



CITY OF YPSILANTI
Board of Ethics MEETING
Wednesday, July 24, 2019 @ 7:00 PM
Council Chambers
One South Huron, Ypsilanti, MI 48197

Page

I. CALL TO ORDER

II. ROLL CALL

Steven Landstrom
Patricia Berry
Beth Currans
Brian Geiringer
Sally Lusk

III. AGENDA APPROVAL

IV. PUBLIC COMMENT (3 MINUTES)

V. RESOLUTIONS/MOTIONS/DISCUSSIONS

3 - 7

A. Approval of May 30, 2019 meeting minutes.
[Board of Ethics - 30 May 2019](#)

8 - 27

B. Open Meetings Act Presentation
[Presentation](#)

C. Election of Vice-Chair

D. Approve Regular Meeting Schedule

28 - 30

E. Discuss the creation of Board Bylaws
[Ethics Board Bylaws - Draft](#)

F. Discussion of potential ordinance amendments

31 - 32

G. Review Human Relations Commission resolution regarding Ypsilanti's oath of office.
[HRC Res. No. 2019-008 Oath of Office](#)

H. Schedule future special meetings

VI. PUBLIC COMMENT (3 MINUTES)

VII. ADJOURNMENT



MINUTES

Board of Ethics Meeting

7:00 PM - Thursday, May 30, 2019
Council Chambers

The Board of Ethics of the City of Ypsilanti was called to order on Thursday, May 30, 2019, at 7:00 PM, in the Council Chambers.

I CALL TO ORDER

The meeting was called to order at 7:02 p.m.

II ROLL CALL

Patricia Berry	Absent
Beth Currans	Present (8:52 p.m.)
Brian Geiringer	Present
Steven Landstrom	Present
Sally Lusk	Present

III AGENDA APPROVAL

Board Member Lusk moved, seconded by Board Member Currans to approve the agenda.

Approved: Yes - 5; No - 0; Absent - 1 (Berry)

IV PUBLIC COMMENT (3 MINUTES)

None

V RESOLUTIONS/MOTIONS/DISCUSSIONS

a) Approving the Minutes of April 18, 2019

Board Member Geiringer moved, seconded by Board Member Lusk to approve the minutes.

Approved: Yes - 3; No - 0; Absent - 1 (Berry); Abstain - 1 (Currans)

b) Discuss the creation of Board Bylaws

Board Chair Landstrom mentioned that Geiringer sent in some examples of Bylaws and Board Member Lusk created an initial draft. He also suggested that for this meeting, a basic framework of the bylaws should be created so that by

next meeting all board members can give their final critiques. Below are the following changes and notes per article and section.

ARTICLE I. NAME AND PURPOSE

Section 1: Board of Ethics

Board Chair Landstrom suggested to add in portion and date. Assistant City Attorney O'Jack suggested to add, "referring to City Code Chapter 46, Article II and as amended" to show compliance with the article and not having to go back and make changes for future amendments.

Section 2: Purpose

Board Chair Landstrom stated that this section came directly from the Ordinance.

Board Member Lusk would like for the word ethics to be stated in the purpose.

ARTICLE II: MEMBERSHIP

Board Member Currans asked where the following should get mentioned: missing meetings and all other things that relates to members. She also mentioned that section in article 3 section 2 and 3 is redundant to article 2 (membership). Board member Lusk also agreed with Board Member Curran's statement. The Board agrees to make no changes to article 2 for the basis of this discussion.

Article III: BOARD

Board Member Currans suggested to cut section 2 and some of section 3 because it sounds redundant to article 2 (membership). Board collectively agreed to make the change.

Section 1: Powers and Duties of the Board

Board Member Geiringer asked for clarification regarding the last sentence in the 2nd paragraph. He stated that the wording made it seem as though all 5 board members will need to be present when reporting to the city council.

Board Member Currans suggested to add that the Board of Ethics will determine its representation of the council meetings. Board Member Lusk suggested to add, "A representative of the Board of Ethics shall appear," to show how a representative gets selected. Chairman Landstrom stated that at some point throughout the bylaws, there needs to be an explanation on how a representative gets selected.

Assistant City Attorney O'Jack suggested the change should read, "A representative or unless council requests a joint meeting, shall appear and report to the city council in person as reasonably requested."

Board Member Lusk stated that the last paragraph seems vague and would like a process to be laid out. Board Member Currans stated that legal input may be needed to dispatch complaints. Chairman Landstrom suggest to circle back to this discussion under Section E on the agenda.

SECTION 3: TERM

Board Member Lusk suggested to add the word continuously after the word term on the first line of the third paragraph. Attorney O'Jack suggested there

should be a change in the ordinance as well to clarify what a one full five-year term means. Chairman Landstrom suggest to circle back to this discussion under Section E on the agenda.

SECTION 5: MEETINGS

Board Member Lusk suggested that the 24 hours should be increased to 48 hours. Board Member Geiringer supports the time increase. Board Member Lusk suggested that we should change the wording of the second sentence. She suggested that the change should be made to Chair, Vice Chair, and Secretary. Board Chair Landstrom asked the board how the board felt about having 2 members call for a special meeting. Chairman Landstrom suggest to meet twice a year at least.

SECTION 6: NOTICE OF MEETINGS

Board Chairman Landstrom stated that Special meetings 18 hours and regular meetings are 10 days after adoption at regular meeting
Attorney O'Jack stated that the first regular meeting of the year is when you adopt the regular meeting dates.

SECTION 8: RESIGNATION, TERMINATION AND ABSENCES

Mr. Hellenga stated that the board doesn't deal with resignation and termination. The city council deals with this. Also the board can determine what to do if a member is habitually absent. If a board member violates the conduct in section 3, they can be recommended for removal.

Board Member Lusk wanted to know how many absences can be missed. After this discussion, Board Member Lusk suggested that they should discuss more later about the absences to have a clear understanding of what is considered unexcused or excused.

Board member Currans stated that a vacancy section is not needed because its the responsibility of the city council.

ARTICLE IV. OFFICERS

Board Member Lusk stated to move the following from article 3 section 3 under this article. That is, "The Board chair shall be selected by the members for a term of one year." She also stated that the Chair and Vice Chair's roles will need to be defined and how they are elected. The first meeting of every year is when a board chair will be selected.

SECTION 1: GENERAL

Chairman Landstrom suggested that this section should say, "Of the five members one will be chair and one will be Vice Chair."

SECTION 2: ELECTION AND TERMS OF OFFICE

Chairman Landstrom suggested that Board Chair and Vice Chair will be selected by the Board Members for 1 year.at the first regular meeting of the year. Attorney O'Jack suggested that in addition to the 1 year term, it should also mentioned, "And to serve until the next person is elected."

All board members collectively defined the roles and responsibilities of the Chair and Vice Chair.

Chair responsibilities: sets agenda, conduct meetings, is the point person with council and mayor, and gavel if needed.

Vice Chair responsibilities: is the point person if Chair is not present. Mr. Hellenga mentioned there's nothing in the Ordinance stating that this body needs a Vice Chair.

Mr. Hellenga read the Charter regarding absences to the board and said that it can be copied and pasted under the section.

SECTION 3: RESIGNATION AND REMOVAL

Board Member Lusk stated, a resignation letter must be submitted to the board. She also suggested no less than 10 a day notice before the next meeting. Super majority of the appointed should determine the removal of board member.

ARTICLE V. COMMITTEES

Board Member Landstrom stated Board can create sub-committees for the purpose to research

ARTICLE VII. PARLIAMENTARY AUTHORITY

Robert rules should be used The board agreed collectively.

Add a voting section and add interest of conflict under this section.

Board Member Lusk moved, seconded by Board Member Currans to approve scheduling a Special Meeting for June 26, 2019 at 7:00 p.m.. Approved: Yes - 5; No - 0; Absent - 1 (Berry)

Next meeting, Board will discuss: Bylaws, election of vice Chair, discussion of amendments and ordinance.

Goal for next meeting is to finalize the bylaws.

c) Presentation of the Open Meetings Act

None

d) Election of Vice Chair

None

- e) Discussion regarding amendments to the ordinance regarding the Board of Ethics.

None

- f) Schedule further Special Meetings

VI PUBLIC COMMENT (3 MINUTES)

VII ADJOURNMENT

The meeting adjourned at 9:00 p.m.

CITY OF YPSILANTI
Open Meetings Act
Freedom of Information Act
John M. Barr, City Attorney
July 24, 2019
Ypsilanti City Hall

1. Open meetings Act (OMA) MCLA 15.261 et seq.
 1. Public body -applies to public bodies – any body that exercises a governmental function
 2. Meeting – quorum present to deliberate toward a decision
 3. Notice – must publish list of annual meetings within 10 days of first meeting in fiscal year
 - a. 18 hours notice for special meeting – City Charter 24 hours
 - b. Emergency meeting w/o notice if 2/3 agree
 - c. Notice in writing – post at city hall, ask clerk for help

1. Meeting must be OPEN to public and all decisions made in open session (except where allowed to close)
2. Sub- committee – council resolution applies to sub committee
 - a. sub committee would be a group to discuss business –
 - i. not a chance meeting
 - ii. not one-on-one discussion

- a. emails – dangerous
 - i. can set times, etc. – give notice
 - ii. Council should not discuss committee business by email because not public (but can with sub quorum)
 - iii. Can exchange proposed documents for review

1. Minutes – must

- a. State time, date, place
- b. Members present
- c. Record of any decisions
- d. Record of roll call vote
- e. Explanation of purpose if closed meeting
- f. Must be available to public –draft minutes within 8 business days, approved minutes within 5 business days
- g. Corrections no later than next meeting

1. Developing bullet proof minutes

- a. Prepare important, sensitive motions in advance
 - i. Include all required information in motion and all back up material (or refer to and include by reference)

a. Legislative vs. Administrative bodies

- i. Action of legislative body is presumed correct
- ii. Administrative bodies (Planning Commission, etc.) have a different standard – appeal decision based on showing that the decision and action was based on proper facts and reasons

- i. Minutes of administrative bodies must be much more complete
 1. include summary of all important testimony
 2. include all exhibits
 3. include rationale for decision

1. Minutes of closed session – sealed and kept for 1 year one day and then destroyed
2. Must meet in public place

1. Right of public comment
 - a. Can not require to register to attend
 - b. Can require to state name (for record)
 - c. Can not require address
 - d. Can set up reasonable rules
 - i. Time limit
 - ii. Place on agenda
 - iii. Reasonable regulation

1. Closed session

a. Need 2/3 roll call vote

b. Limited reasons allowed to close

i. Employee, officer evaluation, discipline, etc. – if requested by employee or officer

ii. Discipline student if student requests

iii. Labor contracts, etc

iv. Purchase or lease of real property (not sale)

- i. Consult with attorney regarding pending litigation
- ii. Review contents of employment application.
 - 1. all interviews must be open
- iii. partisan caucuses of state legislature
- iv. To consider material exempt by other law, statute, etc.
 - 1. This is very important as allows closed session to consider attorney opinion
 - a. Must be limited to opinion
 - b. Opinion must be in writing

- a. Decisions of Public Body must be in open session
 - i. Can approve action of closed session in open session
 - 1. Motion to approve the action requested of the attorney in the closed session.

1. Sanctions

- a. Civil – injunction, mandamus
- b. Criminal – high misdemeanor
 - i. First offense - \$1,000
 - ii. Second offense – 1 year, \$2,000 or both

1. Freedom of Information Act (FOIA) MCLA 15.218 et seq.

- a. FOIA and OMA are “sunshine laws” – designed to let the sun shine in on all government matters so the public can be advised
- b. FOIA applies to “Public Bodies”
- c. Applies to “Public Records”
 - i. A writing prepared by, owned, used, in possession of retained by a public body in performance of official function from time created – does not include computer software, but does cover emails and other information on computers

- a. Public has the right to inspect and copy public records – no pens, pencil ok
- b. Do not have create new record
- c. Exempt records – some records are exempt
 - i. Section 13 of act
 - 1. privacy
 - 2. medical
 - 3. attorney client privilege
 - 4. Law enforcement codes, informants, etc.
 - 5. security plans
 - 6. bids before opening
 - 7. appraisals
 - 8. other items – see section 13 of act

FOIA coordinator

- a. Time limits – 5 days, extend to 10 days
- b. Charge for reasonable costs – lowest paid employee that can do work
- c. Records for 1 year
- d. Sanctions
 - i. Attorney General or any citizen may bring an action in Circuit Court to enforce act.
Sanctions can include:
 - 1. contempt of court
 - 2. punitive damages of \$500
 - 3. Actual attorney fees – can be thousands of dollars
 - a. Know of cases of \$30,000, \$17,000 and more

1. Liabilities of Department Heads
 - a. Civil liability
 - i. Libel and Slander
 - ii. Harassment
 - iii. violation of Civil Rights
 - b. Criminal liability
 - i. Misconduct in office
 - ii. Ethics violations
 - iii. Usual criminal penalties

SUMMARY

1. Work with FOIA Co-Ordinator – City Attorney's Office
2. Be mindful of time limits and penalties – give priority
3. Be careful of emails – easy to send – can not retract
4. Can only charge the cost of lowest paid employee that can do work

BYLAWS
BOARD OF ETHICS
YPSILANTI, MICHIGAN
DATE

ARTICLE I. NAME AND PURPOSE

Section 1 **Board of Ethics**

Established by the City Charter, [City Code Chapter 46, Article II and as amended.](#)

Section 2 **Purpose**

The purpose of the Board is: to provide an orderly procedure for consideration and review of the issues which may arise concerning questions of standards of conduct for public officers and employees.

ARTICLE II. MEMBERSHIP

The Board of Ethics shall consist of five members appointed by the mayor with the approval of the city council.

No city council member, officer or employee and no officer or employee of any other governmental unit shall be a member of the board ethics.

No more than three members of the board of ethics shall be members of the same political party. Each member of the board of ethics shall file an affidavit of party affiliation prior to taking office. The board member need not be a member of any political party and may serve as an independent with no political party affiliation.

Members of the board of ethics shall be city residents. The mayor shall, with the majority consent of the city council, appoint members of the board of ethics.

ARTICLE III. BOARD

Section 1 **Powers and Duties of the Board**

The board of ethics shall make studies of ethical problems in city government. The board of ethics shall from ~~time to time~~ make recommendations to the city council for amendments to ordinances related to ethics for city officers and employees, and standards of conduct for officers and employees of the city.

The board of ethics shall file an annual report with the city clerk on or before December 31 of each year which shall be delivered to the city council and all department heads. [A representative of the Board of Ethics, or unless City Council requests a joint meeting, shall appear and report to City Council in person or as reasonably requested.](#) ~~The board of ethics shall appear and report to the city council in person as reasonably requested.~~

The board of ethics will review all complaints received, and schedule hearings as needed. The board will be guided by the City Attorney in determining the appropriate process for each complaint.

~~Section 2 **Number of Members.**~~

~~The Board of Ethics shall consist of five members appointed by the mayor with the approval of the city council.~~

Section ~~2~~ **3** **Term**

~~The first five persons shall be appointed to the board of ethics for terms of one year, two years, three years, four years and five years so that one member's term shall expire each year. Thereafter all terms shall be five years. All board Member Terms will be five years.~~

The Board chair shall be selected by the members for a term of one year.

No person shall serve more than one full five-year term, provided that a person serving an initial term of two years or less, and a person appointed to fill a vacancy of a remaining term of two years or less shall be eligible for appointment to one additional five-year term.

Section 4 Quorum

A quorum will consist of a simple majority (51%) of the Board of Directors. A quorum of the Board of Directors must be present to conduct business.

Section 5 Meetings

~~A minimum of two r~~Regular meetings of the Board of Directors shall be held each year as determined by the Board. Special meetings of the Board of Directors may be held at any time upon twenty-four (24) hour notice, oral or written, by the ~~President, Secretary, Treasurer~~Chair, Vice-Chair, or by ~~three~~two other members of the Board of Directors.

Section 6 Notice of Meetings

~~The Board shall post Special Meetings 18 hours prior to the meeting pursuant to the Open Meetings Act. Regular Meetings must be posted 10 days prior to the first meeting.~~
Section 7

Section 7~~8~~ Resignations, Termination and Absences

Section 9 Vacancies

ARTICLE IV. OFFICERS

Section 1 General

~~Of the five members a Chair and Vice-Chair will be elected~~

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Section 2 Election and Terms of Office

~~Each officer shall serve one year, or until a replacement has been elected. The term will begin the first regular meeting of the year.~~

Section 3 Resignation and Removal

~~Resignations from the Board must be done so in writing, and no less than 10 days prior to the next meeting. A super majority of the board will determine whether a removal of a member will be recommended to Council.~~

Section 4 Duties and Responsibilities of Officers

The Officers shall possess such powers and perform such duties as shall be determined by the Board of Directors.

~~A Chairs responsibilities are to set agendas, conduct meetings, the liaison with the Mayor and City Council, and gavel if needed.~~

~~The Vice-Chair fills the responsibilities of the Chair while absent~~

ARTICLE V. COMMITTEES

Section 1 Committee formation

~~Subcommittees may be created to study assigned topics and present reports to the boar~~

ARTICLE VI. EXECUTION OF DOCUMENTS

Section 1 Documents, Obligations and Disbursements

All approved documents will be forwarded to City Council by the City Clerk's Department

ARTICLE VII. PARLIAMENTARY AUTHORITY

Section 1 Parliamentary Authority

The most recent edition of *Robert's Rules of Order* shall serve as the Parliamentary Authority for the organization.

Section 2. Voting – Motions will be passed by the majority of seated members

Section 3. Conflict of Interest – Any member having a conflict of interest of appearance of a conflict of interest will recuse themselves from consideration of that issue.

ARTICLE VIII. AMENDMENTS

Section 1. Amendments

Bylaws may be amended by a simple majority of seated members.



Resolution No. 2019-008
June 13, 2019

**RESOLVED BY THE HUMAN RELATIONS COMMISSION OF THE CITY OF
YPSILANTI:**

THAT the Human Relations Commission recommends that Ethics Board consider adding the Code of Ethics to the oath of office.

OFFERED BY: Commissioner Haugenauer

SUPPORTED BY: Commissioner Hunter

YES: 4 NO: 0 ABSENT: 3 (Choudhuri, Hicks, Browning) VOTE: Carried

I do hereby certify that the above resolution is a true and correct copy of Resolution 2019-007 as passed by the Ypsilanti Human Relations Commission, at their meeting held on June 13, 2019.

Andrew Hellenga, City Clerk

City Charter – Oath of Office

2.05. Vacancies; forfeiture of office; filling of vacancies.

(5) *Oath and Bond of Office.* Every officer, elected or appointed, before entering upon the duties of the office shall take the oath or affirmation of office prescribed by Section 1 of Article XI of the Constitution of the State and shall file a copy of the same with the Clerk, together with any bond which may be required to be given by this Charter or by the Council. The oath or affirmation and bond of the Clerk shall be filed with the Treasurer. In case of failure to comply with the provisions of this Section within ten (10) days from the date of formal notification of election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant, unless the Council shall, by resolution, extend the time in which such officer may qualify.

STATE CONSTITUTION (EXCERPT) CONSTITUTION OF MICHIGAN OF 1963

§ 1 Oath of public officers.

Sec. 1.

All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.