

**CITY OF BIRMINGHAM
BOARD OF ETHICS MINUTES
OCTOBER 11, 2018 4:00 PM
151 MARTIN ST., BIRMINGHAM MI 48009
CITY COMMISSION ROOM #205**

I. CALL TO ORDER

Temporary Chairperson Schrot called the meeting to order at 4:00 p.m.

II. ROLL CALL

Present: Sophie Fierro-Share
James Robb
John Schrot, Temporary Chairperson

Absent: none

Also Present: Leslie Pielack, Birmingham Museum Director

Administration: City Manager Valentine, City Attorney Currier, City Clerk Mynsberge

III. ELECTION OF CHAIRPERSON

MOTION: Motion by Ms. Fierro-Share, seconded by Mr. Schrot:
To elect Mr. Robb as the Chairperson of the Board of Ethics.

VOTE: Yeas, 2
Nays, 0
Abstain, 1 (Robb)

IV. APPROVAL OF MINUTES

A. Approval of minutes of October 2, 2018
Mr. Robb opined that comprehensive Board of Ethics minutes help clarify the decisions of the Board, and commended the Clerk for the comprehensive minutes.

MOTION: Motion by Mr. Robb, supported by Ms. Fierro-Share:
To approve the minutes of October 2, 2018 as submitted.

VOTE: Yeas, 3
Nays, 0
Absent, 0

V. UNFINISHED BUSINESS

None.

VI. NEW BUSINESS

A. Consideration of Advisory Opinion Draft
1. 2018-003 Advisory Opinion: Leslie Pielack, Birmingham Museum Director

Mr. Robb commended Ms. Fierro-Share on an opinion well done. In addition, he suggested:

- Changing the line that begins "The Friends of the Birmingham Museum is free to promote any book of local history," in the first full paragraph of page four, to

read "The Friends of the Birmingham Museum is free to promote any book of local history, has done so in the past, and doubtless would do so if there was public demand."

- Adding, in the second full paragraph of page four, after "using her own discount," the phrase "is selling the books to The Friends at that cost," ending the sentence as-is.
- In the conclusion, editing the last sentence on page four and the first on page five to read "Ms. Pielack may promote her book at non-museum related events so long as she does not use City resources, or state or imply that the City of Birmingham or the Museum is a sponsor of, interested in, or in any way involved with the appropriation or sale of the book."
- Removing the space between non-profit in the first line on page two.

City Attorney Currier recommended:

- Making, in the third line, "on her own time, and at her discounted cost" question number one. Then, he recommended taking the second-to-last paragraph, in her conclusion, and add "Does it violate the Ethics ordinance for Ms. Pielack to sell the books," and so on in the statement of questions.
- On page two, the first paragraph, fourth line from the bottom changing "proceeds" to "profits". He also recommended making the last two sentences of said paragraph, beginning with "Ms. Pielack also plans...", into a new paragraph.

The Board agreed to phrase the questions as follows after further discussion:

- "Does it violate the ethics ordinance if Leslie Pielack, the City of Birmingham Museum Director, sells books at her cost, which she wrote on her own time, to the Friends of the Birmingham Museum, an independent, tax-exempt corporation that exists to support the City of Birmingham Museum, which in turn resells those books at the Museum or during Museum events and donates the profits to the Museum?"
- "Does it violate the ethics ordinance if Leslie Pielack, the City of Birmingham Museum Director, speaks at Museum outreach events at which the Friends sell her book for the benefit of the Museum and promote such events?"
- "Does it violate the ethics ordinance if Leslie Pielack, the City of Birmingham Museum Director, sells her book at professional conferences and book signings arranged by her publisher so long as she is presented as the author of the book and not the Director of the Birmingham Museum?"

Mr. Schrot said:

- On page one, "Factual Background", second paragraph, the second sentence should be modified to reflect the fact that the book has been published at this time.
- The third paragraph in "Factual Background" should reflect the fact that there will be multiple signings, not a single signing.
- The typo in the last sentence of the opinion should be corrected.
- The typo in the second-to-last paragraph, page five, second line should be corrected.

Mr. Robb said:

- On page one, at the bottom, the line should be updated to, "Additionally, in Ms. Pielack's role as Birmingham Museum Director, she will occasionally promote and

give presentations on topics related to Birmingham history as part of the Museum's outreach services."

- On page three, second paragraph, the relevant section of the quote from 2-324(a)(5) should be amended to read "a business transaction" instead of "the business transaction".
- On page two, in the third paragraph, the relevant line should be changed to "the group would like to purchase some of Ms. Pielack's books at her cost and at their expense for sale at Ms. Pielack's outreach presentations."

City Manager Valentine recommended that the third line of the conclusion be changed to read, "so long as she has discussed the proposal with the City Manager and has received authorization".

Motion: Motion by Mr. Robb, seconded by Mr. Schrot:
To adopt the 2018-003 advisory opinion as amended.

VOTE: Yeas, 3
 Nays, 0
 Absent, 0

B. Discussion of October 11, 2018 Free Press Article On The Detroit Board Of Ethics' Request For Money For Training

Mr. Schrot requested the addition of an item to the agenda, explaining the article in question described Detroit city officials seeking to procure monies to offer digital training in ethics. He continued:

- Recent advisory opinion 2018-02 demonstrated the need for more accessible ethics training since Mr. Kalczynski, and other City board members, seem not to be fully apprised of Birmingham's ethics ordinance.
- Digital training may be more appealing to millenials and allow trainees to do the training on their own schedule.
- He would like the Ethics Board to explore the possibility.

City Manager Valentine requested clarity on the definition of digital training, its target audience, whether it would be mandatory or voluntary, its cost and who would provide it. He added:

- The City already has a video on its website that explains the City's ethics ordinance, open meetings act, and FOIA.
- The City could require board volunteers and employees to sign an affidavit that they have reviewed the video in order to make sure people are accessing the resource.

Mr. Schrot said:

- The digital training could be an available tool since people learn in different ways.
- He would like to begin with the potential digital trainings being voluntary, with an understanding that they could become mandatory at a later date.
- He would like to see trainings offered that cover various municipal ethical issues. He is not sure of all the digital training tools available at this time, but knows they exist.

- He does not recommend a digital training to avoid having to do ethics work. In fact, the Ethics Board's workload may increase once more people are aware of the parameters of the ordinance.

City Manager Valentine suggested:

- The Board reflect on its most significant municipal ethics concerns and crafting an ethical training program around those issues.
- The training could begin with an overview of the Ethics Board and its process, some previous examples, some ethics ordinance fundamentals, such as issues that could arise during meetings including recusal and disclosure, and information on how to get in touch with the Board.

Mr. Schrot said it would be more modern, quicker, and simpler to provide more interactive training which could be undertaken at an individual's own pace. He also shared concerns that if the Ethics Board came up with a written overview that volunteers or employees may incorrectly believe there are no other ethics violations beyond the ones covered.

Ms. Fiero-Shore described the thoroughness of the ethical bootcamp training she underwent in Ann Arbor. She opined that it is difficult to get people to think like that when they are not interested in doing so.

City Attorney Currier recommended seeing how many times the City's ethics video has already been visited from the City's website, and then sending out an email to all City employees and volunteers requesting that they watch the video and review the ethics ordinance. He suggested it could be a way to see if the resources which are already available might be sufficient if more people were aware of them.

City Manager Valentine said the Board should gain clarity as to its objective for this process.

City Attorney Currier said the goal is not just to be more proactive in promoting the information, but to get 100% of the employees and volunteers to review the information.

Mr. Schrot quoted Alicia Skillman, the Executive Director of the Detroit Board of Ethics, "Across the country, digital learning is the best practice for municipal ethics training. [...] Detroit will transition to digital ethics training within the next two years." He said he does not know how she makes the claim that digital learning is the best practice, but says Birmingham should at least be exploring it.

City Manager Valentine observed that digital learning might be more cost effective and necessary for a large city such as Detroit.

Mr. Schrot said he would just like the Board to consider the possibility.

Mr. Robb thanked Mr. Schrot for sharing the piece, and said he would call Ms. Skillman to see if the Birmingham Ethics Board had anything they could offer the Detroit Board of Ethics.

Mr. Schrot said that would be helpful, and suggested Mr. Robb also ask Ms. Skillman for further information regarding her perspective on digital ethics training.

City Attorney Carrier said he would also be interested to hear more about Ms. Skillman's knowledge of digital ethics trainings.

City Manager Valentine said he would be willing to update Birmingham's ethics affidavit to require that signees have also reviewed the ethics video available on the City's website.

VII. PUBLIC COMMENT

Ms. Fiero-Share said she would like to be on the agenda for the next ethics meeting to review the differences between a "direct" and "indirect" ethics violation, and the issues of conflict-of-interest that can arise from board members' expertise in light of advisory opinion 2018-02.

Mr. Schrot said public perception can also result in a violation of the ordinance.

City Manager Valentine asked Ms. Fiero-Share to submit the item to City Clerk Mynsberge.

Mr. Robb suggested the title of the item could be "Further Discussion of Conflict of Interest Provisions".

VIII. ADJOURN

The meeting was adjourned by Mr. Robb at 6:10 p.m.

J. Cherilynn Mynsberge
City Clerk