

## MINUTES

City Council Rules Committee  
October 20, 2022  
City Council Chambers  
37 Green Street, Concord  
5:30 PM

1. Call to Order: Committee Chair Councilor Bouchard called the meeting to order at 5:31 p.m.
2. Roll Call: Councilors Candace White Bouchard, Amanda Grady Sexton, Jennifer Kretovic, and Karen McNamara; and Mayor Bouley were present. Councilor Erle Pierce was excused.

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

3. Approval of Meeting Minutes.

Councilor Grady-Sexton moved approval of the March 29, 2022 draft meeting minutes. The motion was duly seconded by Councilor McNamara and passed with no dissenting votes.

Committee Chair Bouchard noted that no action was needed for the May 3, 2022 draft meeting minutes, as there was not a quorum for the meeting, making it a non-meeting.

4. Committee Chair Bouchard provided a brief overview of the meeting, indicating the task before the committee was to continue to review the proposed revised ethics ordinance.
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.

City Solicitor Jim Kennedy distributed an updated draft ethics ordinance to the members of the Rules Committee. 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, Definitions, Conflict of Interest, Councilor Kretovic provided an example/scenario regarding an elected official serving on boards or committees who is employed by a non-profit organization and the non-profit's related entity comes before the board or committee to seek funding via a grant. Solicitor Kennedy discussed whether this scenario is an apparent or direct conflict of interest and if the individual sitting on the board or committee should recuse him or herself.

Committee members discussed further examples, including officers and/or elected officials serving on boards or committees where policy may affect an officer and/or elected official's spouse due to the spouse's employment, as well as policy benefiting a non-profit organization. Discussion ensued regarding apparent and/or direct conflict of interest.

Committee members discussed the definition, “Employee of an Organization”, as outlined in the draft ordinance, and whether the inclusion of a volunteer to an organization should remain in the proposed ordinance or be removed. General discussion followed regarding the levels of volunteerism from selling raffle tickets at a community event on one end of the spectrum to serving on the Board of Directors of a non-profit organization, therefore having a financial interest, on the other end of the spectrum. The prevalence of volunteering as a whole within the community by officers and/or elected officials was discussed as it relates to the number of recusals which could then follow if the volunteer is included in the definition of Employee of an Organization, Section 1-6-3. Committee members discussed removing “volunteer”.

Solicitor Kennedy next discussed recusals, Section II 1-6-4, and the inclusion of the final sentence providing the officer and/or elected official to represent him or herself and his or her property, for example with the Zoning Board of Appeals. Solicitor Kennedy also discussed the inclusion of a sentence detailing that during City Council non-public sessions, consultation with legal counsel, or non-meetings, it is required that if a conflict of interest is to arise on a topic, that the member of City Council physically leave the room until the specific matter is complete.

Next, Solicitor Kennedy reviewed Section III, 1-6-5 – Representing Private Interest. Solicitor Kennedy provided an overview of this section in which officers and/or elected officials of a City body are not to represent another’s private interest before the body upon which they sit. The example of a land use board was used to describe how a member of a land use board could not represent their neighbor at a meeting of a given land use board. Additionally, an officer and/or elected official appearing on behalf of another’s private interest before another City body should disclose such interests before proceeding.

Allan Herschlag, resident of Concord and former City Council member, asked about the last paragraph of the proposed ordinance, section 1-6-4 - Recusals, and provided an example. The example included a consultation with legal counsel concerning the review of city-wide contracts in which strategy with the Concord Police Department is also covered in the meeting and how the “spill-over” of discussion into strategy affects the requirement of leaving the room for City Council members who have a conflict of interest. Solicitor Kennedy spoke further on the example and noted that the included definition of apparent conflict of interest was helpful so that members of City Council are not removed from every conversation, but are removed from conversations as they relate to specific departments. Discussion followed regarding the intertwining of strategy relating to all four collective bargaining agreements. Mr. Herschlag asked the committee at what point does discussion about one collective bargaining group then become consequential about all collective bargaining groups, and how it relates to recusals, as a City Council member may have a spouse or family member in one of the four collective bargaining groups. Discussion amongst the committee and Mr. Herschlag then followed with examples. Councilor Bouchard then noted the “personal decision” or responsibility of each elected official regarding recusals. Mr. Herschlag also discussed Section II, 1-6-5 – Representing Private

Interest Before Public Bodies, and suggested it be added to Council rules with a declaration with the consideration of an advisory board as well.

Solicitor Kennedy then discussed the inclusion of wording regarding familial relations and collective bargaining as to not then rely upon the definition of apparent conflicts of interest. Committee discussion followed.

Councilor Zandra Rice Hawkins spoke as a member of the public and asked about apparent conflicts of interest and provided examples such as participating in collective bargaining discussions but having received a campaign donation from a collective bargaining group. Councilor Rice Hawkins also asked about Section III, 1-6-5 – Representing Private Interest Before Public Bodies, as it relates to supporting a constituent at a committee level relating to a concern the constituent has. Discussion then followed about disclosing interests prior to proceeding but also advocating for constituents as a whole.

6. Scheduling of next meeting, if necessary.

Committee members discussed meeting again on Tuesday, November 15, 2022 at 5:30 p.m., to continue discussing proposed changes to the current ethics ordinance.

There being no further business to discuss, Councilor Kretovic moved to adjourn the meeting at 7:04 p.m. The motion was duly seconded and passed with no dissenting votes.

*A true copy: I attest:*

*Janice Bonenfant*  
*City Clerk*