

City of Windcrest



AGENDA

ETHICS COMMISSION MEETING

APRIL 08, 2021

CITY COUNCIL CHAMBERS @ 8601 MIDCROWN
6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A CITY OF WINDCREST ETHICS COMMISSION MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 8th DAY APRIL 2021, STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COMMISSION MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE ETHICS COMMISSION RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF APRIL 8, 2021, AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY APRIL 9, AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers is wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

- I. **Call to Order**
- II. **Roll Call**
- III. **Vote to Excuse Absent Commission Members**
- IV. **Pledge of Allegiance & Invocation**
- V. **Ceremonial**
 - a) Swearing in of newly appointed commission members for unexpired terms ending March 1, 2023.
- VI. **Citizens to be Heard.**
 - a) Citizens may address the Ethics Commission on topics not on the agenda for no more than three (3) minutes.
 - b) Citizens shall also have the opportunity to address the Ethics Commission during consideration of posted agenda items for no more than six (6) minutes.
 - c) Only a maximum of six (6) members of the public will be permitted in the City Council Chambers at a time. All attendees will be required to be screened for present signs of COVID-19 prior to entering City Hall.
 - d) Four (4) hours prior to the meeting, an email to the city secretary at citysecretary@windcrest-tx.gov is required, to be added to the attendee list ensuring proper physical distance seating inside and outside City Council Chambers.

APR 02 '21 11:27

- e) An email statement may be sent to the City Secretary @ citysecretary@windcrest-tx.gov to be read into the meeting to the Ethics Commission. Statements will be provided to the Ethics Commission and available to the public not in attendance after the meeting.
- f) A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

VII. Items for Discussion/Action

- a) The Ethics Commission will review, discuss, and may take possible action on Resolution No. 2021-001-EC memorializing amendments to its internal protocols, procedures and complaint form previously adopted by motion and vote at the March 25, 2021 meeting. [Peter Van Dusen]
- b) The Ethics Commission will take action to elect officer positions of Chair, Vice Chair, and Secretary.

VIII. General Announcements & Future Agenda Items Requested

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

IX. Adjournment

DECORUM REQUIRED:

Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

ACTION BY COMMISSION AUTHORIZED:

The Ethics Commission may vote and/or act upon any item within this Agenda. The Ethics Commission reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); § 551.087 (Economic Development); and, § 551.071 to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Chairperson or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.

EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may

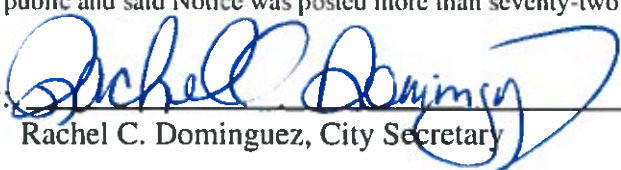
be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS:

It is anticipated that members of the City Council, or other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Ethics Commission of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on April 08, 2021.

By:


Rachel C. Dominguez, City Secretary

APR 02 '21 11:27

RESOLUTION NO. 2021-001-EC

**A RESOLUTION OF THE CITY OF WINDCREST ETHICS
COMMISSION MEMORIALIZING AMENDMENTS TO ITS
INTERNAL PROCEDURES AND COMPLAINT FORM
MADE BY MOTION AND VOTE AT ITS MARCH 25, 2021
MEETING TO HARMONIZE THE LANGUAGE WITH ITS
GOVERNING CITY CODE.**

WHEREAS, the Windcrest Ethics Commission, by ordinance, has the authority to adopt and amend its own procedural rules and regulations, including its complaint form, to properly execute its business; and

WHEREAS, the Windcrest Ethics Commission has previously adopted internal procedures and a complaint form on November 20, 2019 by Resolution No. 2019-1120 (R); and

WHEREAS, the City Windcrest City Council amended the Ethics Commission's establishing ordinance on August 3, 2020 by Ordinance No. 2020-017(O); and

WHEREAS, the Windcrest Ethics Commission finds it necessary to amend its internal procedures and complaint form to harmonize the language with its governing ordinance; and

WHEREAS, the Windcrest Ethics Commission, by motion and vote at the March 25, 2021 meeting amended its internal procedures and a complaint form; and

WHEREAS, the Windcrest Ethics Commission finds a need to prevent future confusion in its records, desires to memorialize the amendments its internal procedures and a complaint form made at its March 25, 2021 by resolution.

NOW THEREFORE, BE IT RESOLVED BY THE WINDCREST ETHICS COMMISSION that:

1. The Windcrest Ethics Commission has amended its internal procedures and complaint form as reflected in **Attachment A** to this resolution.

DULY PASSED AND APPROVED, on the _____ day of _____, 2021 at a meeting of the Windcrest Ethics Commission, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

Windcrest Ethics Commission

Ethics Commission Chair

ATTEST:

Rachel C. Dominguez, City Secretary

APPROVED:

Michael McCann, City Attorney

Attachment A

Windcrest Ethics Commission Procedures

ARTICLE I. GENERAL PROVISIONS

(A) **Definitions**

1. *The Commission* shall mean the Windcrest Ethics Commission, which is a commission established by the City Council of the City of Windcrest pursuant to Ordinance No. 2019-690(O). The Commission may establish its own rules and procedures, but such are subject to change by City Council resolution or ordinance.
2. *City Secretary* shall mean the City Secretary of the City of Windcrest.
3. *Chair* shall mean the chair of the Ethics Commission.
4. *Officers of the Commission* shall mean the Chair, Vice-Chair and Secretary of the Ethics Commission.
5. *Presiding Officer* shall mean the officer or commission member presiding over any meeting of the Commission. By default, the Presiding Officer shall be the Chair.
6. *Vice-Chair* shall mean the vice-chair of the Ethics Commission.
7. *Complaint Form* shall mean the Ethics Complaint Form on file with the City's Secretary's office.
8. *Complainant* shall mean the person filing an Ethics Complaint Form.
9. *Respondent* shall mean the person accused of committing behavior deemed unethical under the City's Ethics Policy.
10. *Hearing* shall mean a meeting of the Windcrest Ethics Commission wherein the Commission will investigate the complaint and may consider responses, evidence, and other information provided at this meeting to make a formal recommendation to the City Council or City Manager on whether the Complaint should be sustained or dismissed.

(B) **Office and Custodian of Records**

1. The Commission designates City Hall, located at 8601 Midcrown, Windcrest, Texas 78239, as its office.
2. The Commission further designates the City Secretary as its custodian of records. All records of the Commission shall be filed with the City Secretary. The Commission, through the assistance of the City Secretary, shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Commission shall keep records of its examinations and other official actions, which shall be stored in the Office of the City Secretary.

3. The Commission designates the Chair as the primary officer responsible for communications on behalf of the Commission and interaction with City administration.

ARTICLE II. OFFICERS

- (A) As specified by City Ordinance, the Commission shall have at least three (3) officers: Chair, Vice-Chair, and a Secretary and may appoint such other officer positions as the Commission deems proper. Each officer position is for a term of one (1) year. Elections for officer positions are to be held annually for officer positions, even if the positions were filled due to vacancy at a time prior to the annual election. The election of officers shall occur by the Commission membership by majority vote.

ARTICLE III. PROCEDURES

- (A) **Authority:** The Commission may establish, amend, and rescind rules and procedures governing its own internal operations, consistent with its authority provided by the City's Code of Ordinances.
- (B) **Meetings:** The Commission shall generally follow the below procedures. Such procedures are subject to policies and ordinances adopted by the City Council by resolution or ordinance. In the absence of an express procedure, the Presiding Officer is responsible for the orderly progression of any meeting. Meetings of the Commission are held at the call of the Presiding Officer and at other times as determined by the Commission.
 1. *Call to Order.* Call the meeting to order.
 2. *Roll Call.* Acknowledge the presence of members in the room for the purposes of quorum.
 3. *Pledge of Allegiance.*
 4. *Citizens to be Heard.* If applicable.
 5. *Items for Discussion/Action.* The Commission shall hear and discuss items on the agenda, and, if necessary, take action on the listed agenda items. Should the Commission hold a hearing in response to a properly filed Complaint Form, it will be identified as an item for discussion and action.
 6. *A Motion.* A motion must be made for each agenda item that is to be discussed. For example, "Motion to approve (or deny) [item as stated on the posted agenda]."
 7. *Second to Motion.* A second to the motion must be made before discussion can occur on an agenda item. Seconding an item does not mean the member offering the second agrees with the motion. The second is an acknowledgement the motion should be discussed. If no second is made within a reasonable time of the motion as determined by the Presiding Officer, the motion will not be discussed.
 8. *Discussion.* Members may discuss the motion on an agenda item once seconded. Discussion and deliberation are considered one-in-the-same for purposes of these rules.
 9. *Call for Vote.* Once a motion has been made and seconded and discussion, if any, and has been held, any member of the Board may call for a vote on the motion.

The Presiding Officer shall restate the motion and call for a vote of the members on the motion. The Board members shall vote on the motion. A motion passes by a majority vote of the Commission.

10. *Adjournment.* Once no other business is present for a particular meeting, the Presiding Officer will adjourn the meeting and state the time for the record. No motion or second is necessary for adjournment. If business is still present from the agenda, any Commission member may still move to adjourn at any time, which would require a second and majority vote to pass.

(C) Ethics Complaint Intake Process and Hearing Procedures

1. The rules applicable to courts of law are not applicable to the Commission; the procedures contained herein shall apply.
2. As the majority of the Commission's functions are reactions to filed complaints, the Commission is not expected to meet on a regular basis but can meet at the discretion of the Chair or by majority vote of the Commission. However, the Board shall meet as needed based on the proper filing of a Complaint Form.
3. If a person, the Complainant, requests an investigation by the Commission into a complaint, the person shall fill out a Complaint Form and file it with the City Secretary's Office as directed by the City's code of ordinances.
4. A Complaint Form is only considered filed if the Complaint Form is complete, signed, sworn, and filed with the City's Secretary's office.
5. Once the Complaint Form has been filed, the City Secretary will submit it to the Ethics Compliance Officer for review. Once the Ethics Compliance Officer has determined the allegations asserted in the Complaint Form are proper complaints brought under the City's Code of Ethics and Conduct, the Chair of the Ethics Commission will be provided the Complaint Form. Respondent will also be provided a copy of the Complaint Form within a reasonable time after this determination is made.
6. Respondent may, but is not required to, provide a sworn statement in response to the allegations contained in the Complaint Form; however, the period to provide such response must be received by the City Secretary's office within ten (10) days from the date in which the Respondent is provided the Complaint Form. Any amendments to the Complaint Form made by the Complainant will extend the time for Respondent to respond. Amendments to the Complaint Form may not be filed with less than ten (10) days before a hearing is set without the hearing being reset for a later date.
7. As provided by the City's Code of Ordinances, the Ethics Compliance Officer, shall dismiss the complaint if: the Complaint Form does not allege a violation of the City's Code of Ethics and Conduct or does not meet the minimum requirements set forth by City's Code of Ordinances or these rules. However, should the Complaint Form be defective in form only, the Ethics Compliance Officer shall advise the Complainant of the defect(s) and provide a reasonable opportunity to correct the defect(s) noted. If the defect(s) are not corrected as directed by the City's Code of Ordinances or these rules, the complaint shall be dismissed.

8. If the Complaint Form is properly completed and the minimum requirements are met, the Chair shall set a hearing within sixty (60) days of the filing of the Complaint Form to allow the Commission to investigate the allegations asserted.
9. At the hearing, the Complainant shall be put under oath and may make a presentation of information supporting the alleged violations of the City's Code of Ethics and Conduct. The information presented shall be limited to the allegations contained in the Complaint Form. New allegations shall not be introduced at the hearing.
10. Respondent shall be put under oath and may make a counter presentation to rebut the information presented by the Complainant.
11. The Respondent may call a maximum of three (3) witnesses. The Commission may allow additional witnesses if requested and good cause is shown for the need by the Respondent. While the Complainant may not call witnesses, the Complainant may submit a witness list with and a brief summary of each witness' basis of knowledge as it relates to the allegation contained in the Complaint Form. The Commission can determine if it needs to hear testimony from such witness.
12. Any witnesses who testifies shall be placed under oath. Witness testimony shall be limited to the allegations contained in the Complaint Form. No cross examination shall be allowed by Complainant or Respondent. Only the Commission may ask questions of the witnesses.
13. The Commission may call any other witness it deems necessary in conducting its investigation.
14. Following the presentation by both the Complainant and Respondent, the Commission may convene into executive session when appropriate by state law, however, the Commission shall vote in open session to determine whether the allegation(s) contained in the Complaint Form should be sustained or dismissed.
15. After such determination is made, the Ethics Commission may: impose a penalty as prescribed under the City's Code of Ordinances; make a recommendation on the complaint to the City Council or to the City Manager; or impose a penalty and make a recommendation to the City Council or the City Manager for further action.
16. The results of the hearing shall be submitted in a written report containing the Commission's findings, recommendations, and shall identify penalties, if any, imposed by the Commission. The written report is submitted to the City Council or City Manager, depending on who has control over the Respondent, for a final determination on any recommendations made by the Commission.
17. Penalties imposed by the Commission are subject to the appeals process contained in the City's Code of Ordinances. Recommendations are not subject to appeal.



ETHICS COMPLAINT FORM

Please PRINT or TYPE all information requested on this form

PART A – COMPLAINANT INFORMATION (this identifies YOU as the Complainant)

Full Printed Name: _____
LAST FIRST M.I. (optional)

Home Address: _____
NUMBER STREET CITY ZIP

Alt. Address (opt.): _____
NUMBER STREET CITY ZIP

Contact Phone Number (PRIMARY): _____ (OTHER): _____

PART B – COMPLAINANT DECLARATION

I HEREBY DECLARE that I, _____, have a complaint against
(Print Name)

the following person(s): _____
(Print Name(s))

Provide Department and Title Information

_____ Elected Official / Title: _____

_____ Appointed Official / Title: _____

_____ Employee / Department & Title: _____

PART C – PERSONS WITH RELEVANT KNOWLEDGE OF THE ALLEGED VIOLATION

Person #1:

Name: _____

Address: _____

Phone: _____

Knowledge: _____

Person #2:

Name: _____

Address: _____

Phone: _____

Knowledge: _____

Person #3:

Name: _____

Address: _____

Phone: _____

Knowledge: _____

Person #4:

Name: _____

Address: _____

Phone: _____

Knowledge: _____

(Continued on Next Page)

PART D – DESCRIPTION OF COMPLAINT

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

PART E – ETHICS ORDINANCE CODE VIOLATIONS

List the sections and paragraphs of the Code of Ethics you believe to have been violated:

PART F – SOURCE OF EVIDENCE

Identify sources of evidence, if any, you believe should be considered by the Ethics Commission and attach copies of any pertinent information you have to support your allegation(s).

STATE OF TEXAS

§

COUNTY OF BEXAR

§

BEFORE ME, the undersigned authority, on the ____ day of _____, 20 ____, personally appeared, _____, known to me to be the person whose name is subscribed hereto, and being duly sworn stated that he/she has personal knowledge:

“I certify that I have read this complaint, I fully understand its contents, and I declare under penalty of perjury under the laws of the State of Texas (Texas Penal Code § 37.02), that the foregoing statements and photocopies of attached documents are true and correct. I understand that a copy of this complaint will be sent to the Ethics Compliance Officer for review. Should the Ethics Compliance Officer determine, as prescribed by ordinance, the act or actions alleged could constitute a violation under the Code of Ethics and Conduct, the complaint will be sent to the Chair of the Ethics Commission and to the individual charged in this complaint and that all papers and communications relating to this complaint must be treated as confidential to the extent allowed by law.”

(SIGNATURE)

My name is _____, my date of birth is _____, and my address is _____. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the ____ day of _____, 20 ____.

NOTARY SEAL

Signature: _____
Printed Name: _____

My Commission Expires: _____

Upon completion of ALL sections of this Complaint Form, hand-deliver or send by certified mail with any attachments to:

Office of the City Secretary
City of Windcrest
8601 Midcrown Drive
Windcrest, TX 78239