



## Providence Ethics Commission Sub-Committee on Policy and Procedures

Regular Meeting

~ Meeting Minutes ~

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Tuesday, January 8, 2019

3:00 PM

Committee "A" (City Hall 3rd Floor)

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PRESENT: Chairman Tony Affigne, Vice-Chairwoman Dawn

Robertson and Nick Inglis – 3.

Also present are Lori L. Hagen, City Clerk and Jennifer L. Emidy, Assistant Clerk.

CHAIRMAN AFFIGNE: Happy New Year to everyone. We have four items on our agenda today, and there is paper work for three of those items, and most of this you have seen before.

- 1. Discussion regarding possible recommendation to the City Council to amend the Code of Ordinances to impose a duty on officers of the city and line supervisors in city departments, agencies, boards and commissions to report violations of the Ethics Code to the Providence Ethics Commission, with possible vote thereon.**

Discussion was held relative to the foregoing matter.

CHAIRMAN AFFIGNE: I took to heart some of the concerns raised at the last meeting of the full commission, in particular Commissioner Crum's concerns about the duty to report violations, applying to everyone and not just supervisors. I am convinced by her argument, and I think we need to either apply the policy to everyone who works for the city or not, but to select some groups and require them to report and others not, does not seem fair. However, that is a very complicated process to change the conditions of employment for everyone who works for the city as well as the officers of the city. The solution to that I think is, if you look at the back of this sheet you will see previous language of duty to report recommendations, that is what was approved by the sub-committee in November, and then by the full commission on November 13, 2018 and referred back to the

sub-committee with a number of concerns. What I have done is step back a bit and purposed a resolution of the sense of the commission, declaring the intent of the commission to pursue the question of duty to report and seek assistance from appropriate city agencies, but the specifics on what that would look like are deferred to a later day. Again, the purpose is to push this discussion forward by reaching out respectively to the city solicitor, city council and the mayor's office so that each of those three agencies can work with the ethics commission in developing appropriate language for various legal documents. Somewhere in this whole process the commission or the city council or the city solicitor might decide it is not a good idea, and the process ends. Given the interest that was expressed previously, and in light of the concerns expressed in the last meeting, this is a way for us to move forward without selecting any particular language or particular vehicle. Are there any questions or comments?

VICE-CHAIRWOMAN ROBERTSON: Let me understand this. This would go back to the full commission and it would either be adopted or not? If it is adopted then at some point this may go to the city solicitor?

CHAIRMAN AFFIGNE: The chair of the commission at that point, or the chair of the sub-committee would confer with the city solicitor, and work with them with whatever pace is feasible to draft some language, and the same for the mayor's office and city council. This resolution gives a sense of the commission, that if the commission approves it, than essentially it, gets added to the commission agenda as an item for the leadership of the commission, then the chair and the vice-chair and sub-committee chairs will work on. At some point in the future this will come back to the full commission, with language that would be referred to the city council. This resolution if it is approved by the sub-committee today would go to the commission for its February meeting and at that point it will be up going to the commission to decide to if or not to pursue the duty and report. This is a way to

move it out of the sub-committee giving the full commission a chance to talk about a mandatory report, and if so, what is the right way to go about it?

MR. INGLIS: I like it. You have covered a lot of bases here.

CHAIRMAN AFFIGNE: Any other questions or comments? I will entertain a motion to adopt this proposed resolution as a recommendation from the sub-committee to the full commission.

MR. INGLIS: I will make a motion.

VICE-CHAIRWOMAN ROBERTSON: Seconded.

On motion of Mr. Inglis, Seconded by Vice-Robertson it is voted to adopt the proposed recommendation for the forwarding to the full commission.

CHAIRMAN AFFIGNE: All those in favor say “aye”.

COMMITTEE: Aye.

CHAIRMAN AFFIGNE: All those opposed? The motion carries.

**2. Discussion regarding possible new policy and/or regulation authorizing the issuance of preliminary letters of inquiry to persons or entities presumed to hold information relating to possible violations of the Code of Ethics, with possible vote thereon.**

Discussion was held relative to the foregoing matter.

CHAIRMAN AFFIGNE: Returning to Adrienne Southgate and her advice, her observation that the commission is empowered to adopt policies, even as those policies are forwarded to the city council for adoption as regulation, until or unless a regulation is adopted by the city council or rejected by the city council then the policy would then be enforced. There are two proposals that I am giving to you today. They have exactly the same language with the exception of very minor differences. The wording is the same with the exception of number five in the

police and letter (e) in the regulation. The policy is implementation language and reads “this operating policy of the Providence Ethics Commission shall take effect upon approval by majority vote of the Commission and shall remain in force until amended or revoked by the Commission, or until the City Council has taken action on a corresponding regulation”. So, following Adrienne’s recommendation what we would be proposing if the sub-committee adopts this recommendation is that the commission immediately adopt a policy regarding preliminary letters of inquire, which as we discussed, but at the same time approve a recommended regulation for forwarding to the city council. That way would have an operating policy that would have the force of law and we would be able to function under the provisions of that policy. Should the city council make amendments or not accept that recommendation then the policy itself would be rescinded, according to the language in number five, or until the city council has taken action. There is one minor change to the wording for which you have seen previously, and that is in the second paragraph Initiation, Authorization and now it reads Initiation, Authorization and Confidentiality. A second sentence has been added, which reads “the commission has hold any such letter of inquiry in strict confidence, until a response is received from the recipient or the recipient’s authorized representative, at which time both the initial letter and the recipient’s response may be made public”. The major change is this twin track of asking the commission to adopt both an operating policy and a proposed regulation at the same time with identical language, so that the policy we would be operating under while waiting for city council action would be exactly what the city council is being asked to approve. That is my summary of the proposal, are there any questions, comments or concerns?

MR. INGLIS: The last line in number two “may be made public”, is that the ethic commission disposal?

CHAIRMAN AFFIGNE: At some point this is a public document and there is no way to prevent it from being public, we can as a matter of policy hold it until we have the response. The reason I use the word “may” rather than “shall” is because there may not be any requests to make in public. If it said “shall” than we would have to come up with a mechanism for explicating making the letters public. Are there any other concerns or questions? If we approve this recommendation to the ethics commission this matter will be on the February meeting. If there is no further discussion, I will entertain a motion to amend the Operating Policy.

VICE-CHAIRWOMAN ROBERTSON: I make a motion to amend the Operating Policy.

MR. INGLIS: Seconded.

On motion of Vice-Chairwoman Robertson, Seconded by Mr. Inglis it is to amend the proposed Operating Policy.

CHAIRMAN AFFIGNE: All those in favor say “aye”.

COMMITTEE: Aye.

CHAIRMAN AFFIGNE: All those opposed? The motion carries. I will now entertain a motion to forward the Operating Policy – Letters of Inquiry to the full commission.

MR. INGLIS: I will make a motion to forward the policy.

VICE-CHAIRWOMAN ROBERTSON: Seconded.

On motion of Mr. Inglis, Seconded by Vice-Chairwoman Robertson it is voted to forward the proposed Operating Policy – Letters of Inquiry to the full commission.

CHAIRMAN AFFIGNE: All those in favor say “aye”.

COMMITTEE: Aye.

CHAIRMAN AFFIGNE: All those opposed? The motion carries unanimously.

3. **Discussion relative to ethics enforcement for the Providence Police Department, with respect to actions by sworn officers which violate conduct rules specified in Police Department ethics policies, or the Providence Code of Ordinances (including Section 18 1/2-4, Providence Community-Police Relations Act of 2017), or applicable federal Consent Judgments (including Coalition of Black Leadership vs. Joseph A. Dooley, Jr., 1973), with possible vote thereon.**

Discussion was held relative to the foregoing matter.

CHAIRMAN AFFIGNE: Are there other concerns or questions or can we move to a vote? Hearing no other questions or concerns, is there a motion to adopt as a recommendation to the Ethics Commission the document entitled New Language for Recommendation – Misuse for Sworn Authority.

VICE-CHAIRWOMAN ROBERTSON: So moved.

MR. INGLIS: Seconded.

On motion of Vice-Chairwoman Robertson, Seconded by Mr. Inglis it is voted to adopt New Language for Recommendation – Misuse for Sworn Authority to the Ethics Commission.

CHAIRMAN AFFIGNE: All those in favor say “aye”.

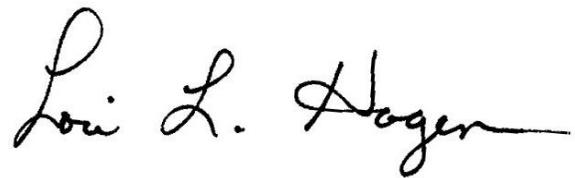
COMMITTEE: Aye.

CHAIRMAN AFFIGNE: All those opposed. The motion is adopted unanimously.

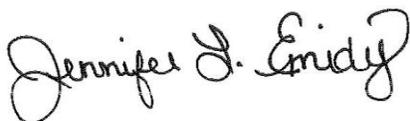
**4. Discussion of the Sub-Committee membership, with respect to expiration of terms and plans for appropriate transition procedures.**

Discussion was held relative to the foregoing matter and no votes were taken.

**ADJOURNMENT:** On motion of Vice-Chairwoman Robertson, Seconded by Mr. Inglis, it is voted to adjourn the meeting at 3:48 o'clock P.M.



**City Clerk**



**Assistant Clerk**