



City of Rockville Ethics Commission

Minutes

Webex Virtual Meeting

Meeting No. 20-7

Wednesday, August 19, 2020 at 6:30 PM

Commissioners Present: Eugene Thiorlf, Kris Dighe, Kevin Jenkins, Jaime Espinosa

City Staff: Marlaine White
Wei Liu

- I. Convene
- II. Approval of Agenda
Chair Thiorlf asked that a motion be made to approve the agenda. Commissioner Dighe moved that the agenda be approved. The motion was seconded by Commissioner Jenkins and passed unanimously (4-0).
- III. Approval of Minutes
Minutes from June 17, 2020 - Chair Thiorlf requested a motion be made to approve the minutes from June 17, 2020. Commissioner Espinosa noted a typo to be corrected. Commissioner Espinosa moved to approve the minutes as amended. The motion was seconded by Commissioner Jenkins and passed unanimously (4-0).
- IV. Old/New Business
 - Discussion of the Letter Request to Mayor and Council to place the Draft Ordinance expanding Commission membership on an upcoming meeting agenda: Chair Thiorlf stated that the draft letter requesting that the draft ordinance expanding Commission membership be placed on an upcoming Mayor and Council agenda is ready to be signed and submitted to the Mayor and Council. After discussion, Commissioner Dighe moved to adopt the draft letter and for the Chair to sign the letter and have it submitted to Mayor and Council. The motion was seconded by Commissioner Espinosa and passed unanimously (4-0).
 - Future Meeting Dates: September 16, 2020; October 14, 2020 – Commissioner Dighe inquired as to when there may be an opportunity to have a COVID-19 compliant in-person meeting. Staff indicated that City Hall is not yet open to the public, and that a reopening date has not yet been determined. Chair Thiorlf indicated that September and October will be virtual meetings.

- Chair Thirolf asked if any of the Commission members needed to be present when the draft ordinance for expanding Commission membership and asked when the item might be placed on the agenda. Staff indicated that the agenda date would be difficult to predict, but a Commission member would need to be present. Chair Thirolf volunteered to appear and invited any Commissioner that would like to attend to please do so.
- Financial Disclosure Filings Discussion - Chair Thirolf asked about the status of financial disclosure statement filings. Staff indicated that the list of filings received by the City Clerk's Office accompanying the meeting materials has been updated by the City Clerk's Office, but the updated list has not been provided yet. As soon as the list is provided, Staff will forward it to the Commissioners. Also, there are several filings that came into the City Clerk's Office after the filing date due to being sent in the U.S. mail. Staff also indicated that at least one financial disclosure statement was not listed as received even though it had been handed in to the City Clerk's Office, due to COVID-19 measures preventing Staff from returning to City Hall the statement was not transferred to the City Clerk's Office. Chair Thirolf stated that for the record that Councilman Myles's statement was received by the City Clerk's Office prior to the July 31, 2020 deadline. Chair Thirolf asked how many filers have not complied. Commissioner Espinosa indicated that the list indicates that approximately 16 filers have not yet complied, and he believes that the COVID-19 circumstances is likely the cause of the majority of delays. Commissioner Espinosa also indicated that in the past the Commission would send a reminder letter with a date by which to comply. Commissioner Espinosa asked if the Commission wanted to give more than thirty days for compliance in consideration of COVID-19 circumstances. Chair Thirolf suggested that the City Clerk's Office review their records to finally determine who has not filed, and then send a reminder letter before assessing any penalty. Staff concurred with Commissioner Espinosa that the likely problem for compliance is the COVID-19 circumstances. Also, for those few filers that are no longer with the City, Staff will check contact information for those former employees and send out the reminder. Commissioner Espinosa suggested using last year's reminder letter as a template. Staff suggested that no penalty be mentioned in the first reminder letter. The Commission agreed that no reference to penalty should be mentioned until a second reminder letter is sent out to delinquent filers. Commissioner Espinosa suggested making a recommendation to Mayor and Council to make funds available to allow the City Clerk's Office to create a system to allow it to receive statements electronically. The Commission discussed various options for the City Clerk's Office receiving and retaining financial disclosure statements, as well as options for the City Clerk's Office securing the information. Commissioner Espinosa reiterated that electronic filing should be brought up to Mayor and Council. Staff suggested that the State Ethics Commission Counsel also be consulted for its view on electronic filing and storage of financial disclosure statements. Commissioner Espinosa asked that the discussion to distinguish between static and dynamic data. Commissioner Jenkins expressed concern regarding manipulation of electronic data and potential risks to the City. Commissioner Thirolf asked that the discussion also include instances of filers providing too much information. The Commission then discussed various concerns and options regarding security of electronic data and hard copies of

financial disclosure statements. Staff will provide an update to the Commission following the discussion with the State Ethics Commission. Staff confirmed that at this time the City Clerk's Office is only accepting hard copies of financial disclosure statements, and that each filer that tried to send electronic copies to Staff was directed to provide hard copies to the City Clerk's Office. The Commission asked that Staff consult the Maryland Public Information Act to determine how emails containing financial disclosure statements need to be handled. Staff stated that the City Ethics Code states that financial disclosure statements are public records, and will also discuss this issue with the States Ethics Commission.

- Chair Thirolf discussed the recent Montgomery County ethics issue and stated he wanted to find out how the Commission would be informed about an instance like that in Montgomery County covered by the recent article. Commissioner Espinosa suggested that such a matter would come to the Ethics Commission through a complaint or request for an Ethics Opinion. Chair Thirolf suggested that the Commission consider how to handle such matters and discuss more thoroughly at a future meeting. Commissioner Espinosa stated that some Ethics Codes provide that a Commission can issue an advisory opinion. Staff confirmed that the City's Ethics Code does not so provide, but may be a potential amendment to the City Ethics Code to allow the Commission to issue advisory opinions. Staff will consult the State Ethics Commission regarding advisory opinions.

V. Adjournment

A motion to adjourn the meeting was made by Commissioner Dighe. The motion was seconded by Commissioner Jenkins and passed unanimously (4-0).