics inquiry. Staff will also add an agenda item to review the website revisions.

9. Adjournment

Chairman Leyvas adjourned the meeting at 4:55 p.m.