

Committee of the Whole

Agenda Cover Memorandum

Meeting Date: November 23, 2009

Item Title: Modifications to the Ethics Ordinance

Action Requested:

- ☐ Approval
- ☒ For discussion
- ☐ Feedback requested
- ☐ For your information

Staff Contact: Everette Hill, City Attorney
Phone Number: 847/318-5207

Background:

Ald. Allegretti requested modifications to the ethics ordinance. City Attorney Hill has prepared a draft ordinance that reflects the proposed changes.

Recommendation:

Discuss and provide direction to staff.

Budget Implications:

Does Action Require an Expenditure of Funds: ☐ Yes ☒ No

If Yes, Total Cost:

If Yes, is this a Budgeted Item: ☐ Yes ☐ No

Attachments:

- Memo from City Attorney Hill dated November 13, 2009
- Draft Ordinance



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MEMORANDUM

TO: Chairman of Procedures and Regulations
FROM: Everette M. Hill, Jr.
DATE: November 13, 2009
RE: Ethics Ordinance

Mr. Chairman, at your request, I have made certain modifications to the Ethics Ordinance. They are as follows:

1. Removal of the "two years after office" prohibition against acting as an agent. The prohibition would apply only to sitting officials. It is now consistent with the prohibition against doing business with the City.
2. The removal of the dual tiered complaint process. Under the proposed language, there would not be a complaint by affidavit.
3. Under the proposed language, the City Attorney would be responsible for making preliminary findings and reporting them to the City Council. Instead of the City Council being required to make a determination as to whether prosecution is warranted, the City Council will only make a determination as to whether or not an Independent Reviewer will be appointed. The question of whether or not prosecution is warranted will, in each instance, be up to the Independent Reviewer. Under this scenario, the City Attorney will be required to make findings of fact as to each complaint, but not be required to make a decision as to whether there has been a violation. At the same time, the City Council will not be required to act as a "grand jury", but only decide whether or not the allegations merit the retention of an Independent Reviewer.
4. Under the proposed language, once the City Clerk notifies the elected officials that a complaint has been received, no elected official may contact the City Attorney or Independent Reviewer with respect to the complaint until the findings of fact are made public or the Independent Reviewer has retained a Special Prosecutor.
5. Under the proposed language, all complaints, findings of fact and deliberations are a matter of public record.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARK RIDGE
AMENDING ARTICLE 2, CHAPTER 5 OF THE
MUNICIPAL CODE OF PARK RIDGE

BE IT ORDAINED by the City Council of the City of Park Ridge, Cook County, Illinois, pursuant to its home rule authority provided under Article VII of the Illinois Constitution of 1970 as follows:

SECTION 1: Subparagraph D(3) of Section 2-5-2 entitled "Disclosure Statement" of Chapter 5, Article 2 entitled "Corporate Seal, Emblems and Policies" shall be deleted in its entirety.

~~1. Filing of a Complaint~~

~~Any person may charge a violation of this Chapter by affidavit setting forth the alleged violation. The violation shall be filed with the City Attorney. The City Attorney shall then retain an Independent Reviewer for the purpose of determining whether there is probable cause to believe that a violation was committed. The Independent Reviewer shall have at least one of the following qualifications:~~

- ~~a. retired judge of a court of competent jurisdiction;~~
- ~~b. at least five years of experience as a prosecutor with either the office of the U.S. Attorney or the Cook County State's Attorney;~~
- ~~c. currently acting as an Administrative Adjudicator with a municipality in Cook County, Illinois.~~

~~As part of the review, the Independent Reviewer may interview the charging party in person. The Independent Reviewer shall render a written decision within forty-five days of the filing of the complaint. If there is a finding of probable cause, the City Manager shall retain special counsel to prosecute the alleged violation in the Circuit Court of Cook County, Illinois.~~

SECTION 2: Subparagraph E(1) of Section 2-5-3 entitled "Prohibited Acts" of Chapter 5, Article 2 entitled Corporate Seal, Emblems and Policies shall be amended and shall be and read as follows:

E. Representation of Persons in Matters Involving the City of Park Ridge.

1. No person while serving in the following capacities within the City shall, ~~while serving or within two (2) years after his or her office or employment has ceased,~~ act as agent, consultant or attorney for any party in that other party's request for consideration from the City or in that other party's claim against the City:

- a. Mayor
- b. Alderman
- c. City Manager or Assistant City Manager
- d. Department head
- e. City Attorney
- f. City Engineer
- g. City Prosecutor

SECTION 3: Section 2-5-8 entitled "Filing of Complaint" of Chapter 5, Article 2

entitled Corporate Seal, Emblems and Policies shall be amended and shall be and read as follows:

~~The City Clerk is authorized to receive and maintain a log of all complaints made against individuals subject to this Chapter 5. Each complaint shall be submitted to the City Attorney. Upon a review of the evidence, the City Attorney shall make a recommendation to the Corporate Authorities as to whether or not prosecution is warranted. The Corporate Authorities shall then, by majority vote including the Mayor, authorize or not authorize prosecution for violation of a local ordinance. If it is a member of the Corporate Authorities who is accused, that member shall not participate in the vote. If the vote is to not authorize prosecution, then neither the City Attorney nor the City Prosecutor may commence prosecution.~~

~~For purposes of this Section, prosecution shall mean the filing of an action in the Circuit Court of Cook County, by either the City Attorney or City Prosecutor alleging violations of this Chapter 5. In the event no prosecution is commenced, the City Attorney's log and complaint files shall not be open for public inspection, unless requested by the individual who was the subject of the complaint. However, the person making the complaint shall be notified in writing of the decision of the Corporate Authorities. To the extent that it is practicable to do so, an elected City official should use his or her best efforts to notify, in writing, other elected City officials prior to filing a complaint or charges against any City official or employee. If the complaint is against the City Attorney or if it is otherwise inappropriate for the City Attorney to act, the Corporate Authorities shall retain independent counsel to evaluate and if necessary prosecute the complaint.~~

2-5-8 COMPLAINTS OF ETHICS VIOLATIONS

The following shall apply to complaints of ethics violations.

A. Any person may file a complaint alleging a violation of this Chapter by a City official.

B. The City Clerk, the City Manager, the Chief of Police and the City Attorney are authorized to receive complaints made against a City official pursuant to this Chapter.

C. Any such complaint must be in writing, giving the full name, address and telephone number of the person making the complaint.

D. The complaint must state the facts upon which the allegations are based and specify the section or paragraph of this Chapter, which has allegedly been violated.

E. All complaints shall be forwarded to the City Clerk, who shall maintain a log of all complaints made against individuals who are subject to this Chapter 5.

F. The City Clerk shall notify the City Council of the receipt of the Complaint and shall then tender the complaint to the City Attorney.

G. The City Attorney shall conduct a preliminary investigation and make a report of his or her findings to the City Council.

H. The City Council shall then, by majority vote, including the Mayor, authorize or not authorize the retention of an Independent Reviewer to determine whether further action is appropriate.

I. If the vote is in the affirmative, the City Manager shall then retain an Independent Reviewer for the purpose of determining whether there is probable cause to believe that a violation was committed.

J. The Independent Reviewer shall have at least one of the following qualifications:

- a. retired judge of a court of competent jurisdiction;
- b. at least five years of experience as a prosecutor with either the office of the U.S. Attorney or the Cook County State's Attorney;
- c. currently acting as an Administrative Adjudicator with a municipality in Cook County, Illinois.

K. As part of the review, the Independent Reviewer shall interview the charging party and may interview any other persons that the Independent Reviewer may deem appropriate.

L. The Independent Reviewer shall render a written decision within forty-five days of being retained by the City.

M. If the Independent Reviewer finds that prosecution is warranted, the City Manager shall retain a Special Prosecutor to prosecute the alleged violation in the Circuit Court of Cook County, Illinois.

N. Except in open session of the City Council, no member of the City Council may have any communication with the City Attorney or Independent Reviewer with respect to the complaint until either: (a) the City Council has decided to not retain an Independent Reviewer; or (b) the Independent Reviewer has made the determination as to the retention of a Special Prosecutor.

O. If an elected official is making a complaint, to the extent that it is practicable to do so, the official should use his or her best efforts to notify, in writing, other elected City officials prior to filing a complaint or charges against any City official or employee.

P. If it is a member of the City Council who is accused, that member shall not participate in the vote.

Q. All deliberations shall be conducted in open session at a regular meeting of the City Council.

R. Immediately upon the passage of forty-five (45) days after a final determination on any complaint, all written files not previously made public shall be opened for public inspection.

S. If the complaint is against the City Attorney or if it is otherwise inappropriate for the City Attorney to act, the Mayor shall immediately retain an Independent Reviewer as set forth in (I) above and (I) – (R) shall apply.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect after its passage, approval and publication in accordance with State law.

BE IT FURTHER ORDAINED that the City Clerk is authorized and directed to publish this Ordinance in pamphlet form in accordance with State law.

ADOPTED by the City Council of the City of Park Ridge, Cook County, Illinois, this ____ day of _____, 2009.

VOTE: _____

AYES: _____

NAYS: _____

ABSENT: _____

Approved by me this ____ day of _____ 2009.

Mayor

ATTEST:

City Clerk

A certified copy of this Ordinance was published in pamphlet form by me this ____ day
of _____, 2009.

City Clerk