

**MINUTES OF THE PEORIA CITY COUNCIL  
ETHICS SUBCOMMITTEE  
CITY OF PEORIA, ARIZONA  
IRONWOOD CONFERENCE ROOM  
July 16, 2012**

The meeting of the City Council Subcommittee on Policy and Appointments, sitting as the Ethics Subcommittee (the "Subcommittee"), commenced at 4:32 p.m.

**Members Present:** Mayor Bob Barrett; Vice Mayor Ron Aames; Councilmember Carlo Leone.

**Members Absent:** None

**Others Present:** Gary L. Birnbaum, Special Counsel and Anne L. Tiffen, Special Counsel.

**REGULAR AGENDA**

**NEW BUSINESS**

**1R Election of Acting Chairman**

Councilmember Leone nominated Vice Mayor Aames to be Acting Chair of the Subcommittee, and he was so elected by a vote of 2-1 with Mayor Barrett voting "nay." Chairperson Aames called the meeting to order and announced that the Subcommittee would skip item 2R (executive session) on the agenda, and go right to item 3R, discussion and possible action on the ethics complaint.

Discussion of appointment of outside counsel. Chairperson Aames raised the topic of the hiring of outside counsel to represent the Subcommittee as well as the parties to the ethics complaint. The Subcommittee members and Mr. Birnbaum held a discussion of the history of the use of outside counsel in ethics complaints, and the process by which outside counsel was hired in this case. Chairperson Aames expressed his belief that the City Attorney should represent the Subcommittee, and Mr. Birnbaum and Mayor Barrett explained that the City Attorney might believe he has a conflict of interest that prevents him from representing the Subcommittee.

Chairperson Aames asked for a motion to dismiss outside counsel and proceed without counsel.

Mayor Barrett moved to dismiss all outside attorneys. The motion failed for lack of a second.

Councilmember Leone moved to dismiss just the attorneys for the Subcommittee.

Chairperson Aames temporarily relinquished the chair to second the motion, and then resumed the chair.

The motion to dismiss the outside counsel passed 2-1 with Mayor Barrett voting “nay.” Attorney Birnbaum withdrew from the meeting and Attorney Tiffen was asked to stay and continue taking minutes of the meeting.

Scheduling of next meeting. The Subcommittee proceeded to schedule the next meeting for Monday, July 23, 2012, at 4:30 p.m.

In the course of that discussion, Mayor Barrett resigned from the Subcommittee and left the meeting at 4:55 p.m. Chairperson Aames stated that he would ask Councilmembers Carlat and Rivero if one of them wishes to serve on the Subcommittee.

Attorney Shayna Fernandez spoke on behalf of Councilmember Dave Pearson, stating that she wanted to preserve the right, at the appropriate time, to present arguments that the executive privilege does not apply.

Attorney Chris Schmaltz spoke on behalf of Councilmember Joan Evans, also stating that he wanted an opportunity to address the privilege question. Mr. Schmaltz also raised a question concerning the procedure to appoint members to the Subcommittee. Chairperson Aames indicated that he would discuss these matters with the City Attorney.

## **2R Authorization to Hold an Executive Session**

Discussion and action was not held to authorize the holding of an Executive Session for the purpose of discussion with legal counsel for legal advice regarding an ethics complaint filed on June 19, 2012.

## **3R Ethics Complaint**

Discussion and action was not held regarding an ethics complaint filed on June 19, 2012.

## **ADJOURNMENT:**

After a brief discussion of the issue of “whistleblowers,” Chairperson Aames adjourned the meeting at 5:04 p.m.

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Ron Aames, Chair

ATTEST:

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Rhonda Geriminsky, Interim City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the Ethics Subcommittee held on the 16<sup>th</sup> day of July, 2012 as submitted by outside counsel, Anne Tiffen. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 5<sup>th</sup> day of June, 2012.

(Seal)

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Rhonda Geriminsky, Interim City Clerk