

Tim Cummings: Call this meeting to order at 6:30 PM. For the record, my name is Tim Cummings. I'm the Director of Administrative Services. I'm going start this meeting off and help facilitate [inaudible 00:00:15] part of this meeting until we elect a chair. So, I wanted to make sure that we got off on, on the right foot with doing housekeeping, this body is being reconstituted [00:00:30] with some new members. We do have some, some prior members who are returning, but, with the turnover, there's a need to elect a new leadership. So, I thought it would be good to, to just do a little of an orientation and a little table-setting. So, before we go any further, just want to conduct a little business. So why don't we establish that we have a quorum? [00:01:00] I'm going to ask Gary to take the roll.

Gary Perrin: Roll call. Mr. Gerstenfield?

Justin Gerstenfield: Here.

Gary Perrin: Mr. Juris?

Lou Juris: Yeah.

Gary Perrin: Mr. Thompson?

Adam Thompson: Present.

Gary Perrin: Mr. Wiseman? Mr. Wiseman is absent and notified the city he was being absent due to personal reasons. We have three present.

Tim Cummings: Excellent. Thank you, Gary. So, with the establishment of quorum, I want to talk to the body a little bit about the Ethics Review Committee, [00:01:30] and just confirm that you've received relevant material. As noted in the agenda, we have a very specific ordinance on our books that guides this committee. I believe you've received a copy of that. Is that, is that correct? You guys have all received the ordinance. Okay, good. We also have existing rules of procedures, just want to make sure you guys have received that, of course you can look at those at, from time to time [00:02:00] and amend them as you may see fit, but we do have, existing rules of procedure that were adopted back in May of 2017.

Then also just want to make sure you're aware of chapter five, the administration of government on the city's books as well, that's in our NROs, and hopefully you're aware of that. These are all relevant documents because they help frame the conversations and the deliberations that you [00:02:30] may be undertaking. So, I want to make sure that you're aware of these various documents, then lastly, we have 91A, that is the RSA that governs over meetings. I want to make sure you're all aware and familiar with that, with that law as well. So, I believe

Gary has provided you these documents? Just for a bit of housekeeping, the way this committee has worked in the past [00:03:00] is the administrative support is provided through administrative services and particularly, Gary Perrin would be staff support for the committee.

So, you [inaudible 00:03:09] should certainly, lean on him for administrative tasks. Legal tasks and legal counsel come from Bob Sullivan, who's to my left, and he will be here to help you, professionally, guide you through your deliberative process as you may need counsel from time to time. [00:03:30] I'm not really overly involved. I, volunteered to help, facilitate this meeting just to kind of help kick it off and orientate the group, but my role will step back as, as you, proceed in your, your due course of committee work. So, with that being said are there any questions at this time? All right. Good. [00:04:00] All right. That's good.

I will just, if there's no questions, move to ask that you entertain, electing new leadership. And once we do that, technically, depending on who's elected, it would be their responsibility to run the meeting. Gary and I can certainly help with that, depending on your experience level, to help you, at least through, through the first couple, couple meetings relative to process and procedure. I know [00:04:30] Bob can do that as well. So, with that being said, I'm going to call for nominations, and the first nomination we'd be looking to call is a call for nominations for a chair. I'm going to suggest that the term of the chair be for this calendar year, so expiring December 31st of 2026, and then you can certainly, elect a new chair come 2027. So, is there, [00:05:00] a motion for nominations?

Adam Thompson: Can we speak to the motion?

Tim Cummings: Yeah. Yes, you can. But first I would, I'd ask that you, well before I, before we do that, is there anything you'd like to say in terms of conversation before we have a motion for nomination?

Adam Thompson: [inaudible 00:05:22].

Justin Gerstenfield Yeah.

Adam Thompson: I'd like to move that, we could entertain nominations.

Tim Cummings: Okay. So, nominations, for chairmanship.

Adam Thompson: [00:05:30] Yep.

Lou Juris: I nominate Justin, should we second that?

Gary Perrin: Yes.

Tim Cummings: So, second by.

Justin Gerstenfield I can't second.

Adam Thompson: I seconded.

Tim Cummings: Okay. So, it was a motion made by Adam, seconded by Lou I heard, I missed it. Who's the chair that got nominated? Justin?

Gary Perrin: Justin, Mr. Gerstenfield.

Tim Cummings: Justin.

Gary Perrin: So, the motion [00:06:00] on the floor is, motion by Mr. Thompson for chairman, Mr. Gerstenfield, seconded by Mr. Juris.

Adam Thompson: That's not what occurred.

Gary Perrin: So, motion by Mr. Adams to nominate Mr. Gerstenfield.

Tim Cummings: Thompson.

Gary Perrin: Thompson.

Adam Thompson: I did not nominate anybody.

Gary Perrin: Thompson.

Tim Cummings: Okay.

Lou Juris: Give me one second. I nominate Justin Gerstenfield to be chairman.

Tim Cummings: Okay. [00:06:30] So, all right.

Gary Perrin: So, we can strike the former.

Tim Cummings: Okay. So, the motion is made by...

Adam Thompson: So, I made the motion to,

Tim Cummings: Open nominations.

Adam Thompson: To open nominations.

Tim Cummings: Yep.

Adam Thompson: And then Lou made a nomination for, Justin to be chair.

Tim Cummings: Okay. And the confusion arose for the second for the nomination, I think. So that's what.

Adam Thompson: And I don't believe there has been a second [00:07:00] on the nomination.

Tim Cummings: So, can we have a second on the nomination for Justin?

Justin Gerstenfield: I'm not going to second myself.

Lou Juris: Can I do that?

Tim Cummings: Yeah.

Adam Thompson: Okay. I second it.

Adam Thompson: Can, a motion be made and seconded by the same individual?

Tim Cummings: No.

Adam Thompson: So, he can't do that. I'd like to make a motion that's, for chair that we nominate Wiseman. He has [00:07:30] the most experience and has, served on the committee before.

Tim Cummings: Okay. So, we have, now I'm hearing a nomination for Wiseman. Do I have a second?

Justin Gerstenfield: Are we able to discuss the nominations?

Tim Cummings: Once there's a second.

Justin Gerstenfield: I move that we open discussion about nominations.

Tim Cummings: [00:08:00] Okay, so there wasn't a second, then. Okay.

Justin Gerstenfield: Yeah, I'm not seconding.

Tim Cummings: Okay. So now I'm hearing that a motion to discuss nominations.

Justin Gerstenfield: Correct.

Adam Thompson: I'll second the motion to discuss.

Tim Cummings: What's that?

Adam Thompson: I'll second the motion to discuss.

Tim Cummings: Now, now discussion.

Justin Gerstenfield: Perfect. So being new members, you had mentioned that for some of us, knowing [00:08:30] that we need to be moving into a hearing after going through and electing a chair, and you had mentioned that we're going to have assistance with leading, and that there will be assistance. What level of assistance is that? Because I think it is very crucial that, being on an ethics committee, that we are doing things correctly and following everything that we had beforehand. And I know that I am not [00:09:00] an expert yet, and nor will I, do I ever plan to be, and so that's why I'm not going to second myself, and I don't want to take a responsibility of chairing something where I don't feel or understand yet whether or not I am fully capable of taking, like, legal responsibility for outcomes of something, until I fully understand that. So, like what is, when you say the support [00:09:30] will be there for whoever is the chair, knowing that Wiseman is not here and he has the most experience, how will that process, knowing that we're going to go right into something?

Tim Cummings: First, you'd be talking to them.

Justin Gerstenfield: Sorry.

Tim Cummings: [inaudible 00:09:46].

Justin Gerstenfield: Well, since you said it, I'm looking at you, but that is my discussion for the committee.

Adam Thompson: Well, as I understand it, in the absence of a chair, according to Robert's Rules, a vice chair will then run [00:10:00] the proceeding and, we also don't need to have the hearing tonight if we choose not to.

Justin Gerstenfield: Correct, but it has also been delayed so many times.

Adam Thompson: That's true. And we can discuss it.

Justin Gerstenfield: Correct. I just, I don't want to get it wrong at the same time.

Adam Thompson: I understand.

Lou Juris: So, shall we nominate a vice chair?

Tim Cummings: [00:10:30] what is your hesitance to second for Wiseman?

Justin Gerstenfield: Well, because it's going to ultimately end up that someone up here is going to have to run a meeting after this.

Adam Thompson: That's true.

Justin Gerstenfield: That's my reason.

Adam Thompson: Okay. Did I, forgive me. I don't understand, So, we need a chair.

Justin Gerstenfield: Right.

Adam Thompson: It makes sense that we should have the chair [00:11:00] with the most experience.

Justin Gerstenfield: Right.

Adam Thompson: That person that's on this committee with the most experience, can be nominated and has been. He just needs to be seconded.

Justin Gerstenfield: Then I can, we can table this whole conversation. We can have it when we're nominating a vice chair, then.

Adam Thompson: Right? Okay. So, I would ask that question for council. Can we skip the chair and go right to the vice chair?

Robert P. Sullivan: You don't need a vice chair. You need a chair.

Adam Thompson: Okay. So, we need to nominate [00:11:30] a chair.

Justin Gerstenfield: Great. Then we can do that. Okay.

Adam Thompson: do we need to move to close the discussion?

Tim Cummings: Yeah need to move the discussion.

Adam Thompson: So, I have to move that we close the discussion.

Justin Gerstenfield: I second that.

Adam Thompson: I'd like to move that we, nominate Wiseman for chair.

Tim Cummings: So, you need to vote.

Adam Thompson: Oh, okay. Right. Thank you. So-

Adam Thompson: This is one of the reasons that

Lou Juris: So, let me, do we proceed with [00:12:00] the agenda tonight if we nominate Mr. Wiseman?

Robert P. Sullivan: may I comment on that? you have to proceed with the agenda tonight, and you cannot proceed without a chair present. So, if Mr. Wiseman, receives the vote and becomes the chair, what you will have to then do is nominate a chair pro tem, meaning just for tonight, [00:12:30] so that person can run the meeting. Your business that you have to get to is not that long or involved, but it is there, and you have to get to it, and I will explain that once we get past this.

Lou Juris: So, I move to close the discussion.

Adam Thompson: Second.

Tim Cummings: So, you have a motion on the floor.

Adam Thompson: I already made a motion.

Tim Cummings: You already made a motion. It's on the floor. You just have to, we have to vote now to basically move on.

Adam Thompson: [00:13:00] So somebody should, has to hold the vote then, right?

Tim Cummings: That's what I'm going to do right now.

Adam Thompson: Excellent.

Tim Cummings: So, so we're going to call for the vote. All those in favor say aye?

Lou Juris: Aye.

Justin Gerstenfield: Aye.

Adam Thompson: Aye.

Tim Cummings: Opposed? The ayes have it. Nomination, discussion on the nomination is now over. So now it's a nomination for chair.

Adam Thompson: I'd like to make a motion to nominate Wiseman as the chair.

Tim Cummings: You need a second.

Justin Gerstenfield: I will second that.

Tim Cummings: So, motion made by Thompson, seconded by Gerstenfield. [00:13:30] Discussion on the motion.

Adam Thompson: I think he's got the vote of experience and we can reach out to him with questions and it'll make more sense to have somebody with experience leading.

Justin Gerstenfield: We can do that.

Adam Thompson: [inaudible 00:13:48].

Lou Juris: I tend to agree.

Tim Cummings: Further, further discussion on the motion? Hearing and seeing none. There's no further discussion on the motion, you'd call for a vote. All those in favor say aye.

Justin Gerstenfield: Aye.

Lou Juris: Aye.

Adam Thompson: Aye.

Tim Cummings: Opposed? [00:14:00] It's unanimous. You now have a chair.

Robert P. Sullivan: But your chair is not present and you're in a meeting, and you have business which needs to be conducted. Therefore, your only available option is, that one of the three of you who is present be nominated and voted to be chair pro tem, for this evening alone, and then that person will run the meeting.

Lou Juris: Can I make a [00:14:30] nomination? I nominate for pro tem for this evening Adam Thompson.

Tim Cummings: Do I have a second?

Justin Gerstenfield: I second that.

Tim Cummings: Discussion on the motion.

Adam Thompson: But with everybody up here, you have the most experience. We went with Wiseman because he's got the most experience and with your work in the legislature, you also have the most experience.

Lou Juris: Oh. You're, I'm not going to argue your point. You have [00:15:00] been doing a lot. You've been learning a lot lately about a lot of different

matters, and I think you have the energy that for the moment that's [inaudible 00:15:13].

Adam Thompson: I appreciate the vote of confidence [inaudible 00:15:14]

Justin Gerstenfield: I also agree with that you have the energy [inaudible 00:15:29]

Adam Thompson: Okay. Motion's been made. [00:15:30] I move that we call a vote.

Tim Cummings: Okay, so-

Adam Thompson: And then we ended our discussions.

Tim Cummings: So, let Gary, can you repeat the motion?

Gary Perrin: The motion is Member Juris made a motion to nominate for pro tem chairman Mr. Thompson, for this evening. It was seconded by Mr. Gerstenfield.

Tim Cummings: Further discussion on the motion? Hearing none, calling for the vote. All those in favor say aye.

Justin Gerstenfield: Aye.

Lou Juris: Aye.

Tim Cummings: [00:16:00] Opposed?

Adam Thompson: Nay.

Tim Cummings: Let's call the roll on this.

Gary Perrin: Member Gerstenfield?

Justin Gerstenfield: Yes.

Gary Perrin: Member Juris?

Lou Juris: Yes.

Gary Perrin: Member Thompson?

Adam Thompson: No.

Tim Cummings: With two in favor and one in opposition, motion carries, you have a chair pro tem. I would before I turn it over, I want to make sure it is noted on

the agenda that for vice chair. Now, [00:16:30] I don't think you necessarily have to do that this evening, per se, but I would say that it has been customary for the ethics committee to have a vice chair as well. So, maybe that is something you want to table for another evening, but I do, I would be remiss not to point that out before we proceed with the, with the rest of the agenda. And once that's being with whatever commentary you may have there, then we would move on to actually the real [00:17:00] business of the evening, which is agenda item number three.

Lou Juris: I move to table the discussion for vice chair.

Adam Thompson: I second.

Tim Cummings: So, we have a motion.

Adam Thompson: I'll second the motion [inaudible 00:17:09].

Tim Cummings: Table the vice chair, by Member Juris, seconded by Member Thompson. Discussion on the motion?

Adam Thompson: Yeah. If we can [inaudible 00:17:16] this way, we can also have a more fair option when Wiseman is able to join us.

Lou Juris: Agreed

Adam Thompson: So, let's, Dr. Gerstenfield?

Justin Gerstenfield: No, I agree.

Lou Juris: Okay.

Tim Cummings: [00:17:30] Further discussion on the motion? Hearing none. All those in favor say aye.

Lou Juris: Aye.

Justin Gerstenfield: Aye.

Adam Thompson: Aye.

Tim Cummings: Opposed? It's unanimous. Tabling of the vice chair is in order. So now technically, Member Thompson, you are chairing the meeting.

Adam Thompson: Okay.

Tim Cummings: We are now on agenda item number three, and I believe, [00:18:00] Bob and I can help assist you through the process if you so need.

Adam Thompson: yes. Gary, you had said that there would be, a handout for our new [inaudible 00:18:16].

Adam Thompson: Both of us.

Gary Perrin: I know.

Adam Thompson: [inaudible 00:18:23].

Gary Perrin: I apologize.

Adam Thompson: to the gentleman [inaudible 00:18:28]

Gary Perrin: Yeah. I have others on order as well.

Adam Thompson: [00:18:30] So we've already called to order, so I won't need to do that. counsel, what is the next step?

Tim Cummings: I number agenda item number three, review of that complaint, which maybe you'd ask, uh, Counselor Sullivan to help give you an overview of, of next steps.

Adam Thompson: Okay. Will I need to make a motion?

Robert P. Sullivan: I think that is [00:19:00] the proper way to do it.

Adam Thompson: Thank you. I'd like to make a motion for, attorney counsel to give us an overview on the evidence complaint.

Gary Perrin: Do we have a second?

Lou Juris: Second.

Tim Cummings: Discussion on the motion.

Adam Thompson: okay. Let me, I'd like to make a motion on, to discuss, Are there, does everybody want to make a discussion, have a discussion? All right. Seeing no discussion, [00:19:30] uh...

Tim Cummings: Call for a vote.

Adam Thompson: I'd like to hold a vote on attorney counsel, giving us a brief overview of the complaint, for voice votes, all in favor say aye.

Justin Gerstenfield: Aye.

Lou Juris: Aye.

Adam Thompson: All opposed? Ayes have this. Counsel.

Robert P. Sullivan: Thank you. So, my name is Robert Sullivan. I am a lawyer in private practice in Hampton Falls, New Hampshire. I am here, [00:20:00] to assist you in your work, following a sort of an interesting, really, and colorful pathway. The city of Nashua has a very competent Office of Corporation Counsel who could do this kind of work. However, as a result of a situation that arose about three years ago, the entire Office of Corporation Counsel was conflicted out of being [00:20:30] able to advise the ethics review committee. At that time, somebody came up with the idea of calling me, and at that time, Portsmouth, because in 1978, I was a member of the Office of Corporation Counsel here in Nashua. It was my first job out of law school and I was here for [00:21:00] about five years, before I left to become the city attorney in Portsmouth, where I did the identical work of the Office of Corporation Counsel, except there they call it city attorney, and I did it for 40 years.

And so, when a need came up for somebody to step in and serve as a sort of ad hoc corporation counsel to assist the ethics review committee, someone called me. I actually [00:21:30] don't remember who and I was very anxious, to accept the invitation because having done my career in Nashua, I've always had kind of a warm spot in my heart for the city and, and frankly, that is why I am doing this. It is my total motivation, it brings my career around full circle. Now that I'm [00:22:00] near the end of it, I'm back where I began it.

When I began here, Maurice Arel was the mayor, Phillip Howorth was the Corporation Counsel. Those gentlemen, treated me very well and set me off on a path that turned out to be very successful. And every step of that path, continuing to this very day, I often quote the both of those gentlemen. [00:22:30] in doing my work I learned a lot, from them both. So, I'm happy to be here. I've been here now about three years. The Ethics Review Committee determined, after the first case that I was brought in for, that they would like it if I could stay here and keep doing this work, and I have kept doing it now for these three years, been here for maybe a half a dozen different cases, numerous hearings, [00:23:00] meetings and, and that's why I am here tonight.

So, with that background, I think the first thing that really needs to be discussed, considering the complaint you have tonight, and the history over the last few years of the ethics review committee, is the state Right to Know law, RSA 91A. I know you have copies, but you know, it's a lot to

ask a person [00:23:30] to read through all that and try to digest it and understand it all. So, I'll give you the, the quickest of overviews, all that you will need for tonight's business. The Right to Know law calls for two things from you. It applies to all public parties in the state, but as applied to you, it calls for these two things tonight. Everything you do needs to be done in a public session, which is duly noticed, [00:24:00] and for which you keep minutes, which will become public records. There are some small exceptions to that public meeting requirement, which I will get to in a minute.

Now, the second thing that the Right to Know law calls for from you, is that basically everything you do will become a public record. Everything that's happened so far tonight is a public record, which will be available to any member of the citizenry. [00:24:30] They don't even have to be a New Hampshire resident. They don't have to give a reason. They can come in and see all of your records at will. That's the way that Right to Know law works. There are, again, some small exceptions.

As I said, you have to act in, in public session, duly noticed, and open to the public. And the two exceptions [00:25:00] that exist, two main exceptions that exist, and you might wish to rely upon from time to time are that you and, by recorded motion and roll call vote, you can go into a non-public session, in which the public would be excluded from your discussion. The statute gives you a number of reasons, why you can do that, but the one I think that would be most relevant [00:25:30] is that you are entitled to go in a non-public session to seek advice of legal counsel. I'm here, and I would go into a non-public session with you in an appropriate situation, and, and answer any questions that you might have.

Now, non-public sessions are themselves still public meetings and the requirement to keep minutes, for example, and minutes which would become public records. Those all still exist and, [00:26:00] and will follow the action of going into that non-public session and then coming out. And there are steps that have to be taken, which I can advise you step by step, if you determine that's something you want to do. Now, there is a second method allowed by the Right to Know law for you to go, to have a discussion with legal counsel that is not public, and that is that the definition of public meeting under [00:26:30] the Right to Know law excludes from the definition of that term, meetings with legal counsel.

Colloquially, over the years, those have come to be called non-meetings because by definition under the statute, they are not meetings, even though we would meet. The limitations that come with a non-meeting are serious, however, well you do not have to keep minutes, and you don't have [00:27:00] to record anything that happens because since it's not a meeting, the Right to Know law doesn't apply to that section. You also

cannot take any action in a non-meeting, because it's not a meeting and you have to act in meetings. So, if you choose and if you desire, you could vote to go into a non-meeting, it just calls for a motion and a simple majority vote, and you and I, or if somebody [00:27:30] from Corporation Counsel's Office was here, you and they could talk privately, but you could not take any action. Therefore, you know, you can decide amongst yourself, depending upon your needs at the moment, whether voting to go into a non-public session, or voting to have a non-meeting with counsel, is what suits your needs.

So, the Right to Know [00:28:00] law most importantly, I think should, should be remembered for this. It creates a spirit of municipal law in New Hampshire, a really strong spirit of municipal law in New Hampshire, and that spirit is that to the greatest extent possible, you do everything you can possibly in a public session, so that people can see you, hear you, know what you know, [00:28:30] hear what you hear, and understand why you do what you do. It is invariably my advice that anything which can be done in public session should be done in public session. And I will say this, repeatedly keep in mind, I was a city attorney in Portsmouth for 40 years, representing every public agency in that city at every meeting they had. So, this is all extremely [00:29:00] well-trodden ground for me and, and I know what I will say most of the time before you ask the question.

So that's kind of the Right to Know law. It's, I think it's as much as you need to know for right this minute. We can get to more as time goes on and issues go on, or, as any of you might develop questions and you can ask questions of me tonight while we're here, [00:29:30] you can ask questions of me by telephone, by email, by text, anytime you want, with this one limitation, you cannot act as a group except in a public meeting. So, if an individual of you should call me or write me, I can deal with that individual, but anytime there is a quorum of your committee together, for example, if three of you should want to call [00:30:00] me, that can't be done. Because that would be a meeting and you'd have to go through the public process, as I described, of notice and keeping minutes, et cetera.

Gary Perrin, he knows all this stuff very well. Gary and I have done a lot of this over a few years, and in terms of if you need to talk somebody [00:30:30] to somebody right away, even perhaps to get advice on how to approach a Right to Know law issue, I would recommend Gary, and Gary can reach me twenty-four seven. So, so, that's enough for the Right to Know law for right now.

The ethics review process that you are engaged to follow is not particularly complicated. The Board of Aldermen [00:31:00] has adopted some ethics rules and if anybody feels that, uh, anyone connected with the city government has violated those ethics rules, they can make a complaint

to you. Complaint needs to be written under oath, with all the formalities that are in the ordinance, but those complaints all come to you, you then have a two-step process to follow when you receive a complaint, and there has been a complaint pending before the [00:31:30] ethics review committee for a very long time and so tonight, it is my very strong recommendation that you treat that complaint as having been received by you tonight, and that you take your first step tonight, and I'll describe what you have to do. So-

Adam Thompson: Attorney Sullivan [inaudible 00:31:54] can we interrupt you for questions?

Bob Sullivan: I'm sorry?

Adam Thompson: Can we interrupt you for quick questions?

Bob Sullivan: Yes [inaudible 00:31:59].

Adam Thompson: Excellent. [00:32:00] in my time teaching, sometimes it's a very good idea to take little pauses and breaks, to ask questions and to see if people have any questions. Do you guys have any questions?

Lou Juris: So far, no.

Adam Thompson: Okay. Please don't feel, go ahead and ask questions you have.

Robert P. Sullivan: My, my preference is to proceed as informally as the law allows us to do, and it's worked well with ethics review committees for a few years, and I would hope to be able to continue that way with you.

Adam Thompson: I think, [00:32:30] we would like that as well.

Robert P. Sullivan: So, you have in front of you tonight a complaint and what the ordinance directs that you do with that complaint, and I'm suggesting you should do this tonight, is this. The first committee meeting with the complaint on the agenda [00:33:00] shall constitute the committee's receipt of the complaint. The committee shall review the complaint and determine if said complaint contains sufficient specific alleged facts to allege a violation of Part Five, [inaudible 00:33:20] conduct regulations and [inaudible 00:33:24] of Chapter Five, administrative government, of the City Code, and that the complaint is under oath. That's [00:33:30] the sum total of your duty tonight. The complaint is under oath.

Adam Thompson: Is that, Article 18?

Bob Sullivan: I'm reading from, um, the ordinance section 12-32D, capital D.

Adam Thompson: What page is it?

Robert P. Sullivan: I'm not sure what page [inaudible 00:34:01] article 19, [00:34:00] administration and enforcement of the code of ordinances, section 12-32 [inaudible 00:34:19] this is as close as I can, that is the first and second sentence. So [00:34:30] this, the purpose of the two-step process is this ethics complaints are important and somebody needs to look at them and make an important initial decision as to whether the city should go through the time and effort, that it will require to deal with that complaint.

And also, the city has to balance the interests of city employees in [00:35:00] this. It would be possible for somebody to file a complaint against any city employee, any city official, any [inaudible 00:35:13] anything. And it can be incredibly burdensome on someone like the mayor, for example. If somebody constantly filed, unsubstantiated complaints against him, and yet the process [00:35:30] had to be followed to its logical conclusion. So, for this reason, step one is a relatively low hurdle, but it's a hurdle that you decide who gets over it or not, by applying the sentence that I just read. Whether or not the complaint contains specific alleged facts to allege a violation of Part [00:36:00] Five, Conduct Regulations.

So, you can tell from the sentence, you don't talk to any witnesses yet, you don't ask for any testimony from anyone, yet. There is no public hearing yet. It is simply a matter of you reading the complaint and seeing whether it meets that test. If you determine the complaint meets that test tonight, then [00:36:30] that will initiate the process which will lead to a hearing. This is not a hearing, this is a meeting tonight. If you determine that the complaint meets that test, then at some point, in a time period determined by the ordinance, and Gary Perrin will handle this a hearing will be scheduled and at which time the complainant will be expected to make a presentation [00:37:00] to you in support of the complaint, and basically, anyone else who wants to talk to you about this complaint can address it.

The person against whom the complaint is not obligated to appear and defend themselves, but I think it's a good idea if they do. I can recall one very celebrated case here in which the mayor actually came [00:37:30] and responded to a complaint made against him and frankly did a very persuasive job with that at the review committee, and convinced that committee or the committee as it was structured at that time, that the complaint should not go forward after the hearing. That's what happened then. But these are all your decisions to make at some point in the future. The only one you need to make tonight [00:38:00] is whether or not this complaint alleges those specific facts, and if you find that it does then on another night, the matter will go forward to a hearing. If you find that it does not, it ends tonight.

Adam Thompson: Thank you. Any questions? You don't have any questions, right?

Adam Thompson: So [00:38:30] I suggest we take a look at the complaint and compare it the ordinance.

Robert P. Sullivan: Can there be a brief recess allowed in that.

Adam Thompson: Thank you. do we need to make a motion on that?

Robert P. Sullivan: Yes.

Adam Thompson: I'd like to make a motion for a brief l- recess to compare the complaints, uh, against the ordinances.

Robert P. Sullivan: Do you think 15 minutes will be enough?

Adam Thompson: Let's do 20 just in case. But tight 20.

Gary Perrin: We have a motion, [00:39:00] to recess, a second?

Lou Juris: I'll second.

Gary Perrin: Voice vote?

Justin Gerstenfield: No discussion.

Lou Juris: I'd like to, uh-

Gary Perrin: No discussion?

Adam Thompson: Seeing no discussion, let's move to a voice vote, all in favor of a 20-minute recess [inaudible 00:39:11] compare the complaint to the ordinance, just say aye. Aye.

Lou Juris: Aye.

Justin Gerstenfield: Aye.

Adam Thompson: All opposed? Ayes have it. call the recess for 20 minutes.

Robert P. Sullivan: Now I'd just point out you are still in public meeting, so you can't talk to each other about [00:39:30] this [inaudible 00:39:34]

Tim Cummings: Time now is 7:10, so 20 minutes would be at 7:30.

Adam Thompson: All right, so we're back from our recess. I hope that everybody had a good break and had a chance to read over their material. We all would probably like to get through this as quickly as possible, plaintiff has waited long enough. so [00:40:00] saying that, I'd like to make a motion to enter into a non-public session, under RSA 91-A:3, II(i).

Lou Juris: [inaudible 00:40:05].

Adam Thompson: Do I hear a second?

Lou Juris: Second.

Adam Thompson: The motion's been made and seconded. do you have any discussion? Seeing no discussion, I'll call for a roll call. All in favor say aye.

Justin Gerstenfield Aye.

Lou Juris: Aye.

Adam Thompson: Aye. All opposed? We are now in non-public discussion.

Ethics Review Committee entered into Non-Public Session at 7:35pm