

Resolution No. 22791

A RESOLUTION establishing a Citizens Ethics Committee for The City of Seattle and setting forth the duties and functions of said Committee and adopting certain rules of procedure in connection therewith.

INTRODUCED: OCT 19 1970	BY: Judiciary & Personnel
REFERRED:	TO:
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REPORTED:	
PASSED: OCT 19 1970	SIGNED: OCT 20 1970
FILED: OCT 19 1970	FIRST PUBLICATION:

SEE BACK COVER

NAZ

Ord. 99440, RE. TO AND CREATING A CITIZENS ETHICS COMMITTEE TO CONDUCT AN INVESTIGATION OF ALLEGED VIOLATIONS OF ART. XVIII, SEC. 4 OF THE CITY CHARTER; PRESCRIBING POWERS, ETC.

JMT:lcm
10/19/70

RESOLUTION 22791

A RESOLUTION establishing a Citizens Ethics Committee for The City of Seattle and setting forth the duties and functions of said Committee and adopting certain rules of procedure in connection therewith.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE:

Section 1. That there be established a Citizens Ethics Committee to act in an advisory capacity to the City Council and to be composed of five members as follows:

Mr. Daniel Frink, Chairman

Mrs. Dorothee S. Pealy

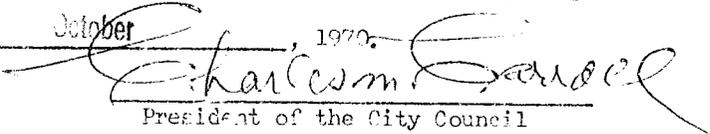
Mrs. Anita Jones

Mr. James Best, Vice-Chairman

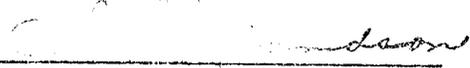
The Rev. Timothy Cronin, S.J.

Section 2. Said Committee shall meet at such times and places as the Chairman shall designate and conduct a preliminary investigation and make findings and recommendations to the City Council as to alleged violations of Article XVIII Sec. 4 of the City Charter and such other matters as may come before the Committee in connection therewith. In the conduct of such investigation, the Committee shall be governed by rules of procedure formulated by said Committee, a copy of which identified as "Rules of Procedure, Citizens Ethics Committee" is attached hereto and by this reference adopted.

PASSED the City Council the 19 day of October, 1970, and signed by me in open session in authentication of its passage this 19 day of October, 1970.


President of the City Council

Filed by me this 19 day of October, 1970.

ATTEST: 
City Comptroller and City Clerk

By: 
Deputy

RULES OF PROCEDURE
CITIZENS ETHICS COMMITTEE

Definition of Task:

This committee is charged with an unprecedented task without any guidelines to serve it. In fact, the request to the committee comes originally from a letter from Mayor Wes Uhlman to the City Council suggesting a proceeding "... to convene a preliminary review of such evidence as CHECC, the Police Department, and any other appropriate sources may provide. Such a preliminary review would help determine whether formal charges and a proceeding are justified under Charter Article XIX, Section 8" (referring to Councilmen Carroll and Best).

As you know, the Chairman of the Judiciary and Personnel Committee, Councilman Jeanette Williams, requested an opinion of A.L. Newbould, corporation counsel, who by letter dated September 18, 1970, gave an opinion in which he indicated that a "preliminary review" and investigation would be appropriate and that the council could hold hearings, and review available evidence, or grant authority to a person or committee to conduct such investigation and make findings and recommendations to the City Council.

By letter addressed to the Chairman dated September 22, 1970, Councilman Williams informed the Chairman that the Citizens Ethics Committee was given the task of conducting this preliminary investigation. The specific charges to the committee by the Citizens Ethics Committee are to:

1. Conduct a preliminary investigation;
2. Report the findings to the Judiciary and Personnel Committee;
3. Recommend guidelines for the Council itself to conduct any future investigations;
4. Prepare a report for election law reforms;
5. Expedite the investigation in whatever manner is deemed proper.

The committee held its first meeting on Thursday, September 24, 1970, during which the committee's consensus was that it would need the investigative report by the Police Department, and need procedural guidelines. The Chairman has, by letter, requested the Police investigative report of which the Chairman hopes to make copies available to all members of the committee. This will help to define the committee's task and procedural rules.

Public Proceedings:

This is a matter of public concern and interest, and insofar as possible the proceedings should be open to the public and the press. However, all proceedings cannot be public if this committee is to effectively discharge its task. This committee is not like a petit jury which is to hear all the evidence and make a final decision of guilt or innocence. The task with which this committee is charged is more on the nature of a grand jury, that is an investigative, inquisitorial body which reviews the evidence to find whether there is probable cause that a violation has been committed, and make recommendations to another body which is to finally determine the case. There may well be times during the investigation when to most effectively perform the job, the committee must perform in executive session. The committee must keep in mind that its duties are to the public at large, accused parties, and accusing parties. The proceedings should be fair to all and the ultimate findings and recommendations should be able to stand the public scrutiny.

Staff of Committee:

1. Lori Mayfield, secretary of the Judiciary and Personnel committee, will also serve as secretary to the committee unless it is found that because of the press of her other duties, she cannot devote sufficient time, at which time additional secretarial help will be requisitioned.
2. An investigator will be assigned to the committee to develop what additional evidence the committee determines to be necessary.
3. A court reporter will be available at all sessions of the committee where witnesses' testimony is taken.
4. The Corporation Counsel's office will be available to answer questions of legal interpretation of the Charter, ordinances, or statutes.

General Procedural Rules:

1. Committee sessions will be convened at the call of the Chairman. In the event of the absence of the Chairman, a majority of the committee may convene a session.
2. Minutes shall be kept of all meetings and provided to the members as soon as possible thereafter.

Attendance at Hearings:

Persons having a direct interest in the proceedings are entitled to attend any hearing where testimony is taken, and such hearings shall be open to the public. When it is determined to have an executive session by majority vote of the committee, all other parties except upon invitation by the committee shall be excluded.

Adjournment of Meetings:

Upon majority vote by motion of any member of the committee, the committee shall adjourn to a time fixed, or to a time to be set upon call of the Chairman, or committee.

Oaths:

It is recommended that the committee request to the City Council that the Chairman and one other member of the committee be authorized to administer oaths to witnesses who are to testify.

Direct Communication with Interested Parties:

As the committee has the burden of impartiality, all members of the committee will avoid any communication with the parties or their counsel except at the hearings. This is not meant to exclude communications with interested parties or their counsel to inform them of times of hearing, witnesses, and other anticipated procedural items.

Communication with the Press or Public:

Much of the proceedings will be in the open and the findings and recommendations will be open to the press and to the public. However, it could be unfair and prejudicial to the rights of persons involved if statements made by committee members could be interpreted as suggesting that they had reached an opinion or decision before hearing all evidence to be presented to the committee. Any statement by the committee that will be made prior to the termination of hearing will be authorized by majority vote of the committee and released through the Chairman.

Right to Counsel:

Those elected officials alleged to have violated the law or Charter which could result in penalty or forfeiture shall have the right to have counsel present during all open sessions of the committee and such official or his counsel shall have the right to cross-examine witnesses within appropriate bounds.

Any other witness before the committee shall have the right to have counsel present to advise him, but shall not have the right to cross-examine other witnesses or to address the committee except with the permission of the Chairman.

Rules of Evidence:

The major rule of evidence for this committee is that it should hear everything that will help it decide the case fairly.

Within the scope of the rule, the committee shall be the judge of the relevancy and materiality of the evidence offered and conformity to formal rules of evidence shall not be necessary.

The Chairman shall rule on the admissibility of evidence, subject to being over-ruled by a majority vote of the committee in executive session.

The committee may receive and consider evidence of witnesses by affidavit, but shall give it only such weight as the committee deems it is entitled to after consideration of any objections made to its admission and to the fact that it is not made subject to cross-examination.

The committee shall further admit and give effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The committee shall give effect to rules of privilege recognized by law and shall exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference when in the judgment of the committee the copy, excerpt or reference is accurate.

Objections to evidence may be made by a party alleged to have violated the law or Charter resulting in penalty or forfeiture, or by his counsel, which will be ruled upon immediately by the Chairman, whose ruling shall be final unless, in executive session, by a majority vote of the committee, the committee shall determine adverse to the Chairman.

Closing of Hearings:

The committee shall specifically inquire of all parties whether they have any further evidence to present at the conclusion of the final hearing. If they do not, the Chairman shall declare the hearing closed. The committee may set a time limit for the receipt of further briefs or documents by interested parties.

Reopening of Hearings:

The hearings may be reopened by the committee on its own motion, or upon application of an interested party for a good cause shown at any time before the final decision is made.

Findings and Recommendations:

After final closing of the hearings, the committee shall meet in executive session, as frequently as may be necessary, to consider the evidence presented and to make findings of fact. After the findings of fact have been reached by a majority vote, of those appointed to the committee, the committee shall then proceed to consider recommendations addressed to the City Council. The committee may also address confidential communications for legal opinions or advise to the office of the Corporation Counsel who will, in turn, render opinions that shall remain confidential until after the decision of the committee has been announced.

Requisite Vote:

Any finding of fact or recommendation shall require a majority vote of those appointed to the committee. Minority reports will be permitted to be filed and made public.

Publication of Decision:

Any findings or recommendation of the committee will be made public at such time as they are delivered to the Judiciary and Personnel Committee of the City Council.

Secrecy of Deliberations:

As in any grand jury, throughout the proceeding, the deliberations of the committee while in executive sessions shall forever remain inviolate, and members are prohibited from discussing the deliberations of the committee, the vote of any member thereof, except as set forth in the findings and recommendations or any minority report.

Amendment or Suspension of Rules of Procedure:

These rules may be amended or suspended by a vote of two thirds of those appointed to the committee.

ASSISTANT CORPORATION COUNSEL

JOHN P. HARRIS
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CHARLES R. NELSON
GORDON F. CRANDALL
ARTHUR T. LANE
THOMAS J. WETZEL
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JAMES M. TAYLOR
JAMES B. HOWE, JR.
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RICHARD H. WEYMORE
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THE CITY OF SEATTLE

LAW DEPARTMENT

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CLAIM AGENT
V. L. POTTER

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Judiciary and Personnel Committee
City Council
Seattle

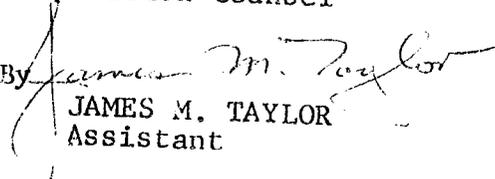
Honorable Members:

In accordance with your request by letter dated October 15, 1970 we have prepared and forward herewith a proposed resolution establishing a Citizens Ethics Committee to conduct a preliminary investigation and make findings and recommendations to the City Council as to alleged violations of Article XVIII, Sec. 4 of the City Charter, and adopting rules of procedure for said Committee.

In reviewing such "Rules of Procedure" we note that the implementaton of certain provisions therein, including the proposed staffing of said Committee, a recommendation that "the Chairman and one other member of the committee be authorized to administer oaths to witnesses who are to testify," as well as any required funding in connection therewith will necessarily require authorization by ordinance. Such "Rules of Procedure" also state that the Committee "may - address confidential communications for legal opinions or advice to the office of the Corporation Council who will, in turn, render opinions that shall remain confidential until after the decision of the committee has been announced," and in this connection be advised that in the discharge of our public responsibility this office must make the ultimate decision as to whether and for how long legal opinions will remain confidential.

Yours very truly,

A. L. NEWBOULD
Corporation Counsel

By 
JAMES M. TAYLOR
Assistant

JMT:w
Encl.

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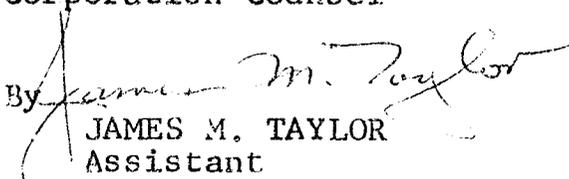
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