



AGENDA
ETHICS COMMISSION - ORGANIZATIONAL MEETING
February 17, 2022 at 3:00 PM

Call to Order

Oath of Office

1. Oath of Office
June Johnson

Approval of Minutes

2. Minutes: July 28, 2021

New Business

3. Election of Officers
4. Review of By-laws

Adjournment



Ethics Commission Minutes Formal Hearing, July 28, 2021

Members Present: Trey Connors, Nancy Frankenhauser, Ben Goggins, James McNaughton, Michael Pappas, Mark Reed, Marie Rodriguez

Members Absent: None

Ex-Officios Present: Michelle Owens, Recording Clerk; Charlie Barrow, Ethics Commission Attorney

City Council Members Present: Barry Brown, Spec Hosti, Monty Parks

Roll:

Chairman Michael Pappas called the meeting to order at 1:00 PM and conducted roll call. Members present: Trey Connors, Nancy Frankenhauser, Ben Goggins, James McNaughton, Michael Pappas, Mark Reed, Marie Rodriguez

Approval of Minutes:

Marie Rodriguez motioned to approve the minutes of July 14, 2021; Nancy Frankenhauser seconded the motion. Motion passed unanimously.

New Business:

Chairman Michael Pappas announced that this meeting would serve as a Formal Hearing. He said the board has considered and will again consider video footage from the city council in question along with the complaint and testimony at the informal hearing. Mr. Burke's attorney Tom Mahoney would present new information and Jan Will would call three witnesses.

Formal Hearing:

Ms. Will stated that she would call three witnesses on her behalf: Ken Williams, David McNaughton and Phil Rosen.

Mr. Mahoney asked whether the witnesses had evidence and firsthand knowledge of the situation. Ms. Will and Mr. Williams said they did have first-hand evidence.

Mr. Williams introduced himself and stated he was present at the city council meeting in question.

Mr. Mahoney objected to Mr. Williams testimony on the basis it was opinion and not fact. Ethics Commission Attorney Charlie Barrow issued a reminder that this was a hearing to obtain new evidence in the case and not to hear conclusions from witnesses.

Mr. Williams reiterated that his testimony would be based on evidence from his attendance at the city council meeting and observing Mr. Burke's statements.



Mr. Barrow advised the commission to let Mr. Williams proceed with his comments on that basis they could stop his testimony if it became opinion.

Mr. Williams continued his testimony, stating that Mr. Burke violated three items of ethical misconduct: conflict of interest, a violation of a service to the public, and abuse of position of authority over a private citizen. Mr. Williams said this occurred with Mr. Burkes comments regarding his family business.

Mr. Mahoney objected on the basis that Mr. Williams was drawing conclusions and not stating facts.

Mr. Barrow reiterated that the commission was not seeking opinions and that the commission would review all evidence and make its own conclusions based on the facts.

Mr. Ken Williams maintained he was providing expert testimony. Mr. Barrow stated Mr. Williams was providing opinion. Mr. Williams ended his testimony.

David McNaughton introduced himself and stated he was not related to commission member James McNaughton.

Mr. David McNaughton stated that he had new information to add. He stated after Mr. Burke recused himself at the city council meeting in question, he did not leave his seat. He stated it was customarily to leave after recusal to avoid influencing the proceedings.

Mr. McNaughton ended his testimony.

Mr. Mahoney objected to Mr. McNaughton's statement on the basis he was stating opinion on how someone recuses himself.

Mr. Barrow advised that the witness gave factual testimony for the commission to consider.

Mr. Phil Rosen introduced himself. He stated he reviewed the video of the city council meeting and found Mr. Burkes behavior inappropriate.

Mr. Mahoney objected on the basis that this was opinion.

Mr. Rosen said he should be allowed to address the commission and he was sorry that he would not be allowed to. He ended his testimony.

Mr. Pappas stated that the formal hearing required new evidence.

Mr. Mahoney introduced himself and called Mr. Burke as a witness. Mr. Burke introduced himself.



Responding to questions from Mr. Mahoney, Mr. Burke said he did not own an interest in his family business, did not receive compensation from the business and received nothing of value from the movie company.

Mr. Burke said his concern at the March 11 city council meeting in question was that many businesses and residents had not been contacted by the movie production company and informed about the production. Mr. Burke stated he knew this because he personally talked to a few of the businesses. He also knew his family's beach rental business had not been contacted. He stated he was concerned that the movie permit was being rushed, but he did not vote on the issue on the advice of the city attorney. Mr. Burke ended his testimony.

Ms. Will objected to Mr. Burke's testimony saying he did influence his council members when he did not leave his seat after recusal.

Mr. Mahoney stated that Mr. Burke did raise an issue of conflict, recused himself and did not vote. Mr. Mahoney showed video clips from the meeting. Mr. Barrow asked if Mr. Mahoney had any other witnesses. Mr. Mahoney did not. Mr. Barrow suggested that the hearing move to closing arguments.

Commission asked for an opportunity to question Mr. Burke.

Mark Reed asked which businesses Mr. Burke spoke with previously. Mr. Burke answered Beachside Colony and DeSoto Hotel and several residents.

Marie Rodriguez asked if the businesses he spoke to were aware of the movie production. Mr. Burke stated they were not.

Ben Goggins asked if Burkes Beach Rentals or the hotels had received remunerations from the movie production company in the first phase of filming that had already occurred. Mr. Burke responded that to his knowledge, they had not.

Michael Pappas asked if Mr. Burke tried to contact Ms. Will. Mr. Burke said he attempted to contact her to find a resolution.

Ms. Frankehauser asked why Mr. Burke referred to his own business in his comments and not to all businesses. Mr. Burke said if he should have discussed his concerns with staff and not the representative. He stated he miscommunicated his intentions, and as a new council member is still learning.

Ms. Will asked if Mr. Burke left her property when she refused to talk to him. Ms. Will said it took three times asking for Mr. Burke to leave her property. Mr. Burke stated he disagreed with that statement.



Ms. Will asked if Mr. Burke read his council packet for the meeting. Mr. Burke said he did not read it. Mr. Mahoney objected on the basis Ms. Will was referring to document that he had not seen and had not been presented as evidence.

Mr. Connors asked if Ms. Will was aware Mr. Burke came to her home to apologize. Ms. Will said no. She stated the visit was hostile. Mr. Connors asked if Mr. Burke had any contact with the movie production representative Ms. Bryant since the March 11 meeting. Mr. Burke replied he had not.

Ms. Will made closing statements asking the commission to recommend council and Mr. Burke to acknowledge that a violation of ethics rules occurred and that Mr. Burke apologize.

Mr. Mahoney made closing statements saying no violation has occurred.

Call for Motion to go into executive session:

Mark Reed motioned to adjourn to executive session. Ben Goggins seconded the motion. Motion carried unanimously. The board adjourned to executive session at 1:57 p.m.

Reconvening of Regular Meeting

Nancy Frankenhauser motioned that the commission reconvene the regular meeting. Mark Reed seconded the motion. Motion carried unanimously.

Mark Reed motioned that the board render a decision in writing consistent with the discussion in executive session and that all parties will be notified in writing. Trey Connors seconded. Motion passed unanimously.

Mr. Pappas stated that the board would announce its decision in writing to the parties involved as soon as possible.

Old Business

None.

Adjournment:

Marie Rodriguez motioned to close the meeting. Ben Goggins seconded. Motion carried unanimously. Meeting adjourned at 2:42 p.m