



Staff Report

File #: 16-235

Version: 3

Date: 10/24/2016

Item #: 7.2a.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Dan Atchison, City Attorney

SUBJECT:

Amending SRC Chapter 12 - Ethics, and assigning the duties to issue advisory opinions and interpretations to the Salem Hearings Officer.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Shall the City Council conduct second reading of Ordinance Bill No. 13-16, which amends SRC Chapter 12 - Ethics, to assign the duties to issue advisory opinions and interpretations regarding the City's Ethics Code to the Salem Hearings Officer, and disbands the Board of Ethics.

RECOMMENDATION:

Conduct second reading of Ordinance Bill No. 13-16, which amends SRC Chapter 12 - Ethics, to assign the duties to issue advisory opinions and interpretations regarding the City's Ethics Code to the Salem Hearings Officer, and disbands the Board of Ethics.

SUMMARY AND BACKGROUND:

SRC Chapter 12, the City's "Code of Ethics," was first adopted by the Salem City Council in 1962 through ordinance nos. 5633 and 5634. The Code of Ethics was updated in 1996 to conform to changes in state ethics laws. Currently, in most respects, the City's ethics laws are substantially similar to state law, ORS Chapter 244, however, there are some differences which make the City's Code somewhat more restrictive than state ethics laws. The Code also created the Board of Ethics ("Board"). The Board's duties are to;

- a) Receive and initiate complaints of violations of the Code of Ethics;
- b) Hear and investigate complaints and transmit findings and recommendations to the appropriate authorities,

- c) Render advisory opinions or interpretations of the Code of Ethics;
- d) Propose revisions to the Code of Ethics to Council.

The Board has met infrequently in the past, and to date only four advisory opinions from the Board are recorded. As stated above the Code of Ethics closely aligns with state ethics laws. In many cases, public officials are able to resolve potential ethics issues by discussing the matter with the Oregon Government Ethics Commission ("OGE") and receiving an informal or formal opinion from the OGE. This is one reason for the relative inactivity of the Board. Due to the infrequent nature of the Board meetings, and the burden placed on the members of the Board, the Council Boards and Commissions Appointments Committee adopted a motion to recommend that the Board be replaced by the Salem Hearings Officer.

FACTS AND FINDINGS:

At the August 15, 2016 Boards and Commissions Appointments Committee meeting, the Committee adopted a motion to recommend to Council that the Board be disbanded, and the duties of the Board of Ethics regarding ethics complaints, and issuing advisory opinions and interpretations of SRC Chapter 12, be moved to the Salem Hearings Officer.

A future report for this item appeared in Council's September 12, 2016 agenda packet. First reading was conducted on September 26, 2016.

Ordinance Bill No. 13-16 amends SRC Chapter 12 to remove references to the Board of Ethics, and assigns the duties of receiving and investigating ethics complaints, and issuing advisory opinions and interpretations of SRC Chapter 12 to the Salem Hearings Officer.

The Salem Hearings Officer is an independent third party on contract with the City to provide an array of services, such as hearing code compliance appeals, appeals of downtown exclusion orders, appeals of Transient Occupancy Tax determinations, and a variety of land use decisions. The Salem Hearings Officer, currently the law firm of Fewel, Brewer and Coulombe, is well versed in rendering interpretations of the Salem Revised Code and serving as a decision making authority for initial decisions and on appeals, and is well-suited to serve in this role.

Dan Atchison
City Attorney

Attachments:

1. Ordinance Bill No. 13-16.

09/28/2016