**NOTE: These minutes are considered DRAFT until approved by the committee at the next Public Services Committee meeting.

MINUTES Tuesday, January 17, 2012

* 5:05 PM

Public Services Committee Carnegie Town Hall

235 West 10th Street

Members Present: Council Member Sue Aguilar, Council Member Kenny Anderson Jr., Council Member Vernon Brown, and Council Member Michelle Erpenbach

Members Absent: None

Staff Present: Sue Roust, Interim City Clerk and Tamara Jorgensen, CMC, Assistant City Clerk

Guests: I.L. Wiedermann, Rich Oksol, Bill O'Toole, Jim Entenman, Dean Karsky, Rex Rolfing, Greg Jamison, David Pfeifle, and Karen Leonard

1. Call To Order

Committee Chair Anderson Jr. called the meeting to order at 5:05 p.m.

2. Fraud Control Policy by Rich Oksol, Lead Internal Auditor and Bill O'Toole, Director of Human Resources

Rich Oksol, Lead Internal Auditor,reviewed the draft of theFraud Control Policy. Oksol has reviewed this information with Bill O'Toole, Director of Human Resources, and David Pfeifle, City Attorney.He stated that they discussed the process for handling allegations made against an elected official. Oksol recommended that the Ethics Board investigate these types of allegations. He stated that staff for Internal Audit, Human Resources and the City Attorney's Office report to, or are appointed by, elected officials. This puts them in a situation of investigating people who appointed them, which may be a conflict of interest.

O'Toole requested that the Fraud Control Policy be amended to include Tracy Turbak, Director of Finance, on theFraud Coordination Committee.

Anderson Jr. asked about the need for a Fraud Coordination Committee when we already have an Audit Committee. He asked if the Audit Committee would be handling the review of complaints sent to the Fraud Hotline.

Oksol responded that he is the only person that receives an email report provided by an out of state third party provider.

In the past, there were no written protocols for handling this information. This policy is recommending a "Fraud Coordination Committee" composed ofOksol, O'Toole, Pfeifle, and the Chair of the Audit Committee.Oksol stated that the Audit Committee would be involved because the chair would be representing the committee. Oksol stated the Audit Committee, and ultimately the Mayor and the City Council, would be informed of the results with a written report. The Audit Committee would

be tasked with insuring that the Mayor and City Council are aware of the results of the investigation.

Anderson Jr. asked again why another committee was being put together to review the information when we already have an Audit Committee in place. Oksol replied that organizing a meeting of the Audit Committee takes more time because of all of the members who are outside city employment. The proposed Fraud Coordination Committee wouldbe able to speed up the processand handle the reports faster.

Anderson Jr. asked the City Attorney to explain the process for selecting an outside attorneyif charges are brought against one of the nine elected officials. Pfeifle stated that staff in the City Attorney's Office would ask to be recused from the case. The Chairman for the Board of Ethics would then make arrangements to interview and hire an outside attorney. He stated that the City Attorney's Office would not be involved at all in the selection process. Anderson Jr. asked if the selection process could be in writing.

Erpenbach stated that the members serving on the Ethics Board are not new or inexperienced and have some familiarity with other attorneys. She asked that the Board of Ethics be advised of the funds available to them to hire an outside attorney. Pfeifle stated that the City Attorney's Office has $1,000.00 in their budget for the Board of Ethics to use for hiring an outside attorney. He stated that this amount may need to be increased in the next budget cycle. Pfeifle stated that the financialinformation would be a part of their continuing orientation for the board members.He stated that two of the members are attorneys and that there will be four replacements on the Board of Ethics in the next year as their terms will expire.

Anderson Jr. stated that he would like to see something more structured and in writing for the Ethics Board to use as a guide when selecting their outside attorney because, once they make their advisory opinion, the information is public.

Discussion was held regarding the proper procedure for approving this item. Aguilar asked if this item needed to go back to the Audit Committee. Oksol stated that this item was reviewed by the Audit Committee who referred it to the Fiscal Committee in July.

Brown recommended that the item be moved to full CityCouncil for their review. Anderson Jr. asked if this was going to impact the proposed amendments to the ethics ordinances. Pfeifle stated that the action required would be a motion by the City Council to adopt this policy, not an ordinance, as this is more operating procedures rather than setting a permanent standard moving forward. Pfeifle stated that this policy does have some similarities with the proposed amendments to the ethics ordinances.

A motion was made by Council Member Brown and seconded by Council Member Erpenbach to move this item forward for presentation to the City Council. Anderson Jr. called for a voice vote and all members present voted yes. Motion Passed.

3. Ethics Ordinance Amendments by David Pfeifle, City Attorney

Pfeifle stated that he has reviewed 41 states that have Ethics Commissions. Of those 41, he counted 11 that use similar procedures in how and when they make ethic complaints public.

Pfeifle stated that the proposed changes wereunanimously recommended by the Board of Ethics and conversations with some City Council members.

Erpenbach discussed a situation wherean individualhad an ethics complaint filed against them and that person could not make the complaint public. However, the person that filed the complaint was able to discuss the fact that he had filed acomplaint.Erpenbach asked Pfeifle to explain how the proposed changes are more fair for the accused when the complaint becomes public.

Pfiefle stated the amendments wouldserve as an initial filtering process where the information is confidential until it is reviewed, investigated and a report is issued.He stated this timeline is very short. Pfeifle stated this process would balance the public's right to know with therights of the accused to have a filtering process.The Board of Ethics is allowed to makerecommendations which are non-binding.The City Council would make thedecision regarding what action, if any, is needed. Pfeifle stated this action would take place in a public setting.

Anderson Jr. spoke regarding the quorum needed for the Board of Ethics. There was discussion held at the Public Services Committee Meeting on January 9, 2012 regarding changing the quorum from four to three.After discussion, it was determined that three members for a quorum is acceptable.This is due primarily to the fact that the Board of Ethics is serving in an advisory capacity only and is only making recommendations.

Anderson Jr. stated that he felt the Audit Committee should be handling complaints received by the Fraud Hotline. He does not believe it is necessary to have a separate committee reviewing this information. He will discuss this further at a City Council Meeting.

A motion was made by Council Member Michelle Erpenbach and seconded by Council Member Aguilar to recommend this item for presentation to the City Council. Anderson Jr. called for a voice vote and all members present voted yes. Motion Passed.

4. Recodification by Karen Leonard, Assistant City Attorney

Karen Leonard, Assistant City Attorney reviewed the proposed changes regardingarchaic language in the city ordinances. At the Public Services Committee meeting on January 9, 2012, Committee members requested additional information on the following:

Chapter 15 1/2 Fees - Community Development Comment: Archaic language.

Recodification Committee Comment: Darrin Smith indicates that his title is Director of Community Development and Public Parking. It has been the same title since 1998 or longer. This is not a new development with this Administration. Recommend putting in the Director's full title so no confusion as it is a Director function.

Sec. 29-29. Prohibited conduct - Recodification Committee Comment:

The word "by" was struck in last version (29-29(3). It has now been reinserted.

Section 41-110. Definitions - Public Works Comment: Current practice/ archaic language.

Recodification Committee Comment: At prior meeting, it appeared that the department was trying to delete language found in pages 64 through 71. However, after researching this further, it was discovered that the Recodification Committee was trying to not set out the entire section but only show the changes being made to Section 41-110 so it struck through language that hadn't been revised. This was a Committee error as the Committee didn't accept the change in Word. Thus, what is shown above is the revision made by Public Works Department. This just updates to current practice.

Appendix 1. To appendix A. Certificates for Preliminary Plans - Planning Comment: Archaic language.

Recodification Committee Comment: The Committee checked with Planning and they said the above certificate was an administrative policy tied into the Subdivision ordinance. In practice it is unnecessary for Planning Director or City Engineer signature as the preliminary plan is approved at a public hearing and signature by planning commission suffices.

Leonard reviewed the timeline for reviewing and submitting items to American Legal Publishing.

Leonard is requesting that a motion be made and seconded granting authorization for the City Attorney's Office to move the"Master Copy" and the "Archaic Copy"to American Legal for initial review. Leonard stated that the revised ordinances will come before the Council again in August, 2012 foradoption.

A motion was made by Council Member Michelle Erpenbach and seconded by Council Member Sue Aguilar to grant approvalof the archaic memo and the master copyto move forwardto American Legal Publishing for processing. Anderson Jr. called for a voice vote and all members present voted yes. Motion Passed.

5. Open Discussion

There was none.

6. Adjournment

A motion was made by Council Member Michelle Erpenbach and seconded by Council Member Aguilar to adjourn the meeting at 5:38 p.m. Anderson Jr. called for a voice vote and all members present voted yes. Motion Passed.

Tamara Jorgensen, CMC

Assistant City Clerk