



**CITY OF NEW BRAUNFELS, TEXAS  
ETHICS COMMISSIONS MEETING**



**TEJAS ROOM  
550 LANDA STREET**

**MONDAY, JUNE 21, 2021 at 5:30 PM**

**To participate via Zoom, use the following link:**

**<https://us02web.zoom.us/j/81575778016>**

**Telephone Only: (833) 926-2300**

**Webinar ID: 815 7577 8016**

**AGENDA**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. ITEMS FOR CONSIDERATION**

- A) Welcome and introduction of District 3 appointee, Frank [21-604](#) Suhr and District 4 appointee, Mollie Dreibrodt.
- B) Discuss and consider approval of the minutes of the [21-598](#) Ethics Commission Meeting of June 30, 2020.
- C) Providing copies of amendments to Chapter 2 of the [21-599](#) Code of Ordinances that were adopted by City Council on August 10, 2020, related to political activities and social media.
- D) Annual Election of Officers: Chairperson and [21-600](#) Vice-chairperson

**4. ADJOURNMENT**

**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall.

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Board Liaison

NOTE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.



**6/21/2021**

Agenda Item No. A)

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**PRESENTER:**

Savannah Koehler, Paralegal

**SUBJECT:**

Welcome and introduction of District 3 appointee, Frank Suhr and District 4 appointee, Mollie Dreibrod.



## Ethics Commissions Agenda Item Report

550 Landa Street  
New Braunfels, TX

6/21/2021

Agenda Item No. B)

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**PRESENTER:**

Savannah Koehler, Paralegal

**SUBJECT:**

Discuss and consider approval of the minutes of the Ethics Commission Meeting of June 30, 2020.



**CITY OF NEW BRAUNFELS, TEXAS  
ETHICS COMMISSION  
June 30, 2020 Meeting Minutes**

The Ethics Commission of the City of New Braunfels, Texas convened on Tuesday, June 30, 2020 at 5:30 p.m. via Zoom.

1. **Call to Order.** The meeting was called to order by Chair, Gisselle Price at 5:35 p.m. via Zoom.
2. **Roll Call – Commissioners present were:**

Kathryn Walters, District 1  
Victor Martinez, District 2, Vice-Chair  
Allison Humphries, District 3  
Christopher Wolf, District 5  
Gisselle Price, District 6, Chair  
Paul Finley, At Large

**Commissioners not present were:**

Mimi Nail Garver, District 4

**City Staff present were:**

Valeria M. Acevedo, City Attorney  
Nathan Brown, Assistant City Attorney  
Savannah Koehler, Paralegal  
Becca Miers, Assistant Director of Human Resources

Sheila Gladstone, Outside Legal Counsel

3. **Introductions.**

Valeria Acevedo introduced Sheila Gladstone, outside legal counsel assisting with Ethics Ordinance and Becca Miers, Assistant Director from Human Resources.

#### **4. Approval of January 29, 2020 Minutes.**

Gisselle Price opened discussion and review of the minutes. A motion to approve the January 29, 2020 minutes was made by Allison Humphries and was seconded by Victor Martinez. The minutes of the January 29, 2020 meeting were approved by unanimous vote.

#### **5. Discussion – Proposed Changes to Ethics Ordinance Sections**

- a. Section 2.5 – Valeria Acevedo asked to repeal Section 2.5.
- b. Section 2.7(d) – Valeria Acevedo explained changes made to Section 2.7(d).
- c. Section 2.7(e) – Valeria Acevedo explained changes made to Section 2.7(e).

A motion to approve the Ethics Ordinance Section 2.5 and 2.7 was made by Paul Finley and was seconded by Katy Walters. The Ethics Ordinance Sections 2.5 and 2.7 with agreed amendments was approved by unanimous vote.

Valeria Acevedo will present to City Council on July 13, 2020 as a presentation and will present as an Agenda item later in July.

#### **6. Member of Public.**

Mr. Simonson was present for the meeting but had no comment.

#### **7. Adjournment.**

The meeting was adjourned by Gisselle Price at 6:06 p.m.

6/21/2021

Agenda Item No. C)

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**PRESENTER:**

Valeria Acevedo, City Attorney

**SUBJECT:**

Providing copies of amendments to Chapter 2 of the Code of Ordinances that were adopted by City Council on August 10, 2020, related to political activities and social media.

**DEPARTMENT:**

City Attorney's Office

**COUNCIL DISTRICTS IMPACTED:**

N/A

**BACKGROUND INFORMATION:**

On August 10, 2020, City Council approved the amendments recommended by the Ethics Commission amending the Code of Ordinances, Chapter 2, by repealing Section 2-5, relating to employees, and amending Section 2-7(d) and (e), relating to political activities and social media guidelines for City Council. (See attached Ordinance 2020-45)

**ISSUE:**

N/A

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A


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<b>File #:</b>	20-514	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Consent Item Ready
<b>File created:</b>	7/28/2020	<b>In control:</b>	<a href="#">City Council</a>
<b>On agenda:</b>	8/10/2020	<b>Final action:</b>	

**Title:** Approval of a second and final reading of an ordinance amending the Code of Ordinances, Ch. 2, by repealing Section 2-5, relating to employees, and amending Section 2-7(d) and (e), relating to political activities and social media guidelines for City Council.

**Attachments:** 1. [Secs. 2.5 and 2.7 \(d\),\(e\) Political Activity and Social Media v7.28.pdf](#), 2. [Employee Ethics Policy - 7-13-2020 - Redlined Version](#), 3. [Employee Outside Employment Policy](#), 4. [Employee Social Media and Political Activity](#)

[History \(0\)](#)
[Text](#)

#### Presenter/Contact

Presenter  
**Valeria Acevedo, City Attorney**  
Contact Info  
 (830) 221-4281 - [vacevedo@nbtexas.org](mailto:vacevedo@nbtexas.org)

Subject Header

#### **SUBJECT:**

**Title**  
 Approval of a second and final reading of an ordinance amending the Code of Ordinances, Ch. 2, by repealing Section 2-5, relating to employees, and amending Section 2-7(d) and (e), relating to political activities and social media guidelines for City Council.

**Body**

#### **BACKGROUND / RATIONALE:**

This item was presented to City Council on July 13, 2020, and subsequently approved at its first reading on July 27, 2020, with one minor amendment to language in Section 2-7(e)(5). The words "should immediately" were replaced with the word "may" by a unanimous vote.

(5) Referral to City. If a social media user posts a comment to the councilmember's page that should be addressed to the City, the councilmember ~~should immediately~~ may forward the message to the Director of Communications and Community Engagement.

On June 30, 2020, the Ethics Commission approved the following recommendations. The first recommendation is a repeal of Section 2.5 of the Code of Ordinances, related to employee political activities and outside/future employment. These provisions will be updated and relocated to the City's employee policy library which is maintained by the Human Resources Director, under the purview of the City Manager. The Human Resources is responsible for maintaining, updating, and training employees on the city's employment policies. Copies of the proposed amended employee policies are attached to this agenda item. Once updated, all employee policies are posted on the city's website under the Human Resources Department. This ordinance also proposed to amend Section 2.7(d) related to City Council political activities, by expanding the councilmembers' political speech rights in accordance with longstanding U.S. Supreme Court legal precedent. This is the most significant change in that it removes a provision that significantly restricts a councilmember's involvement in a candidate's municipal election campaign. Of course, there are limits to a

councilmember’s political speech rights but those relate to violations of existing state law. Examples of unprotected speech include hate speech, fighting words, terroristic threats, defamation, fraud, and obscenity. Finally, Section 2-7(e) of this amendment is a new section that provides guidance to council members on their use of social media, as requested by City Council.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

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**FISCAL IMPACT:**

N/A

Recommendation

**COMMITTEE RECOMMENDATION:**

The Ethics Commission met on June 30, 2020 and voted in favor of the changes by a vote of 6-0, with one member absent.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed changes.

ORDINANCE NO. 2020- 45

AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE I, CITY OF NEW BRAUNFELS, TEXAS CODE OF ORDINANCES BY REPEALING SECTION 2-5, AMENDING 2-7(D)-POLITICAL ACTIVITY, AND ADDING (E) SOCIAL MEDIA GUIDELINES FOR CITY COUNCIL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Ethics Commission met on June 30, 2020, and approved the attached recommended amendments that include updating political activity restrictions for council members and employees; and

WHEREAS, the Ethics Commission recommends that employee policies related to outside/future employment and political activities should be removed from the Code and should more aptly remain in the City's Employee Policy Library that is maintained by the Human Resources Department on behalf of the City Manager; and

WHEREAS, the Ethics Commission approved amendments to the standards of conduct applicable to City Councilmembers and their political activities; and

WHEREAS, the City Council has asked for guidance related to acceptable use of social media which led to the development of the attached social media guidelines for City Councilmembers; and

WHEREAS, the City Council accepts the recommendations of the Ethics Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWBRAUNFELS, TEXAS, THAT:

SECTION 1. Findings.

The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2: That the code of Ordinances be amended as indicate below with the use of ~~strikeout font~~ for deletions and underlined font for new language.

[~~Sec. 2-5. – Reserved. ]Additional standards of conduct—City employees.~~

(a) ~~Outside employment.~~

- (1) ~~Policy. This provision does not prevent city employees from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of their public duties, provided that the employee complies with all applicable city requirements.~~

~~(2) *Purpose.* The purpose of this provision is to prevent conflicts of interest, conflicts of loyalty, and loss of efficiency at work.~~

~~(3) *General rule.* City employees shall not accept any employment nor enter into any contract that results in a conflict of interest with their duties as a public servant of the city. Employees may be self-employed or take occasional or part-time jobs if, in the opinion of the city manager, there is no conflict with working hours, employees' efficiency in their city work, or other interests of the city. City employment shall remain the first priority and if at any time the outside employment interferes with employees' job requirements or performance for the city, employees shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or their city employment.~~

~~(4) *Disclosure.* Before engaging in off-duty employment, employees must have the written approval of their department head. The department head shall seek initial approval from the city manager before authorizing the outside employment. All notifications of outside employment shall state the type and place of employment, the hours of work and be placed in the employee's personnel file.~~

~~(b) *Future employment.*~~

~~(1) *Representation before city council or city boards and commissions.* No former city employee may, for a period of one year, for compensation, appear on behalf of any person other than a governmental entity, or make any appearance before, or negotiate with any city officer or employee in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge relating to any matter that involved the employee's former employment.~~

~~[(2) *Reserved.*]~~

~~(c) *Political activity.*~~

~~(1) *Policy.* The general prohibition contained in this provision is intended to protect the integrity of the municipal election process and applies only to municipal elections that are administered by the city. This provision is not intended to limit the political involvement of a city employee in county, state or national elections.~~

~~(2) *General rule.* No employee shall solicit or receive any contribution to the campaign funds of any candidate for municipal office or take any part in the management, affairs, or political campaign of any municipal candidate. The following list of activities are the only activities permitted:~~

~~a. The placement of campaign signs on premises owned by the city employee.~~

~~b. The placement of bumper stickers on personal vehicles, except those vehicles supported in whole or in part by a car allowance provided by the city.~~

- ~~c. Attendance at a political rally or function for a city council candidate, so long as the city employee does not actively participate in the rally or function.~~

(Ord. No. 97-6, § 1, 2-10-97)

Sec. 2-7. - Same—City council.

- (a) *Nonprofit board membership.* While membership is encouraged, a councilmember who serves on the board of a public or private nonprofit organization shall have a voice but no vote on any funding request or contract by that organization, unless the organization has a board of directors or trustees appointed in whole or in part by the city council.
- (b) *Appearance by councilmember.* No current members of council shall personally appear on their own financial behalf before the city council, any city board, commission or committee but may designate and be represented by a person of their choice in any such personal business matter. This prohibition does not apply where councilmembers seek reimbursement from the city for authorized expenses relating to councilmembers' official business or where councilmembers appear before the ethics commission in their own behalf.
- (c) *Conflicts of interest.* Members of city council who have a substantial interest in a business entity or in real property that is proposed for city council action shall file an affidavit of disclosure provided by the city secretary prior to the vote and abstain from voting on such matters in accordance with V.T.C.A., Local Government Code ch. 171 and Section 12.02 of the City Charter.
- (d) *Political activity.* The City will not restrain or otherwise regulate councilmembers' political activities so long as such speech is within the boundaries of state law.
- (1) ~~*General rule.* Current members of city council who are seeking reelection may engage in any campaign activity on behalf of their own campaign efforts. However, councilmembers are prohibited from taking part in the management, affairs, or political campaign of any other municipal candidate. The following activities are the only activities that councilmembers may engage in on behalf of a municipal candidate:~~
- ~~a. The placement of campaign signs on premises owned by the councilmember.~~
  - ~~b. The placement of bumper stickers on personal vehicles.~~
  - ~~c. Attendance at a political rally or function for a city council candidate, so long as the councilmember does not actively participate in the rally or function.~~
  - ~~d. The donation of a political contribution that does not exceed the statutory limit for nonreportable contributions.~~
- (e) Social Media.

(1) Policy. This provision is intended to provide guidelines for councilmembers' social media usage (including their official council pages, any election pages and personal sites) rather than to enumerate the use of social media by the City Council as an institution. Social Media is defined as media designed to be disseminated through social interaction, created using highly accessible and scalable publishing techniques. Examples include but are not limited to Facebook, Twitter, LinkedIn, Instagram, Snapchat, Pinterest, Reddit and YouTube.

(2) General Rule. Councilmembers have a right to speak as a private citizen on matters of public concern, so long as the speech does not unduly disrupt the operations or mission of the City.

(3) Restrictions.

(a) Councilmembers shall include a disclaimer on their social media pages stating the account is for the councilmember's personal use and is not sponsored or otherwise managed by the City, nor does it reflect the views or beliefs of the City or City Council as an institution. Councilmembers must take extreme caution not to appear to be representing the City in any manner, including disclaimers in individual posts when necessary to avoid confusion. Councilmembers should not utilize the City of New Braunfels logos on their social media pages.

(b) Councilmembers are prohibited from posting, disclosing, or otherwise discussing confidential information about the City or the inner workings of City Council. Confidential information includes but is not limited to information outlined in section 2-4(c), attorney-client privileged information and information learned in executive session and not yet communicated to the public.

(c) Councilmembers are prohibited from posting harassing, bullying, defaming, or demeaning content on their social media. Councilmembers are further prohibited from making any statements and/or comments that disparage any race, color, religion, sex, age, genetic information, veteran status, disability, national origin, or any other unlawful classification of anyone who works at the City or anyone with whom the councilmember interacts in his or her role as a councilmember. In addition, the City prohibits disparaging commentary about sexual orientation or gender identity.

(4) Violations. Violations of this policy will be subject to review by the Ethics Commission. Any individual who believes that a councilmember has acted in violation of this policy may promptly file a complaint with the Ethic Commission pursuant to section 2-8(i).

(5) Referral to City. If a social media user posts a comment to the councilmember's page that should be addressed to the City, the councilmember may forward the message to the Director of Communications and Community Engagement.

**SECTION 3: Savings Clause.**

All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.

**SECTION 4: Severability.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

**SECTION 5: Effective Date and Publication.**

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing by the City Secretary. This ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 27 day of July, 2020.

PASSED AND APPROVED: Second reading this 10 day of August, 2020.

**CITY OF NEW BRAUNFELS, TEXAS**

  
RUSTY BROCKMAN, Mayor

ATTEST:

  
Andrew Lyons, Assistant City Secretary



APPROVED AS TO FORM:

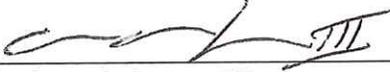
  
\_\_\_\_\_  
Valeria M. Acevedo, City Attorney



## CERTIFICATE OF PUBLICATION

I hereby certify that in the performance of the functions of my office, that the caption of **Ordinance No. 2020-45** the ordinance of which is attached hereto, was published in The New Braunfels Herald-Zeitung on August 13, 2020, in compliance with Section 3.10 of the City Charter.



  
Andrew A. Lyons III  
Assistant City Secretary,  
City of New Braunfels,  
Comal County, State of Texas

AFFP

C-Legal-NoticeCityNB #2020-45

**Affidavit of Publication**

STATE OF TEXAS }  
COUNTY OF COMAL }

SS

PUBLIC  
NOTICE

At its regular meeting of August 10, 2020, the City Council of the City of New Braunfels, Texas, approved the following amendment to the Code of Ordinances: ORDINANCE # 2020-45: AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE I, CITY OF NEW BRAUNFELS, TEXAS CODE OF ORDINANCES BY REPEALING SECTION 2-5, AMENDING 2-7 (D) – POLITICAL ACTIVITY, AND ADDING (E) SOCIAL MEDIA GUIDELINES FOR CITY COUNCIL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE. Done by order of the City Council of the City of New Braunfels, Texas, this the 10th day of August 2020. DREW LYONS, ASSISTANT CITY SECRETARY.

Jo Aguirre, being duly sworn, says:

That she is Designee of the New Braunfels Herald-Zeitung, a daily newspaper of general circulation, printed and published in New Braunfels, Comal County, Texas; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

August 13, 2020

That said newspaper was regularly issued and circulated on those dates

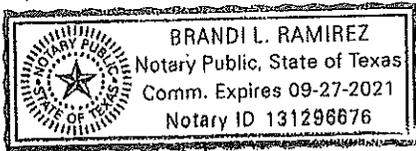
SIGNED:

*[Handwritten Signature]*  
\_\_\_\_\_  
Designee

Subscribed to and sworn to me this 13th day of August 2020.

*[Handwritten Signature]*  
\_\_\_\_\_  
Brandi L. Ramirez, Billing Clerk, Comal County, Texas

My commission expires: September 27, 2021



04123926 00223057

Yesenia McNett  
City of New Braunfels - PBS  
550 Landa St.  
New Braunfels, TX 78130

**PUBLIC  
NOTICE**

At its regular meeting of August 10, 2020, the City Council of the City of New Braunfels, Texas, approved the following amendment to the Code of Ordinances:

**ORDINANCE # 2020-45: AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE I, CITY OF NEW BRAUNFELS, TEXAS CODE OF ORDINANCES BY REPEALING SECTION 2-5, AMENDING 2-7 (D) - POLITICAL ACTIVITY, AND ADDING (E) SOCIAL MEDIA GUIDELINES FOR CITY COUNCIL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**Done by order of the City Council of the City of New Braunfels, Texas, this the 10th day of August 2020. DREW LYONS, ASSISTANT CITY SECRETARY.**

6/21/2021

Agenda Item No. D)

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**PRESENTER:**

Savannah Koehler

**SUBJECT:**

Annual Election of Officers: Chairperson and Vice-chairperson

**DEPARTMENT:** City Attorney's Office**COUNCIL DISTRICTS IMPACTED:**

N/A

**BACKGROUND INFORMATION:**

Election of Officers:

It is required by Sec. 2-8(d) of the New Braunfels Code of Ordinances that officers are to be elected in the month of June every year.

Ethics Commission - Sec. 2-8(d) *Officers* -

The commission shall elect a chairperson and vice-chairperson at its June annual meeting. The vice-chairperson shall act as chairperson in the absence of the chairperson or in the event of a vacancy in that position. The officers shall serve one-year terms.

**ISSUE:**

N/A

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

N/A