

**City of Birmingham
Board of Ethics Minutes
January 19, 2024
151 Martin, Birmingham**

I. CALL TO ORDER

Chair Robb called the meeting to order at 1:00 p.m.

II. ROLL CALL

Present: Chair James Robb; Board Members Michael Coakley, John Schrot; Alternate Board Member Judy Doyle (non-voting)

Absent: None

Staff: City Manager Ecker; City Clerk Bingham, City Attorney Kucharek

III. APPROVAL OF MINUTES

A. Approval of minutes of December 19, 2023

MOTION: Motion by Mr. Coakley, seconded by Mr. Schrot:
To approve the minutes of December 19, 2023 as amended.

VOICE VOTE: Ayes, Chair Robb
Mr. Coakley
Mr. Schrot

Nays, None

IV. UNFINISHED BUSINESS

V. NEW BUSINESS

A. Review Draft Opinion 2023-04 (Canvasser Opinion Request)

The Chair and Mr. Schrot offered their concurrence with the draft advisory opinion.

MOTION: Motion by Mr. Schrot, seconded by Chair Robb:
To adopt, approve, and sign it.

VOICE VOTE: Ayes, Chair Robb
Mr. Coakley
Mr. Schrot

Nays, None

B. Review Draft Opinion 2023-03 (Regan Complaint)

The Chair discussed the draft opinion.

Messrs. Coakley and Schrot offered their concurrence with the draft advisory opinion.

Board member comments regarding the draft opinion:

- The dicta regarding constitutional concerns was included because advisory opinions have occasionally included dicta in the past;
- The dicta can provide guidance; and,
- The explanation of the Board’s findings in the opinion would help the individuals involved in the particular case, the public, and other City officials.

Minor amendments, determined by Board consensus, were made to the draft opinion by CC Bingham.

MOTION: Motion by Mr. Schrot, seconded by Mr. Coakley:
To sign as edited.

VOICE VOTE: Ayes, Chair Robb
 Mr. Coakley
 Mr. Schrot

Nays, None

The Chair asked CC Bingham to prepare both opinions for the Board’s signatures.

MOTION: Motion by Mr. Schrot, seconded by Mr. Coakley:
To amend the agenda to move the section for public comment forward, and to allow public comment once again on the workshop or any other issue.

VOICE VOTE: Ayes, Chair Robb
 Mr. Coakley
 Mr. Schrot

Nays, None

The Board briefly recessed, signed the opinions, and returned from recess.

VI. PUBLIC COMMENT

David Bloom commented on minutes, on the code of conduct, on when Board alternates serve as voting members, on items from previous meetings, and on resident correspondence with City administration.

Paul Reagan commented on items from previous meetings.

V. NEW BUSINESS (CONT’D)

C. February 5, 2024 – City Commission Workshop Planning

Staff and the Chair introduced the topic and answered informational questions from the Board.

The Board discussed a potential workshop. The general points discussed were as follows:

- It could be beneficial to present an overview of the Ethics Ordinance and the Board of Ethics’ Rules of Procedure.

- Advising the Commission on hypothetical questions at a presentation would not be appropriate, since the Board considers the specific circumstances in detail when deliberating each case and advisory opinion.
- The Board could discuss whether it might be appropriate to answer questions submitted by the Commission in advance.
- More specific direction from the Commission regarding a possible presentation would likely be necessary. The Board would then need adequate time to discuss and prepare, which would preclude holding a presentation on February 5, 2024.
- Some caution would be appropriate since statements made during a presentation could be cited in future Board of Ethics deliberations.
- Certain matters of Board practice, such as citing previous opinions or decisions as precedents, could benefit from further Board study. This should occur before a presentation is given to the Commission.
- The Commission and the public may need clarity about the Board of Ethics' jurisdiction.
- It would be helpful to know whether a potential presentation should be geared towards the Commission or towards all of the City's boards. If the latter, it could be valuable for the City to publicize the presentation amongst the City's board members.
- There was disagreement as to whether it would be appropriate for the Board of Ethics to address the Commissioners' oath, the City charter, and/or the Commission's code of conduct in a potential presentation.
- The Commission should be made aware that a robust Board discussion regarding the topic did occur.

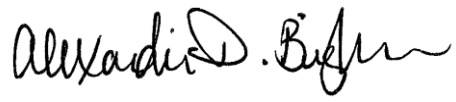
VII. BOARD COMMENT

Board members remarked on matters raised earlier in the meeting:

- Proper procedure was followed during the December 19, 2023 meeting.
- While a Commissioner had commented on when adverse action may be taken against a Commissioner, that is in fact within the Board of Ethics' purview and not within the Commission's.
- The Board of Ethics does not take up a matter without a complaint or a request for an advisory opinion.
- For advisory opinion 2023-04, it was found that there was a conflict of interest, that the conflict was not disabling, and that the board member, Mr. Canvasser, took appropriate action to recuse himself when the conflict arose during his board service.
- The City could hold a workshop on its procedures and policies regarding minutes.
- For complaint 2023-03, Procedural Rule 304 was used in dismissing the complaint. Material facts would have only been relevant under Procedural Rule 305.
- During the hearing for advisory opinion 2023-04, the City Attorney and Mr. Canvasser had an exchange. When a Board of Ethics member raised questions regarding that exchange, the questions were answered by Mr. Canvasser.
- It was procedurally appropriate for Ms. Doyle to serve in Mr. Coakley's absence at the beginning of the December 19, 2023 meeting. Since Mr. Coakley arrived before the review of case 2023-04 commenced, it was appropriate for Mr. Coakley to participate in the case review and for Ms. Doyle to step aside. If Mr. Coakley had arrived after the review of the case had commenced, it may have been appropriate for Ms. Doyle to stay on for the review of the case.

VIII. ADJOURN

No further business being evident, the Board motioned to adjourn at 3:51 p.m.

A handwritten signature in black ink, appearing to read "Alexandria Bingham". The signature is fluid and cursive, with a large initial 'A' and 'B'.

Alexandria Bingham, City Clerk

A handwritten signature in black ink, appearing to read "Laura Eichenhorn". The signature is cursive and somewhat stylized, with a prominent 'L' and 'E'.

Laura Eichenhorn, City Transcriptionist