

# ETHICS COMMITTEE MINUTES, AUGUST 28, 2018

## MEMBER ATTENDANCE:

■ John Corrieri Jr; ■ George Cardona; ■ Norman Obenshain; ■ James Horn;  
■ Patrick Sypolt; ■ April Ishak; ■ William Watson; ■ Dave Martin;

Meeting convened: 1505 hrs

## REGRETS

Approval of Minutes: Rev Obenshain                      Second Patrick Sypolt  
Vote   6   -   0   in favor    1 abstention

## OLD BUSINESS: Discussion and Review of Changes to Ethics Ordinance 1008

Removes the concurrence of the Mayor and City Attorney. Mayor and City Attorney cannot block an investigation by the independent Ethics Commission. City Attorney will review and recommended but the recommendation is not binding.

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(i) Admonition. This is the least severe form of action. An admonition may typically be directed to all elected and/or appointed elected City Officials, reminding them that a particular type of behavior is in violation of law or City policy. An admonition may be issued by the Ethics Commission with concurrence of the Mayor and a review by the City Attorney, before any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true. In the event that the complaint is against the Mayor, it will require the concurrence of the Council President and City Attorney.

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(ii) Sanction. This is the next most severe form of action. Sanction may be directed to a particular elected and/or appointed City Official based on a particular action (or set of actions) that is determined to be in violation of law or City policy. A sanction is distinguished from censure in that it is not a punishment. A sanction may be issued based upon an Ethics Commission investigation review with concurrence of the Mayor and a review by City Attorney and consideration of a written allegation of a policy violation. In the event that the complaint is against the Mayor, it will require the concurrence of the Council President and City Attorney. The member accused of a violation will have an opportunity to provide a written response to the allegation. A sanction may be issued by the Ethics Committee review investigation with concurrence of the Mayor and a review by the City Attorney and because it is not punishment or discipline, would not necessarily require an investigation or separate hearings.

(iii) Censure. Censure is the most severe form of action. Censure is a formal statement of the Ethics Commission with the concurrence of the Mayor, City Council and a review by the City Attorney, officially reprimanding one of the elected and/or appointed City Officials. In the event that the complaint is against the Mayor, it will require the concurrence of the Council President, City Council and City Attorney. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as an elected official. Censure should be used for cases in which the Ethics Commission determines that the violation of law or policy is a serious offense. To protect the overriding right to freedom of speech, the Ethics Commission cannot impose censure on any of its members, elected and/or appointed City Official solely for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to an elected Official and the City.

However, nothing can be construed to prohibit the Ethics Commission from collectively condemning and expressing their strong disapprobation of such remarks. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a two-thirds vote of the City Council.

After discussion new wording

- i. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a two-third vote of the City Council. CP Glenn 75%, a super majority the eligible voting members in the affirmative with no more than one negative vote or abstention.

After discussion new wording

- ii. In the event the complaint is against a City Council Member a decision to censure requires the adoption of a Resolution making findings with regard to the specific charges, based on substantial evidence, and approved by a three-fifths vote of the City Council with the affected City Council Member abstaining from the vote. CP Glenn 75%, a super majority, Also an objection to requiring abstention from voting the eligible voting members in the affirmative with no more than one negative vote or abstention with the affected City Council Member abstaining from the vote.
- iii. In the event the decision to censure an elected or an appointed member is reached the impacted member has the right to appeal the findings to the Havre de Grace Board of Appeals.

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### **Dave Martin research:**

**Conflict of Interest-Related Recusal Provisions** Ethics laws forbid public officials from using their position in a way that might even appear to benefit themselves. So, what options are available when ethics laws conflict with legislative duties?

Maryland A member may not vote on a measure in which he has an immediate personal or financial interest. Members who recuse themselves are noted in the Journal as excused. Senate Rule 93 & House Rule 93.

### **Next Meeting to be scheduled in the Fall of 2018**

**Motion for Adjournment** by: George Cardona Second: Reverend Obenshain

Opposed: None

Time of Adjournment: 1603 hrs.