

City Council Rules Committee  
**Meeting Minutes**  
**March 29, 2022**  
City Council Chambers  
37 Green Street, Concord  
5:30 p.m.

1. Councilor Bouchard, Committee Chair, called the meeting to order at 5:30 p.m.
2. Roll Call: Councilor Bouchard, Mayor Bouley, Councilors Grady Sexton, Kretovic and McNamara were present. Councilor Pierce was excused.

Staff Members Present: Jim Kennedy, City Solicitor and Janice Bonenfant, City Clerk.

3. Approval of Meeting Minutes.
  - o January 24, 2022 Draft Meeting Minutes.
  - o January 31, 2022 Draft Meeting Minutes.

Councilor Grady Sexton moved approval of the January 24, 2022 and the January 31, 2022 meeting minutes. The motion was duly seconded, by Councilor Kretovic, and passed with no dissenting votes.

4. Committee Chair, Councilor Bouchard, provided a brief overview of the meeting indicating the task before the committee was to address concerns, with the proposed revised ethics ordinance, as discussed at the March 14, 2022 City Council Meeting.
5. Review of Referral from City Council.
- A. Continued review of City Council Rules, and City Ordinance 1-6, Code of Ethics, specific to conflicts of interest and recusals.

Jim Kennedy, City Solicitor, distributed a draft ethics ordinance to the members of the Rules Committee, indicating that the draft addressed some of the comments made during the March City Council meeting. Solicitor Kennedy reviewed the revised ordinance with members of the committee providing a detailed overview of the proposed changes. *Copy on file at the City Clerk's Office.*

Specific to Section 1-6-3, Councilor Kretovic indicated that she disagreed with only referencing the City Manager within the section. She stated that, if she, as a member of City Council, had a spouse who worked for the city, voting on compensation for her spouses' boss who was not the City Manager, but was a direct department lead seemed, in her opinion, to be a conflict of interest. Solicitor Kennedy indicated that the example could qualify as a conflict of interest, further stating, that whether one should vote on that example

would be a decision by the individual Councilor, or the City Council as a whole, if a member of Council asked for a vote on any potential conflict.

Mayor Bouley indicated that section 1-6-3 seemed extremely broad, further stating that he didn't understand why a given Councilor shouldn't potentially discuss collective bargaining for a union that their spouse wasn't a member of. Solicitor Kennedy indicated that one discussion could potentially carry over to another union, indicating that he believed that was the understanding of the Rules Committee when this topic was last discussed.

Committee members discussed potentially removing the last sentence within section 1-6-3 Definitions, Conflict of Interest.

Councilor Grady Sexton indicated that there was a much broader strategy, especially for the first union that came forward to negotiate, indicating that she was unsure of how Council could parcel out somebody's financial interest when talking about setting strategy and moving forward with all of the unions that included things that were of financial interest, health insurance, percentages rates, etc.

Solicitor Kennedy indicated that it was incumbent upon a City Councilor to determine if they had a conflict of interest/financial interest on any given item being discussed. He further stated that the Rules of the City Council put it to each individual member to determine if a conflict existed. Solicitor Kennedy reminded committee members that the issue of a potential conflict of interest, and/or the issue as to whether or not a given conflict existed, could be voted on by the full Council.

Committee members discussed, at length, the difficulty of determining when a direct or indirect conflict of interest may or may not exist when a member of City Council had a spouse that worked for the City. Members also discussed that a given board or commission member should not represent a third party to members of the board on which they serve. Members serving on a board acting on a quasi-judicial matter should not represent a client before members of the board on which they serve. They should recuse themselves from the discussion and leave the room. Committee members noted that in a situation like that, someone else that worked within the same organization, of the recusing member, could represent the third party.

Councilor Kretovic indicated that her concern was with someone participating in any discussions regarding anything to do with benefits and/or compensation if a member of City Council, had a spouse/family member that worked for the City.

Solicitor Kennedy indicated that if committee members moved to remove the last sentence of the first paragraph, within Section 1-6-3, Conflict of Interest, he recommended that the last paragraph, within Section 1-6-4 Recusal, beginning on the bottom of page 2, be amended as follows:

*When the City Council is in a non-meeting under RSA 9-A:2, I (a), considering strategy or negotiations with respect to collective bargaining, or, in non-public session under RSA 91-*

*A:3, II, considering compensation for any employee , any member of the City Council who has a conflict of interest , shall physically leave the room until consideration of the matter is completed.*

Councilor Grady Sexton indicated that with the changes, as proposed, within section 1-6-3, explicitly listed only the City Manager and not anyone else, could be a conflict of interest, and might have unintended consequences, leaving one to believe that if a given title wasn't listed, one could assume there was no conflict. She further stated that her concern was that, by specifically listing a given position within the City, one could argue that anyone not listed would not create a conflict.

Councilor Grady Sexton asked that if the Rules Committee voted to remove the last sentence within section 1-6-3, the minutes reflect that this section was removed because as written, the proposed ethics ordinance already stated that any member of City Council whose family member was employed in any capacity within the City, could not participate in collective bargaining discussions, if it directly influenced them, nor could they participate in considering the compensation of the City Manager as those discussions would constitute a conflict of interest.

Councilor Grady Sexton further stated that whether or not a member of City Council, with a family member that worked for the City, should participate in discussions relative to other collective bargaining discussions, that may not directly affect them, on a case by case basis.

Councilor McNamara spoke in strong support of having training, on the ethics ordinance, the right to know law, Council Rules and the City Charter, for members of City Council, as well as all members that serve on municipal boards and commissions within the City. Solicitor Kennedy confirmed that he would work with City Administration to schedule another training session. City Clerk Bonenfant confirmed that a copy of the Ethics Ordinance was provided to newly appointed and/or reappointed members of any board and/or commission for the City of Concord.

Following additional committee discussion on the changes to the proposed ethics ordinance outlined by Solicitor Kennedy, Councilor Kretovic moved tentative approval of the changes within the draft ordinance, as presented, removing the last sentence within section 1-6-3, as well as to amend the final paragraph that begins on page 2 of the draft ordinance as follows:

*When the City Council is in a non-meeting under RSA 9-A:2, I (a), considering strategy or negotiations with respect to collective bargaining, or, in non-public session under RSA 91-A:3, II, considering compensation for any employee ~~the City Manager~~, any member of the City Council who has a conflict of interest ~~whose family member is employed in any capacity with the City of Concord~~, shall physically leave the room until consideration of the matter is completed.*

The motion was duly seconded, by Councilor McNamara, and passed with no dissenting votes.

In an effort to increase transparency, committee members discussed the possibility of having elected City officials and/or members of boards and commissions, within the City, file financial disclosure forms like used at the State level. Councilor Bouchard spoke in support of having members of City Council, as well as members of boards and commissions, file financial disclosure forms like used at the State level, and indicated that she would obtain a copy of the State's financial disclosure affidavit, for review and discussion at a future Rules Committee meeting.

6. Scheduling of next meeting, if necessary.

Councilor Bouchard, Committee Chair, indicated that the City Clerk would email members potential dates for the next Rules Committee meeting.

7. There being no further business to discuss, Mayor Bouley moved to adjourn the meeting at 6:51 p.m. The motion was duly seconded and passed with no dissenting votes.

*A true copy: I attest:*

*Janice Bonenfant  
City Clerk*