



## City Council Rules Committee

**Monday, March 28, 2022, 8:00 AM**

**Remote Meeting Minutes**

**Approved on April 11, 2022**

Rules Committee Members:

Councilor Andrew Zarro, Chair

Mayor Kate Snyder

Councilor Pious Ali

Councilor Mark Dion

The meeting, held by ZOOM technology, convened at 8:05 a.m. on March 28, 2022.

Attendees: Committee members Councilor Andrew Zarro, Chair, Mayor Kate Snyder, Councilor Pious Ali, and Councilor Mark Dion, City Clerk Katherine Jones, and Acting Corporation Counsel Jen Thompson, and assistant Nancy English. Members of the public Sarah Michniewicz, George Rheault and John P. attended.

Councilor Zarro convened the meeting and asked for a motion to accept the minutes of the February 28, 2022 and March 7, 2022 meetings. Councilor Ali moved and Councilor Dion seconded his motion to approve those minutes, which was approved by a roll call vote of 4-0.

Councilor Zarro asked Attorney Thompson to start the review of the draft Code of Ethics, based on a document from the City of Bangor, and available in the back-up material.

In her review, Attorney Thompson explained that she had revised the version adopted by Bangor to reflect discussions by the Committee about its policy preferences. For example, provisions making the Code applicable to City employees had been removed due to other existing provisions in the City Code and personnel policies. She also explained that, if the Rules Committee wanted its own code of ethics to apply to all the city boards and commissions rather than just the City Council, that would need to be done in the form of an ordinance rather than a policy.

Councilor Zarro asked if the Rules Committee could ask other boards to adopt the Code of Ethics it approves, and Attorney Thompson said it could suggest that be done but that an ordinance is the way to make a code of ethics binding on other boards.

Mayor Snyder asked if, on page 9, Section 12, Political Activities, the City Councilors may not use their official status in political campaigns, to solicit assistance for an institution, for example, and Attorney Thompson explained that section was primarily for donations of money.

Mayor Snyder asked if Section 10, Paragraph C, "Conflicts of Interest," would give a decision about a conflict of interest to the whole council, and Attorney Thompson said it would indeed be different from how such conflicts had been decided in the past, by the individual councilors, and would require a vote of the whole council.

Mayor Snyder added that she believed a Code of Ethics should "live" in the council rules and not in the City Charter – where it is being considered by the Charter Commission, and where it would become too onerous to change.

Councilor Ali asked if the reference to the use of city property found in Article II, paragraph 8, would prohibit that use by a group of young people, for instance at a school or park, when the City officials would like any fee to be waived. Attorney Thompson said that use would be eligible under rules already in place, and that this section covers individual private use.

Councilor Ali asked how the previous section, paragraph 7.1, would affect First Amendment freedom of speech in the use of social media. Attorney Thompson said the rule provides guidance about how to exercise that freedom, including by identifying in which capacity you are speaking and being sure not to appear as if you are presenting an "official" position.

Councilor Ali asked if stating support or no support for an issue would be a violation of the proposed language, and Attorney Thompson said it would not be a violation for a councilor to express support for an issue if they correctly identified the capacity in which they were speaking. Councilor Ali noted that he had seen social media sites for other political figures that are official pages and inquired whether the City could manage social media pages for individual councilors. Attorney Thompson said such a site would create a public forum in which comments received would be difficult to restrict because of First Amendment concerns. Attorney Thompson suggested the City Manager could answer the question of whether the City would host such social media accounts.

Councilor Dion said it was better to consider how to distinguish between speaking as a councilor and speaking as a private individual. It is hard to make the difference clear, he said, and the public cannot be expected to know when the private individual is speaking versus the councilor. He did not have the confidence to believe there was a way to effectively disclaim his own identity as a councilor when speaking publicly.

Mayor Snyder asked again about the vote needed for a conflict of interest, in particular, would a vote be needed if a councilor had already recused themselves. Attorney Thompson said she would review that question.

In Section 5.1, Unbiased Conduct, Chair Zarro asked if "political status" was appropriately included in the list of protected classes. He suggested it should be removed from this section.

Chair Zarro also asked where an "alleged violation" noted in Section 3 would come from. Attorney Thompson said an alleged violation would be reported by a councilor, be considered at a council hearing, and a fine could be imposed if recommended.

Councilor Ali asked if a City Councilor could simultaneously serve as a Legislator, and Attorney Thompson said she would check under state statutes relating to incompatible offices.

Chair Zarro said the Code of Ethics would be revised according to remarks made at this meeting and considered again at the next Rules Committee Meeting, to be scheduled later. He asked the committee members to email any additional questions and suggestions before that time.

During the period for public comment, Sarah Michniewicz said she agreed that, although the Charter Commission was considering adding a Code of Ethics to the Charter, that was not the best place for such a document. She had provided the Code of Ethics from Portland, Oregon, and suggested that the section on Norms could be useful.

Councilor Ali moved and Mayor Snyder seconded the motion to adjourn, which passed by a roll call vote of 4-0. The meeting adjourned at 9:03 a.m.