

**City of Birmingham
Board of Ethics Minutes
March 15, 2021
151 Martin, Birmingham
Virtual Meeting ID: 996 5685 2194**

I. CALL TO ORDER

Chair Fierro-Share called the meeting to order at 1:30 p.m.

II. ROLL CALL

Present: Sophie Fierro-Share, Chair (located in Birmingham, MI)
James Robb, Board Member (located in Birmingham, MI)
John Schrot, Board Member (located in Birmingham, MI)

Absent: None

Also Present: City Attorney Kucharek

Administration: City Clerk Bingham, Peter Gojcay - Legal Counsel from Beier Howlett

III. APPROVAL OF MINUTES

In the third full paragraph on page two, Mr. Schrot said he and Mr. Robb's names should be reversed.

Mr. Schrot said the comments made in the third full paragraph on page three were actually Mr. Robb's and that the record should be updated to reflect that.

In the paragraph that begins 'Given that Member Robb' at the bottom of page two, Mr. Robb asked that 'potential' be added before 'Library Board member'.

MOTION: Motion by Member Schrot, seconded by Member Robb:
To approve the minutes of February 22, 2021 as corrected.

ROLL CALL VOTE: Ayes, Member Schrot
Member Robb
Chair Fierro-Share

Nays, None

IV. UNFINISHED BUSINESS

None.

V. NEW BUSINESS

A. Consideration of Draft Opinion 2021-01: Request for an Advisory Opinion from Kucharek.

Members Robb and Schrot said the date on the opinion should be updated to reflect the date the opinion was revised and entered.

Chair Fierro-Share said it might be better if matters regarding HRC went to attorneys outside of Beier Howlett as a matter of course. She said that while she had complete faith in the ethics of the attorneys at Beier Howlett, she knows that it can be challenging to maintain an ethical wall with colleagues and that it might just be most effective to avoid the issue altogether by seeking outside counsel.

Mr. Robb advised Chair Fierro-Share that maintaining ethical walls in law firms is a standard practice and should not be a difficulty for any practicing attorney. He said he was concerned about the effect such a recommendation would have on the City in terms of possibly compelling them to seek outside counsel in certain circumstances. He noted that the Michigan Rules of Professional Conduct also provides guidance for attorneys regarding how to navigate disclosure and conflicts of interest. He noted that Birmingham, as the client of Beier Howlett, would also have the right to waive conflict of interest concerns Beier Howlett has fully apprised them of the possible conflicts and implications.

Mr. Schrot was in agreement with Mr. Robb, and different aspects of the opinion that dealt with the ethical wall. He noted that even if the City were in an adverse position vis-a-vis HRC, the City might still prefer to have a different attorney from Beier Howlett litigate the case instead of hiring an entirely different law firm since Beier Howlett would be more familiar with the City's affairs.

City Attorney Kucharek explained that the City Manager was aware of the potential conflict, and had said he would either direct matters regarding HRC to other attorneys at Beier Howlett or would allow City Attorney Kucharek to do so, if it were a smaller matter.

The Board then discussed a few final updates to the text of the opinion. City Clerk Bingham added the updates into the opinion during the discussion. All updates were added by Board consensus.

MOTION: Motion by Member Robb, seconded by Member Schrot:
To adopt the opinion as drafted with inclusion of the changes made during the meeting.

ROLL CALL VOTE: Ayes, Member Robb
 Member Schrot
 Chair Fierro-Share

Nays, None

B. Discussion on creating guidance for situations that could be considered a conflict of interest.

Chair Fierro-Share said her inquiries regarding this item had been sufficiently addressed during the course of the previous item's discussion.

VI. PUBLIC COMMENT

City Attorney Kucharek expressed her gratitude to the Board for their work on the opinion.

VII. ADJOURN

Chair Fierro-Share adjourned the meeting at 2:25 p.m.

Alexandria D. Bingham

Alexandria Bingham, City Clerk