RULES/APPOINTMENTS SUBCOMMITTEE
May 9, 2019
Minutes

Members Present: Grebner, Naeyaert, Sebolt, and Stivers.

Members Absent: None.

Others Present: Barb Byrum, Becky Bennett, and Beth Foster.

The meeting was called to order by Chairperson Stivers, at 6:01 p.m. in Personnel Conference Room D & E of the Human Services Building, 5303 S. Cedar Street, Lansing, Michigan.

Approval of the April 16, 2019 Meeting Minutes

MOVED BY COMM. GREBNER, SUPPORTED BY COMM. NAeyaERT, TO APPROVE THE MINUTES OF THE APRIL 16, 2019 RULES & APPOINTMENTS SUBCOMMITTEE MEETING.

THE MOTION CARRIED UNANIMOUSLY.

Additions to the Agenda

None.

Limited Public Comment

None.

1. Ethics Policy

Chairperson Stivers stated that she had a conversation with Commissioner Morgan and that he felt strongly that there is no reconciling this version of the ethics policy with what he intended. She further stated that the ethics policy discussion should move back to the County Services Committee for a bigger conversation with a bigger group.

Commissioner Sebolt stated that the Subcommittee did not necessarily need to move the ethics policy back to County Services Committee. He further stated that he thought the entire ethics policy needed to be thrown out and new one started from scratch.

Commissioner Sebolt stated that he did not feel someone looking at the ethics policy should have to read through a dizzying array of questions before they got to the meat of the ethics that were proposed in it. He further stated that he did not feel the ethics policy was accessible.
Commissioner Grebner stated that he thought the Subcommittee should discuss the ethics policy instead of tabling it. He further stated that when he wrote the original policy, which has been in place for the past 27 years, he worked on it for over 30 hours, followed by about 10 redrafts and some tinkering by the Board of Commissioners.

Commissioner Grebner stated that, in those 27 years, the policy has been extremely effective and successful, noting that no commissioner had been charged with a crime related to the Board of Commissioners and no substantial financial impropriety has occurred. He further stated that when necessary, County staff has always found language in the policy to deal with issues that have arisen.

Commissioner Grebner stated that the draft presented was intended to create institutions and institutional expectations, to solve problems and to guide the Board of Commissioners out of trouble. He further stated that maybe most people did not think the ethics policy should be intricate and subtle, but that simple and straightforward policies could be easily evaded.

Commissioner Grebner stated that he believed that having an intricate and subtle policy was why the Board of Commissioners has not had problem with transactional corruption. He further stated that before this ethics policy was adopted, there were quid pro quos but this ethics policy guided the Commissioners out of that.

Commissioner Grebner stated that what they were really talking about was the email issue and that what he was trying to do with email, or communications more broadly, was to set up a set of expectations that dealt with the problems they have seen recently.

Commissioner Grebner stated that one example he had in mind while writing this, was when the Sheriff sent an email blast that mentioned his reelection campaign. He further stated that in that case he should have been able to find an ethics policy that said not to do that and if he did not realize it applied to him it should not result in him being prosecuted, charged or accused, but it should result in his having been reminded and admonished the first time, and that it would be a really bad idea to do it again.

Commissioner Grebner stated that this policy, when applied to Scott Wriggelsworth, does exactly that. He further stated that his goal in everything he writes was to set a set of standards, in case anyone read them, and if they did not read them, to create rules that in case the standards were violated, a number of people in the County all had an incentive to say, no, that is not how we proceed.
Commissioner Grebner stated that in regards to the email and communications, he tried to set out some rules that were clear and then set expectations by other people, which if one were to violate them, all these other people would naturally bump into you and let you know you should not do it. He further stated that that is why it seemed more elaborate and complex because it is was elaborate and complex as the issue was.

Commissioner Grebner stated that he thought the ethics policy would turn out to be satisfactory and useful.

Commissioner Sebolt stated that an ethics policy was unnecessary, in the example of the Sheriff because MCL 169.257 prohibits the use of public resources for campaign purposes, and includes the use of computer hardware or software, which email services most certainly fall under. He further stated that there was no need for an ethics policy for things that were clear violations of State law, unless it was done simply to reiterate what is already law.

Commissioner Sebolt stated that the line in Commissioner Grebner’s ethics policy, that stated that using email for personal purposes is of no value, at least in terms of the Campaign Finance Act, is in direct violation of State law. He further stated that there were deficiencies in the proposal.

Commissioner Sebolt stated that, while Commissioner Grebner spent a lot of time on this, it was not accessible. He further stated that he felt that the Board of Commissioners could have a policy that accomplished everything Commissioner Grebner talked about, in terms of corruption, nepotism, financial entanglement, romantic entanglement, etc., but with something much more clearly worded.

Commissioner Sebolt stated that he thought the ethics policy should be rewritten and thoroughly reviewed by legal counsel. He further stated that there had been several incidents of people playing around the edges of the ethics policy recently and that that needs to be addressed very explicitly.

Commissioner Naeyaert stated that she agreed with Commissioner Sebolt. She further stated that while she appreciated all the work Commissioner Grebner had done, his ethics policy was wordy and obtuse, which made it more convoluted.

Commissioner Naeyaert stated that it was possible to write a policy that made it very clear what was a violation and what was not.

Commissioner Naeyaert stated that she was going to use an example, a sitting commissioner representing another sitting commissioner in a legal capacity and acting in that legal capacity
during a County Commissioner meeting. She further stated that it seemed odd to her that it was not a gross ethical violation of some kind, yet she could not find anything in the ethics policy that addressed that.

Commissioner Naeyaert stated that the ethics policy needed to be redone with time and deliberation that Commissioner Grebner gave it when he first wrote it.

Commissioner Grebner stated that he tried to rewrite the ethics policy 10 years ago but that subcommittee fell apart.

Commissioner Grebner stated that he thought the simpler the rule, the easier it was to evade it by minor steps. He further stated that the actual problems were more complex and required more complex solutions.

Commissioner Grebner stated that, in his opinion, the problem is not specific, easy to name transactions, but transactional relationships which develop. He further stated that, for example, there are 80 counties in the State were they have no trouble hiring County Commissioners’ relatives.

Commissioner Grebner stated that, in response to Commissioner Sebolt’s comment about the email portion of the policy, he felt it was a pretty clear statement that you did not send out an email saying you were running for reelection using your county email. He further stated that he used the words “government media” instead of using the word “email” because it was too specific.

Commissioner Naeyaert stated that she understood what Commissioner Grebner was saying regarding the use of the word “email,” but asked why the policy could not specifically say no nepotism.

Commissioner Grebner stated that defining nepotism was tricky.

Chairperson Stivers stated that it was possible to keep the existing principles of the ethics policy but to change and organize it differently. She further stated that, while everyone was grateful for the work and time Commissioner Grebner put into the ethics policy, and while she also thought the fact that it had held up for 27 years was amazing, she thought it should be passed back to staff.

Chairperson Stivers stated that she thought that Tim Dolehanty, Controller, should be tasked with rewriting the policy from scratch since he was due to review it this year anyway. She
further stated that she did not think any sitting commissioner should be responsible for the initial drafting, but that staff should do it and then have the Subcommittee start the editing process.

Commissioner Sebolt stated that when he spoke about throwing the whole ethics policy out, that he did not mean the underlying principles, but the text itself. He further stated that he did not want his constituents to feel like they needed a minor in philosophy to understand the ethics policy, because ultimately, the ethics policy was not just about the Commissioners judging themselves, but about their constituents’ ability to judge the Commissioners’ performance in office as well.

Commissioner Sebolt quoted from Commissioner Grebner’s proposed policy, “in general, the incidental use of County facilities for communication does not represent a material diversion of public resources to private ends, because the cost to the County is likely to be trivial.” He stated that he did not think these types of electronic communications should be defined as trivial when there was some precedent in State law where they were not trivial.

Chairperson Stivers quoted from Commissioner Grebner’s proposed policy, “(w)here state law provides guidance, it should be fully and generously followed, in a spirit of transparency and full disclosure.” She stated that she believed that section would prevent what Commissioner Sebolt brought up, but she thought that the language should be clearer.

Commissioner Grebner stated that the ethics policy did need to be rewritten. He further stated that, in the section Commissioner Sebolt was referring to, he was distinguishing between value and appearance and that email itself was not a valuable thing.

Commissioner Grebner stated that there was a different problem of taking valuable things from the County and using them yourself, which was a separate kind of problem from the appearance. He further stated that it came up in other ways where it amounted to theft or diversion of resources.

Chairperson Stivers stated that that could be worded more clearly or be part of a different section.

Commissioner Grebner stated that he did not know of anyone on staff currently who would be able to rewrite the ethics policy while maintaining its essence.

Chairperson Stivers stated that that was why they would have a review process, that they could add the essence back in if it was missing.
Commissioner Grebner stated that Peter Cohl’s office, County Attorney, was likely to want to be involved pretty deeply and that maybe his office would have someone who could do something, or not.

Commissioner Naeyaert stated that she did not think the Controller should have anything to do with writing the ethics policy. She further stated that she did not think that the one person the Board of Commissioners directly oversaw should write the Board of Commissioners’ ethics policy.

Commissioner Naeyaert stated that she thought the attorneys, who may have written ethics policies for decades for municipalities, boards and commissions, might already have something modernized and ready to go for other entities.

Chairperson Stivers stated she thought that was a great idea.

Commissioner Grebner stated that he wanted to point out that the attorneys have successfully interpreted the current ethics policy, when needed.

Commissioner Naeyaert stated that she would be happy to reach out to the legislative liaison for the Michigan Townships Association to ask for a few counties’ ethics policies.

Discussion.

MOVED BY COMM. SEBOLT, SUPPORTED BY COMM. NAeyaERT, TO SEND THE ETHICS POLICY TO THE COUNTY ATTORNEYS ALONG WITH SOME RESEARCH THE SUBCOMMITTEE COULD DO VOLUNTARILY ON ETHICS POLICIES OF NEIGHBORING COUNTIES, AND TASK THEM WITH THE JOB OF REWRITING IT FROM SCRATCH, FOR CLARITY, WHILE MAINTAINING THE ESSENCE OF COMMISSIONER GREBNER’S ORIGINAL WORK.

Commissioner Grebner stated that he thought every five or ten years, the Board of Commissioners was supposed to rewrite policies, and he thought that this process should coincide with that, so it did not trip on top of it.

Commissioner Naeyaert stated this drafting would re-start the five-year cycle of reviewing policies.

Chairperson Stivers asked what the deadline should be for the attorneys to come back with something.

Discussion.
MOVED BY CHAIRPERSON STIVERS, SUPPORTED BY COMM. GREBNER, TO AMEND THE MOTION TO INCLUDE:

...WITH A DEADLINE OF JULY 9, 2019 FOR A FIRST DRAFT TO BE REVIEWED BY THE RULES & APPOINTMENTS SUBCOMMITTEE.

MOVED BY COMM. GREBNER, SUPPORTED BY COMM. SEBOLT, TO ADD THE FOLLOWING LANGUAGE TO THE AMENDMENT:

...WITH A GENERAL SENSE OF MAINTAINING THE CURRENT POLICIES BUT SIMPLIFYING THE LANGUAGE AND MAKING IT EASIER TO UNDERSTAND AND APPLY, AND ALSO USING BEST PRACTICES FROM OTHER COUNTIES.

Discussion.

Chairperson Stivers stated that this would be tricky to come up with the correct wording.

Commissioner Sebolt stated that he was certain the attorneys would be reaching out for clarification.

THE AMENDMENT, AS AMENDED, CARRIED UNANIMOUSLY.

Chairperson Stivers clarified that the motion, as amended, was now:

TO ASK THE COUNTY LAWYERS TO REWRITE OUR ETHICS POLICY BY JULY 9, 2019 WITH A FIRST DRAFT FOR THE SUBCOMMITTEE’S REVIEW, WITH A GENERAL SENSE OF MAINTAINING OUR CURRENT POLICIES BUT SIMPLIFYING THE LANGUAGE MAKING IT EASIER TO UNDERSTAND AND APPLY, AND ALSO SUPPORTING BEST PRACTICES FROM OTHER COUNTIES.

Commissioner Grebner stated he would like another amendment to send his communications policy along with the ethics policy since it was not currently a part of the ethics policy.

Chairperson Stivers stated that she thought they should send that and also send Commissioner Morgan’s communications policy and ask them to resolves the differences. She further stated she thought they could do that separately as background material.

Commissioner Sebolt stated he would also like to send Commissioner Morgan’s policy to the County Attorneys, as it was an issue that needed to be addressed, for certain, with two different strategies on how to address it.
MOVED BY COMM. GREBNER, SUPPORTED BY COMM. SEBOLT, TO AMEND THE PROPOSED ACTION REGARDING THE ETHICS POLICY AS FOLLOWS:

TO SEND ALONG BOTH COMMISSIONER GREBNER AND COMMISSIONER MORGAN'S EMAIL POLICIES ALONG WITH THE EXISTING ETHICS POLICY TO THE LAWYERS.

Commissioner Naeyaert stated she was sure the County Attorneys were familiar with how to do an ethics policy, so why not just see what they came up with.

Chairperson Stivers stated that the County Attorneys should be aware that there was a conflict among the commissioners and that might guide them to come up with a resolution that pleased all. She further stated that she thought the Subcommittee should send any background materials that might help them come up with something the Commissioners were going to like.

Commissioner Naeyaert stated that she agreed with giving them everything we have telling them to make it new and better.

Discussion.

THE AMENDMENT CARRIED UNANIMOUSLY.

Discussion.

THE MOTION, AS AMENDED, CARRIED UNANIMOUSLY.

2. Appointment Process and Board Rules
   a. Resolution Establishing An Interview Process For Making Appointments To Advisory Boards/Commissions

MOVED BY COMM. NAeyaERT, SUPPORTED BY COMM. SEBOLT, TO APPROVE THE RESOLUTION.

MOVED BY COMM. SEBOLT, SUPPORTED BY COMM. NAeyaERT, TO AMEND THE RESOLUTION TO INCLUDE THE POLICY DRAFTED BY COMMISSIONER SEBOLT AS AN ATTACHMENT TO THE RESOLUTION AND ADD THE FOLLOWING LANGUAGE TO THE RESOLUTION:

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners hereby establishes an the attached interview process whereby applicants are interviewed on an
individual basis and asked a series of standardized questions, subject to follow-up questions if necessary.

This was considered a friendly amendment.

Commissioner Sebolt stated that it was not in the agenda packet, but he would like it to be attached as the policy that the Subcommittee was proposing for the Board of Commissioners to adopt that policy.

Chairperson Stivers stated that based on previous discussion, she though they needed a few lines indicating that this was a guideline and that this was flexible in any special circumstances where it did not apply, it would not be used.

Commissioner Sebolt stated that there was language like that in the resolution already, and read the following portion of the resolution:

"BE IT FURTHER RESOLVED, that the Liaison Committees have the option to waive this process in cases where it has been determined by the Committee that it is not necessary to interview the applicants individually."

Discussion.

THE RESOLUTION WAS AMENDED AS FOLLOWS:

BE IT FURTHER RESOLVED, that the Liaison Committees Chair has have the option to waive this process in cases where it has been determined by the Committee that it is not necessary to interview the applicants individually.

This was considered a friendly amendment.

Chairperson Stivers requested that the misplaced accents, over the letter “e” in resume, be fixed before it moves on.

Discussion.

MOVED BY COMM. GREBNER, SUPPORTED BY COMM. SEBOLT, TO AMEND THE RESOLUTION AS FOLLOWS:

BE IT FURTHER RESOLVED, that members of the Committee are free to ask additional questions.

This was considered a friendly amendment.
THE MOTION TO APPROVE THE RESOLUTION, AS AMENDED, CARRIED UNANIMOUSLY.

2. Appointment Process and Board Rules
   b. Resolution Reaffirming Resolution #06-115 To Establish A Policy On The County Orientation Of County Appointees To Certain Boards, Commissions, And Committees

MOVED BY COMM. SEBOLT, SUPPORTED BY COMM. NAEYAERT, TO APPROVE THE RESOLUTION.

THE MOTION CARRIED UNANIMOUSLY.

2. Appointment Process and Board Rules
   c. Resolution Rescinding Resolution 06-292 Requiring Certain Advisory Boards, Commissions, And Committees That Evaluate Employees To Submit The Evaluations To The Ingham County Board Of Commissioners

MOVED BY COMM. NAEYEART, SUPPORTED BY COMM. GREBNER, TO APPROVE THE RESOLUTION.

THE MOTION CARRIED UNANIMOUSLY.

2. Appointment Process and Board Rules
   d. Resolution Revising The Board Rules

MOVED BY COMM. SEBOLT, SUPPORTED BY COMM. GREBNER, TO APPROVE THE RESOLUTION.

THE MOTION CARRIED UNANIMOUSLY.

Announcements

None.

Public Comment

None.
Adjournment

The meeting was adjourned at 6:51 p.m.

BARB BYRUM, CLERK OF THE BOARD