



**Ethical Practices Board**

Peter Amadio  
Daniel Borup  
Brenda Ferraro  
Linda Gentling  
Tim Hornseth  
James Rechs  
Christine Li

**Agenda**

**August 17, 2022– 10:30 AM to 11:30 AM  
Conference Room 104 – City Hall**

- 1. Call meeting to order
- 2. Welcome of new Board members
- 3. Approval of minutes –January 19, 2022<sup>1</sup>
  - Review of attached DRAFT minutes for any adjustment and after review approval of same All
- 4. Set order of agenda
- 5. Reports
  - Inquiries to date/log M. Spindler-Krage
- 6. Open Comment Period – 15 minute total time limit.
- 7. Unfinished Business:
- 8. New Business:
  - Ethical Practices Board 101 Presentation Legal Staff
  - Review of Complaint/Inquiry dated July 7, 2022<sup>2</sup>
- 9. Other Business:
- Next meeting \_\_\_\_\_ All
- 10. Adjourn

**For more information please visit <http://www.rochestermn.gov/ethics>**

docdate: 8.9.22

<sup>1</sup> Draft minutes will not be included in Agenda packet

<sup>2</sup> Complaint/Inquiries are not public data and will not be included in the public packet



# ETHICAL PRACTICES BOARD

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# CITY ORDINANCE



# CODE OF ETHICS

The Ethical Practices Board was formed via Ordinance in December 2008. Originally, the Board consisted of five (5) citizen members; however, with the possibility of absences or in the case of a recusal, the Board suggested increasing the number of members.

In April 2017 the Council amended the Ordinances to add an additional two seats to the Board making it a 7 member Board.

Code was originally under Rochester City Ordinance Chapter 13 but in 2018, the City contracted with MuniCode to recodify our Ordinances. Code of Ethics can now be found in Chapter 2-16 of the Code.



# Appointing Authority

# APPOINTING COMMITTEE

The appointing authority for the Ethical Practices Board is a three (3) member Board consisting of the following:

- ❖ Chancellor of the University of Minnesota- Rochester;
- ❖ President of the Rochester Community & Technical College;
- ❖ Highest ranking officer of the Olmsted County Bar Association (not associated with the Rochester City Attorney Office)



# MEMBERSHIP/STAFF

- Ethical Practices Board members are appointed by Appointing Committee
- Members serve 3 year terms.
- Members may serve up to two consecutive terms
  
- Staffing is provided by the Rochester City Attorney Office
  - ❖ Michael Spindler-Krage, City Attorney
  - ❖ Jody Houghton, Executive Assistant

# MEETINGS

- ❖ The Board does not have a set day or time of month to meet;
- ❖ Board meets as often as necessary to fulfill its responsibilities
- ❖ Dates of meeting typically will vary based on Member's schedules
- ❖ Meetings will always take place during the week and during business hours
- ❖ Meetings will be held in either conference room 104 or 320 of City Hall





# Policy and Purpose

# POLICY AND PURPOSE

- ❖ Public officials are agents of the public and hold office for the benefit of the public
- ❖ That all persons acting in public service maintain the highest possible standards of ethical conduct in their transaction of public business and that standards be clearly defined to the public.
- ❖ Public officials should be independent, impartial, and responsible to the people;
- ❖ Public office may not be used for personal gain;
- ❖ Code of Ethics is for elected or appointed public officials, citizen volunteers, and candidates for public office.
- ❖ Purpose of Code is to establish ethical standards of conduct for such person and requires disclosure of private or financial interest in matter involving the City.



# Scope of Responsibility

# CODE OF ETHICS PERTAINS TO:

- ❖ Elected officials;
- ❖ City Employees (including department heads and supervisors) who have the authority to approve the expenditure of funds
- ❖ Persons who file an affidavit of candidacy for elective City Office
- ❖ Members of the following boards/commissions created by Ordinance:

Airport Commission

Building Code of Appeals

Citizens Advisory on Transit

Committee on Urban Design and Environments

Downtown Development District Advisory Board

Energy Commission

Ethical Practices Board

Fire Civil Service Commission

Heating, Ventilation and Air Conditioning Board of Review

Heritage Preservation Committee

Housing Board of Appeals

International Affairs Committee

Library Board

Mayo Civic Center Commission

Music Board

Park Board

Planning and Zoning Commission

Police Civil Service

Public Utility Board

Zoning Board of Appeals

# CONFLICT OF INTEREST

## Sec. 2-16-5. Conflict of interest.

- (a) No public official shall knowingly engage in a conflict of interest.
- (b) A conflict of interest shall include the following:
  - (1) Engage in any business or transaction, or have a direct or indirect financial or personal interest, which is incompatible with the proper discharge of the person's official duties or which would tend to impair the person's independent judgment or action in the person's performance of official duties. The term "personal interest," as distinguished from financial interest, includes an interest arising from blood or marriage relationships or close business or political association. For purposes of this subsection, the term "financial interest" means a substantial financial interest through the ownership of stocks, bonds, notes or other securities.
  - (2) Use of the person's public position to secure special privileges or exemptions for the person or for others.
  - (3) Use of the person's public position to solicit personal gifts or favors.
  - (4) Use of the person's public position for personal gain.
  - (5) Represent private interests before the common council or any city committee, board, commission, or agency where the person has participated in the review of those private interests as a member of any city committee, board, commission, or agency.
  - (6) Possess interest in legislation to the extent that private interest takes precedence over public interest and duty.
  - (7) Accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
  - (8) Disclose to the public, or use for the person's or other's personal gain, information that was gained by reason of the public official's public position if the information was not public data.
  - (9) Disclose information that was received, discussed or decided in conference with the public body's legal counsel that is protected by the attorney-client privilege unless a majority of the public body has authorized the disclosure.
- (c) It is not a conflict of interest under this section if a public official publicly discloses a potential conflict of interest, and refrains from participating in the discussion and voting on the matter when it comes before the public body of which the public official is a member.

(Code 1965, § 13.04; Ord. No. 4252, 7-6-2016)

First Name \*

Last Name \*

Position Held \*

Personal / Work Email

Address \*

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Are you employed by the City of Rochester? \*

- Yes
- No

Do you serve on a volunteer Board/Commission? \*

- Yes
- No

For the next set of questions, the word "interest" means:

- a substantial financial interest through your ownership of stocks, bonds, notes or other securities;
- your holding of more than five percent of the capital stock of a corporation;
- your membership or participation in a limited liability company, subchapter S corporation, partnership, association, enterprise, business, or firm;
- interest arising from blood or marriage relationships or close business or political association or other personal relationships.

The phrase "doing business" means:

- engaged in any contractual relationship with the City;




# Disclosure Forms

Disclosure Forms are completed by the following:

- Elected Officials
- City Employees (including department heads and supervisors) who have the authority to approve the expenditure of funds
- Members of the following boards/commissions created by Ordinance
  
- Forms are completed in January of every year or upon appointment to a Board/Commission
- Upon completion, forms will be included on the City's website.

SLIDE

# Ethics Disclosure Forms

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**AIRPORT COMMISSION**

**+**

**BOARD OF APPEALS**

**+**

**CITIZENS ADVISORY ON TRANSIT**

**+**

**CITY COUNCIL & MAYOR**

**+**

**ENERGY COMMISSION**

**+**

**ETHICAL PRACTICES BOARD**

**+**

**FIRE CIVIL SERVICE COMMISSION**

**+**

**HERITAGE PRESERVATION COMMISSION**

**+**

**LIBRARY BOARD**

**+**

**MAYO CIVIC CENTER & ROCHESTER CONVENTION AND VISITORS BUREAU GOVERNANCE BOARD**

**+**

**MUSIC BOARD**

**+**



# Rules of Operation



# DUTIES/ RESPONSIBILITIES

- ❖ Board shall have jurisdiction to review and make findings concerning any alleged violation of Rochester Code Chapter 2-16 by any public officials;
- ❖ To make notification, extend deadlines, conduct investigations, make Findings of Fact, Conclusions of Law and Order, review allegations and conduct hearings as needed to decide in there was a violation of RCO Chapter 2-16;
- ❖ To report its Findings regarding any complaint to the person's Appointing Authority and to the City Administrator;
- ❖ To issue ethics opinions to public officials regarding the propriety of any matter within the Board's jurisdiction;
- ❖ To conduct a preliminary investigation of a filed complaint,
- ❖ To promote City's ethics programs
- ❖ To make recommendations for changes to the Code

**Ethical Practices Board  
Rochester, MN**

**Annual Report 2021**



201 4<sup>th</sup> Street SE  
City Attorney's Office – Room 247  
Rochester, MN 55904

(507) 328-2100

web address

<http://www.rochestermn.gov/ethics>

# Annual Reporting

Section 2-16-7 (f) requires the Board to prepare and submit an annual report to the Mayor and Council outlining the activities of the Board during the previous year.

The Annual Report will also be posted on the Ethical Practices Board webpage.

SLIDE



# Board Officers

# OFFICER POSITIONS

- ❖ The Board consists of the following officers:

- Chair

- Vice Chair

- Secretary

- Recording Secretary

- ❖ Officers are elected by the membership from among the Board;
- ❖ Election usually occurs after first meeting after May 1<sup>st</sup> of each year
- ❖ Each person elected to an officer position shall serve until successors are elected
- ❖ If Chair resigns or be unable to serve out his/her terms, the Vice Chair shall become Chair and the Board will elect a new vice chair



# Complaints

# COMPLAINT PROCESS

- ❖ Complaints are submitted electronically through the City's website to the City Attorney office;
- ❖ Any person may file a complaint with the Board regarding the propriety of any matter within the Board's jurisdiction;
- ❖ Ordinance specifically provides for the following situations:
  - 1.) a public official must report any conduct by another Public Official that he/she believes violates the Code of Ethics;
  - 2.) Improper conduct of a non-appointed Public Official must be reported to either the alleged violator's supervisor or department head.
  - 3.) Improper conduct of an appointed Public Official, who is not a department head must be reported to the alleged violator's supervisor, department or Appointing Authority.
  - 4.) Improper conduct of a department head or an elected official must be reported to the Board.



## Ethical Practices Board Complaint Submission Form

This form may be used to submit a complaint to the Ethical Practices Board that alleges a violation of the City's Code of Ethics pursuant to Rochester City Code Chapter 2-16. The purpose of the Code is to establish ethical standards of conduct for such persons by establishing acts which are incompatible with the City's best interests and requiring disclosure of private or financial interests in matter involving the City.

The Code of Ethics pertains only to:

1. Public officials including elected officials;
2. City employees (including department heads and supervisors) who have the authority to approve the expenditures of funds;
3. Members of certain boards and commissions created by Ordinance.

The Board is bound by the Minnesota Government Data Practices Act and the Minnesota Open Meetings Law. Upon filing a complaint against a city employee, city volunteer, or city elected official, the name of the person mentioned in the complaint, the complaint's existence, and the complaint's status is public data. All other data is private data and cannot be released to the public unless or until disciplinary action occurs.



If this complaint does not relate to an Ethics violation per Ordinance guidelines, please do not continue with this submission. Please scroll down to the "I Want To" section of the City's website, Select Report, for proper reporting of your concern/inquiry.

Thank you.

Date of Submission \*

8/9/2022

### Information about the Filer of the Complaint

First Name \*

Last Name \*

Address \*

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Email

### Identify the Subject of the Complaint

Office Held / Department Name \*

### Nature of the Complaint

Provide a statement of the facts known, including the approximate dates of the alleged acts. Maximum length is 1000 characters.

# Complaint Submission Form

Link can be found in two (2) spots on City's webpage

- 1) Ethics webpage – Ethics Resources - [Ethics Inquiry/Complaint Form](#)
- 2) City's main page – I WANT TO:

Report – Ethics Violation

## I Want To...

PAY

**REPORT**

SIGN UP

VIEW

► Ethics Violation

SLIDE



# Review Process



# REVIEW PROCESS

- ❖ Copy of the complaint and any attachments to the complaint will be shared with the subject of the complaint. That person will have the opportunity to respond in writing to complaint.
- ❖ The Board shall discuss at the next scheduled meeting and determine the following:
  - 1.) After review of the complaint and possible subject's response
    - a.) Refer for further investigation (City will hire outside consulting firm);
    - b.) Schedule for a formal hearing;
    - c.) Dismiss the complaint
  - 2.) After a hearing, the Board shall report Findings to the City Administrator and to person's Appointing Authority;
  - 3.) If complaint is dismissed, a letter is sent back to the complainant and subject of the complaint notified as well.



# Open Meeting Law

# Minnesota Open Meeting Law

- Advisory boards are considered “public bodies.” Public bodies, boards or commissions, must comply with the Open Meeting Law.
- There are 3 purposes:
  - 1) to prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board’s decision or to detect improper influences,
  - 2) to assure the public’s right to be informed,
  - 3) to afford the public an opportunity to present its views to the public body.

# Open Meeting Law Requirements

- There must be notice of all meetings.
- Meetings must be open to the public, unless the subject being discussed clearly falls into a defined exception to the open meeting law.
- Written, sound, video or digital recording of minutes are required for all meetings.

# Who is subject to Open Meeting Law?

- It is a public body;
- The group was established by formal action;
- The members have been appointed; and,
- The group has specific tasks/duties to perform.

A gathering of Board members is considered a meeting subject to Open Meeting Law if all of the following elements are present:

- A gathering of a quorum or more of members,
- Of a body subject to the Open Meeting Law
- At which the members discuss, decide or receive information as a group
- Related to the official business of that body.

# ELECTRONIC MAIL

One way delivery of information to members by letter or e-mail does not implicate OML

Reply All – can change a one way discussion into a quorum of the members





# Resources

# WEBSITE

Meeting Agenda's can be found in three areas of the City's website

## City's Main Webpage

	<a href="#">Study Session</a> 7:00 PM <a href="#">City Council Meeting</a>	<a href="#">Commission Meeting</a>	<a href="#">Zoning Board of Appeals - Cancelled</a>		<a href="#">Rochester Public Library Policy Committee Meeting</a>	
7	8	9 4:30 PM <a href="#">Park Board Meeting</a>	10 4:00 PM <a href="#">RPU Budget Review Meeting</a> 4:30 PM <a href="#">Energy Commission Meeting</a> 6:00 PM <a href="#">City Planning and Zoning Commission Meeting</a> 6:30 PM <a href="#">Pedestrian and Bicycle Advisory Committee</a>	11	12	13
14	15 3:30 PM <a href="#">City Council Study Session</a>	16	17 10:30 AM <a href="#">Ethical Practices Board Meeting</a> 2:00 PM <a href="#">Outside Agency Oversight</a>	18	19	20

## EPB Webpage

[Government](#) » [Boards and Commissions](#) » [Ethical Practices Board](#) » [Agenda and Minutes](#) »

### 2022 Agenda and Minutes

Font Size: [+](#) [-](#) [Share & Bookmark](#) [Print](#)

The Ethical Practices Board is directed to meet as often as necessary to fulfill its responsibilities. Dates of meetings will vary depending on members schedules. Unless otherwise noted, all meetings are held in conference room 104 of City Hall, 201 4th Street SE, Rochester, MN 55904.

[Listen to audio recordings of the meetings](#)

**January 19, 2022 at 10:30 a.m. - via Microsoft Teams**  
[Agenda](#)  
[Minutes](#)

**March 23, 2022 at 10:30 a.m. - CANCELED**  
[Agenda](#)  
[Minutes](#)

**April 20, 2022 at 10:30 a.m. - CANCELED**  
[Agenda](#)  
[Minutes](#)

**August 17, 2022 at 10:30 a.m.**  
[Agenda](#)  
[Minutes](#)

**Agenda & Minutes Archive**

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## City Meeting Portal



