

City Council Meeting Schedule January 2022

The City broadcasts all City Council meetings on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts.

January 4, 2022

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

January 11, 2022 Tuesday, 6:30 p.m.

WORKSHOP MEETING (the workshop meeting will be done via Zoom and broadcast on the City's website

https://www.go2kennewick.com/CouncilMeetingBroadcasts)

- 1. OPMA and PRA Training
- 2. Council Boards & Committee Assignments
- 3. Ethics Policy & Ethics Officer

January 18, 2022 Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

January 25, 2022 Tuesday, 6:30 p.m.

WORKSHOP MEETING (the workshop meeting will be done via Zoom and broadcast on the City's website

 $\underline{https://www.go2kennewick.com/CouncilMeetingBroadcasts})$

- 1. Fire Department Strategic Plan Update
- 2. Fire Station No. 1 Update
- 3. Accessory Dwelling Unit Sewer & Water Connections

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Council Worksho	Agenda Item Number	1. Meeting Date	01/11/2022	Info Only	
Coversheet	Agenda Item Type	Presentation		Policy Review	
	Subject	OPMA & PRA Training		1 Olicy Neview	
	Ordinance/Reso #	Contract :	#	Policy DevMnt	
	Project #	Permit :	#	Other	X
KENNEWICK	Department	City Attorney		G	
being appointed or elect Attorney General will be	uired to attend basic Open ed, and every four years the	Public Meetings Act and Public Meetings Act and Public Register. The OPMA and Prock City Council. By attending	RA training by the Washir	ngton State Office	
Through	Kristi Jol Jan 05, 12:17:52 (Attachments:		
Dept Head Approval	Lisa Be Jan 05, 12:22:52 (eaton			
City Mgr Approval	Marie M Jan 07, 09:35:46 (

Council Worksh	hop	Agenda Item Number	2. Meeting Date	01/11/2022	Info Only	
Coversheet	-	Agenda Item Type	Reports/Plans			
	_	Subject	Council Boards & Committ	ee Assignments	Policy Review	
		Ordinance/Reso#	Contract	#	Policy DevMnt	
		Project #	Permit	#	Other	
KENNEWIC	K	Department	City Manager		Curor	
Summary	Summary					
assignments during the necessary and if counthree internal committeed to be duplicative committee of the whole ad hoc committee if the three councilmembers. Councilmembers were that information for the	he worncil wo tees (E of iter ole (wo here is s.	kshop on January 11th, uld like to continue with Budget & Administrative ms that are discussed drkshop) versus separate a topic in the future that are do provide their board	led that councilmembers wo . In addition, council will dis a the three internal committee . Infrastructure & Operation luring a council workshop are committees. We have fur at council would like to have did and committee preference huary 11th. In order to assister.	ccuss if there are committed es. We have previously of s, and Planning & Econom and that these items may be ther discussed that it is po discussed by a committed s by Friday, January 7th a	les that may not be liscussed that the nic Development) be better in a ssible to convene and of no more than	
Through Dept Head Approval				Attachments: Chart		
			11			
City Mgr Approval		Marie M Jan 07, 10:00:35 0	-			

Quick Reference Chart 2022 Council Assignments to Boards, Commissions, and Committees

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Name of Board/Commission & Committee	Meeting Time/ Location		CRAWFORD	TRUMBO	TORELLI	MILLBAUER	BEAUCHAMP	ANDERSON
Ben Franklin Transit Board	2 nd Thursday, 7:00 pm BF Transit Bldg		X	X		X	X	
Benton County Clean Air Authority (Parish)	3 rd Thursday, 7:00 pm BCCAA Bldg							
Benton County Law and Justice Council	4th Wednesday, noon BC Commissioners Conference Room			X				
Benton County Mosquito Control District Board	4 th Monday, 7:00 pm January, March, April, June, July, August, Sept and October 4951 W Van Giesen - Rich							
Benton Franklin Community Action Committee Torelli currently on this board as a private citizen so unable to be assigned as a councilmember	4 th Thursday, 5:30 pm starting 1/23 710 W. Court Street - Pasco							
Benton Franklin Housing Continuum of Care	2 nd Tues every other month, 3:00 pm starting 1/29 - 7102 W. Okanogan – Cedar Room		X					
Benton Franklin Council of Governments Torelli currently on the executive board and would like to stay – helps with Kennewick projects	3 rd Friday, Noon BF Transit Bldg		X	X	X			
Block Grant Advisory Committee	4 th Tuesday, 4:00 pm Council Chambers							
Joint Coliseum Advisory Committee	1 st Wednesday, noon Three Rivers Convention Center							
Energy Communities Alliance	At least annually				X	X		
Firemen's Pension Board (Requires Mayor)	1 st Tuesday, 12:15 pm City Hall							
Good Roads & Transportation Association Torelli: Emphasis is in Walla Walla – it's good information but limited value for Kennewick. BFCOG is more relevant	3 rd Wednesday Every other month at 6:30 pm - Crow's Nest Clover Island Inn							
Hanford Advisory Board Torelli: Time is spent on details – the emphasis is on technical advice and	2/5&6, 4/15&16, 6/3&4, 9/23&24 - 8:30 am- 4:00 pm - Best Western Plus -							

Quick Reference Chart 2022 Council Assignments to Boards, Commissions, and Committees

Name of Board/Commission & Committee	Meeting Time/ Location		CRAWFORD	TRUMBO	TORELLI	MILLBAUER	BEAUCHAMP	ANDERSON
consensus. I believe we should be focused on policy level.	1515 GW Way Richland							
Hanford Area Economic Investment Fund Committee (HAEIFC)	4 th Monday, 4:00 pm BF Transit Bldg							
Hanford Communities Governing Board Torelli current chair	4/16, 7/16, 10/15 7:30 am – 9:00 am Richland Library				X			
Historic Downtown Kennewick Board	Last Monday starting 1/24 5:30 pm - HDKP Bldg.		X	X	X	X		
Interview Committee	As necessary		X	X				
Kennewick FOCUS	2/6 and 5/14 7:00 am KSD Bldg		X	X				
LEOFF Disability Board	1st Tuesday, - 11:45 am KPD							
Lodging Tax Advisory Committee	As necessary							
TC National Park Committee	3 rd Thursday starting 2/20, 4:00 pm - TCB&VC							
Parks and Recreation Commission (Liaison)	4 th Thursday, 6:00 pm. Council Chambers,					X	X	X
Solid Waste Advisory Committee (SWAC)	As Needed - 4 th Wednesday, 7:00 pm BF Transit Bldg							
Tri Cities Development Council Executive Board (TRIDEC)	4 th Thursday, - 4:00 pm TCB&VC		X					
Tri-Cities Regional Public Facilities District Torelli: I believe that there was one attempt to hold a meeting in the past three years. Recommend we remove this as an assignment until there is an actual need	Quarterly TBD Three Rivers Convention Center			X		X		
Visit TRI-CITIES	4 th Wednesday, 7:30 am TCB&VC		X					
Tri City Regional Chamber of Commerce	Every other month starting 2/19 – 7:00 am - Chamber Office		X		X			X

City Council Standing Committees

Torelli: I would like to replace the Standing Committees with the entire council. Up until ~10 years ago, the information was presented ahead of workshop when there was a need. We could reinstitute that practice. Since we've done well over the last couple of years without committee meetings, I'd like to continue.. If it turns out that committees are needed, assignments could be made on either an ad-

Quick Reference Chart 2022 Council Assignments to Boards, Commissions, and Committees

hoc or permanent basis.,						
Millbauer: I see them more as a duplication and not needed at this time						
Infrastructure and Operations (Cary Roe)	2 nd Tuesday - 5:30 pm City Manager's Conference Room					
Budget and Administrative (Dan Legard)	1 st Tuesday - 5:30 pm City Manager's Conference Room					
Planning and Economic Development (Anthony Muai & Evelyn Lusignan)	3 rd Tuesday - 5:30 pm City Manager's Conference Room					

Council Workshop	Agenda Item Number	3. Meeting Date	01/11/2022	Info Only
Coversheet	Agenda Item Type	Contract/Agreement/Lease	,	_
	Subject	Ethics Policy & Ethics Office	er	Policy Review
	Ordinance/Reso #	Contract	#	Policy DevMnt
	Project #	Permit	#	Other
KENNEW CK	Department	City Manager		
Summary				
requested that this topic cobackground on this topic: On December 20th the City policy, the City Clerk transethics officer agreement, it direction from Council on withe ethics officer contract to the existing ethics policy wour insurance company to amended in 2020. Attached for your review is	y Clerk received four ethemitted those complaints was discovered that the what, if any, modification hat expired on December vas approved in 2019 af adopt an ethics policy at the existing ethics policy	I discussed the ethics policy, ew and discussion at the Jar nics complaints. Subsequent to our ethics officer, Tom Attended the ethics officer contract expires council would like to make er 31st. Iter quite a bit of discussion as a means to reduce risk related by, the contract that expired with the expired wit	tly and in compliance with wood. While reviewing the ed on December 31st. State to the ethics policy and a state to Council and at the ethic to the ethics conduct.	e following is some Council's existing e ethics policy and taff is seeking ny action regarding recommendation of The policy was
Through			Attachments: Torelli Comments Contract	
Dept Head Approval			Policy	
City Mgr Approval	Marie M Jan 07, 11:06:56 (-		

(Ord. 5812 Sec. 1(part), 2019)

2.06.060: Complaints, Investigations, Hearings and Enforcement:

The Ethics Officer may resolve inadvertent and minor violations of the Code of Ethics informally, unless the Ethics' Officer determines that doing so would not serve the public interest. When a violation is neither inadvertent nor minor, the Ethics' Officer shall initiate an action in accordance with this section.

- (1) Complaint Process.
 - a. Ethics complaints must be initiated within 90 days of the complainant becoming aware of a potential ethics violation.
 - b. If the official is no longer in office at the time of a finding of sufficiency, two serving councilmembers must sign the complaint for the process to continue.
 - c. The councilmember desiring to initiate the complaint shall request an Executive Session (RCW 4230.110.section 1, subsection f) to present the rational for filing an ethics complaint. Upon conclusion of the executive session, a total of two council members will have to sign off on the complaint prior to it proceeding to the Ethics Officer. The complaint will be available with the City Clerk for a second signature for a period of one calendar week. Telecon signatures are authorized. If the complaint lacks a second signature after a week, the process is halted with no further action.
 - (a) Complaint Requirements Service. Two officials are required to sign off on a written complaint before it can be filed with the Ethics' Officer alleging one or more violations of this Code of Ethics by an official. Signatures will be limited to "Official" per section 2.60.020. Petitions or additional signature sheets from non-officials will not be attached to the complaint The complaint must set forth specific facts with enough precision and detail for the Ethics' Officer to make a determination of sufficiency. It must be signed under penalty of perjury by the officials submitting it in a manner consistent with Chapter 9A.72 RCW. The complaint shall be filed with the city clerk who will date-stamp it as received and forward it to the Ethics Officer.
 - (b) Finding of Sufficiency. The Ethics Officer shall make a determination of sufficiency within 30 days of receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate Section 2.06.030 or 2.06.040 of this Code. The Ethics Officer's determination is not reviewable. If the finding is one of sufficiency of the complaint, then the Ethics Officer shall investigate the complaint as set forth below.
 - (c) Dismissal. The Ethics Officer shall dismiss the complaint if the Ethics Officer determines that the violation was inadvertent and minor; or a violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct. A decision for dismissal as noted above is final and not reviewable.
 - (d) Notice. Notice of action by the Ethics Officer shall be provided as follows:
 - (i) Notice of a finding of insufficiency or dismissal of a complaint by the Ethics Officer shall be sent to the officials who made the complaint and the official complained against within seven days of the decision by the Ethics Officer. A finding of insufficiency or dismissal of a complaint by the Ethics Officer is final and binding, and no administrative or other legal appeal is available through the Ethics Officer.
 - (ii) Within seven days of the Ethics Officer rendering a finding of sufficiency, the city clerk shall send notice to the officials who made the complaint and the official complained against, of the Ethics Officer's determination. If, after investigation, the Ethics Officer has reason to believe that a material violation of Section 2.06.030 or 2.06.040 has occurred, the city clerk

shall give notice of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least 30 days prior to the date set for the hearing. The following must be submitted to the Ethics Officer via the City Clerk at least fifteen days prior to the scheduled hearing:

- A. Written response to the assertions in the complaint by the accused;
- B. Any motions by the accused asserting Procedural or Technical challenges to the complaint;
- C. Witness list including contact information (Name, Address, and Telephone Number)
- (iii) If, at any point, a recall petition, Public Disclosure Commission (PDC) Complaint, or any other filing with any regulatory or judicial agency is made based on substantially the same charges as determined by the Ethics Officer, the process is frozen until the responsible agency provides resolution of that complaint. If the regulating agency finds that there is no breach of regulations and/or law, the ethics complaint will be summarily dismissed.
 - (iii) If at any point in the process, a recall petition is filed based on substantially the same charges as the ethics complaint as determined by the Ethics Officer, the process will be stayed until final resolution of the recall petition.
- (e) Stipulations. At any time after a complaint has been filed with the Ethics Officer, the Ethics Officer may seek and make recommendations that the City Council enter into a stipulation with the official complained against. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the Ethics Officer thinks a stipulation is appropriate, an admission of the violation by the official complained against, a promise by the official complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the officials who made the complaint and the official complained against and forwarded to the City Council for action.
- (2) Conduct of Hearings.
 - (a) All hearings on complaints found to be sufficient shall be conducted by the Ethics Officer and are open to the public. The official who is the subject of the compliant may appear at the hearing with or without counsel and may call witnesses and cross examine witnesses. The hearing shall be informal, meaning that the Ethics Officer shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Ethics Officer may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Ethics Officer shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the Ethics Officer. The Ethics Officer may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Ethics Officer shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided, that the Ethics Officer shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.
 - (b) Within 30 days after the conclusion of the hearing, the Ethics Officer shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be sent to the officials who made the complaint and to the official complained against. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the City Council.

ETHICS OFFICER AGREEMENT BETWEEN TOM ATWOOD AND CITY OF KENNEWICK

THIS AGREEMENT is entered into on the date last below written between the CITY OF KENNEWICK, WASHINGTON ("City") and TOM ATWOOD, hereinafter called "the Ethics Officer."

WHEREAS, the City desires to retain the services of an Ethics Officer; and

WHEREAS, the City has passed Ordinance 5812 creating the Office of the Ethics Officer under the Kennewick Municipal Code, Chapter 2.06, to provide a decision-making process and public hearing system to address formal ethics complaints filed against City Council Members; and

WHEREAS, the City is therefore prepared to engage the services of the Ethics Officer to provide the necessary Ethics Officer Services; and

WHEREAS, the Ethics Officer has represented to the City that the Ethics Officer is in compliance with the professional registration statutes of the State of Washington, and has signified a willingness to furnish Ethics Officer services to the City; NOW, THEREFORE,

IN CONSIDERATION of the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

Services by Ethics Officer. The City hereby retains the Ethics Officer to perform the
professional services described in the scope of work which is attached hereto as Exhibit
A, and incorporated herein by reference. The Ethics Officer shall furnish all services,
labor and related equipment necessary to conduct and complete the work, except as
specifically noted otherwise in this Agreement.

Payment.

- A. The City shall pay the Ethics Officer at the rate(s) set forth in Exhibit A for all services performed and expenses incurred under this Agreement. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the services.
- B. The Ethics Officer shall maintain time and expense records and provide them to the City, along with invoices for services rendered, in a timely manner and in a format acceptable to the City for work performed to the date of the invoice.

- C. All invoices shall be paid by the City within 30 days of receipt of a proper invoice, unless the City gives notice that the invoice is in dispute.
- D. The Ethics Officer shall keep time, expense, billing, and other business records pertaining to this Agreement available for inspection by City representatives during the Ethics Officer's normal business hours for three (3) years after final payment. Copies shall be made available upon the City's request. The copies will be provided without cost if required to substantiate any billing of the Ethics Officer, but the Ethics Officer may charge the City for copies requested for any other purpose.
- E. If the services rendered do not meet the requirements of this Agreement, the Ethics Officer will correct or modify the work to comply with the terms of this Agreement. Correction of typographical and other clerical errors made by the Ethics Officer shall be made at no cost to the City. The City may withhold payment for services that do not meet the requirements of this Agreement until such time as the work is corrected.

Discrimination and Compliance with Laws.

- A. The Ethics Officer agrees not to discriminate against any employee or applicant for employment or any other person in performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstances prohibited by federal, state, or local law or ordinance, except for a bone fide occupational qualification.
- B. The Ethics Officer shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.
- C. Violation of this Paragraph 3 shall be a material breach of this Agreement and grounds for cancellation, termination or suspension of this Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

Term and Termination of Agreement.

- A. This Agreement shall commence on the date of signature and remain in effect until December 31, 2021, unless sooner terminated or unless the City and the Ethics Officer mutually agree in writing to extend the term of said Agreement.
- B. This Agreement may be terminated by the City, without cause, upon ninety (90) days written notice. This Agreement may be terminated by the Ethics Officer, without cause, upon ninety (90) days written notice. In the event of termination, all finished or unfinished documents, reports, or other material or work of the Ethics Officer, pursuant to this Agreement, shall be submitted to the City, and the

Ethics Officer shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination.

- 5. Renewal. This Agreement may be renewed at the City's option. The City shall notify the Ethics Officer of the City's desire to renew at least thirty (30) days in advance of the expiration date of the then-current term. The City or Ethics Officer may propose changes in any specific term of this Agreement, including, but not limited to, the flat fee and hourly rate set forth on Exhibit A as part of the renewal and any such changes shall become a part of the Agreement for the renewal term if the parties mutually agree. In the event that a new Agreement is not negotiated prior to the end of the term, the Agreement shall automatically renew for a period of three months.
- 6. Notices. All notices affecting the terms of this Agreement shall be in writing and shall be given in person, by US mail, or by courier services with confirmation of receipt, to the addresses set forth below:

Ethics Officer:

Tom Atwood

1030 N. Center Pkwy, Suite 115

Kennewick, WA 99336

City:

Marie Mosley City Manager City of Kennewick 210 W. 6th Avenue Kennewick, WA 99336

- Officer matter and all primary copies of exhibits. The Ethics Officer shall possess only secondary, working copies of all data, materials, reports, memoranda and any other documents or recordings developed under this Agreement. Upon notice of termination, consistent with Section 4 above, the Ethics Officer shall complete any outstanding. unfinished matter within thirty (30) days and consistent with state law. All completed decisions shall become the property of the City. The City agrees that if it uses products prepared by the Ethics Officer for purposes other than those intended in this Agreement, it does so at its sole risk and it agrees to hold the Ethics Officer harmless from such use. Upon termination of this Agreement, the Ethics Officer shall return any working copies in their possession, as requested by the City, but shall be entitled to retain attorney work product.
- 8. General Administration and Management. The City Manager, or their designee, shall be responsible for coordinating the work of the Ethics Officer, shall provide any necessary information for and direction of the Ethics Officer's services in order to ensure that such services meet the requirements of this Agreement, and shall be responsible for reviewing, monitoring, and approving the quality of such work. The parties understand that the Ethics Officer will work independently and without direct supervision and that the only direction provided by the City will be administrative in nature.

- 9. <u>Disputes</u>. Any dispute concerning questions of fact in connection with the work not disposed of by agreement between the Ethics Officer and the City shall be referred for resolution to a mutually acceptable mediator. The parties shall each be responsible for one-half of the mediator's fees and costs.
- 10. <u>Indemnity</u>. The Ethics Officer agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the Ethics Officer, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the Ethics Officer, its officers, agents, or employees, in connection with the services required by this Agreement, provided, however, that:
 - A. The Ethics Officer's obligations to indemnify, defend, and hold harmless shall not extend to injuries, sickness, death, or damage caused by, or resulting from the sole willful misconduct or sole negligence of the City, its officers, agents or employees; and
 - B. The Ethics Officer's obligations to indemnify, defend, and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Ethics Officer and the City, or of the Ethics Officer and a third party, other than an officer, agent, or employee of the Ethics Officer, shall apply only to the extent of the negligence or willful misconduct of the Ethics Officer.
 - C. The City agrees to hold harmless, indemnify and defend the Ethics Officer from and against any and all claims, losses, or liability, for injuries sickness or death of persons, including employees of the City, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the City, its officers, agents or employees in connection with the services required by this Agreement, provided, however, that the City's obligation to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the Ethics Officer.
- 11. <u>City Business License.</u> The Ethics Officer has obtained, or agrees to obtain, a business license from the City prior to commencing to perform any services under this Agreement. The Ethics Officer will maintain the business license in good standing throughout the term of this Agreement.
- Subletting or Assigning Agreement. Neither the City nor the Ethics Officer shall assign
 or subcontract any rights, duties or interests accruing from this Agreement without the
 express prior written consent of the other.

- 13. Independent Contractor. The Ethics Officer is, and shall be at all times during the term of this Agreement, an independent contractor. The City shall not be liable for, nor obligated to pay to the Ethics Officer, or any employee of the Ethics Officer, sick leave, vacation pay, overtime or any other benefit applicable to employees of the City, nor to pay or deduct any social security, income tax or other tax from the payments made to the Ethics Officer which may arise as an incident of the Ethics Officer performing services for the City. The City shall not be obligated to pay industrial insurance for the services rendered by the Ethics Officer.
- 14. Compliance and Governing Law. The Ethics Officer shall, at all times, comply with all applicable federal, state, and local laws, rules, ordinances, and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.
- 15. Non-Waiver. Payment for any part of the work or services by the City shall not constitute a waiver by the City of any remedies of any type it may have against the Ethics Officer for any breach of the Agreement by the Ethics Officer, or for failure of the Ethics Officer to perform work required of it under the Agreement with the City. Waiver of any right or entitlement under this Agreement by the City shall not constitute waiver of any other right or entitlement.
- 16. <u>Litigation</u>. In the event either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for Benton County. The parties agree that all questions shall be resolved by application of Washington law and that parties to such actions shall have the right to appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The Ethics Officer hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, in and for Benton County. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.
- 17. Taxes. The Ethics Officer will be solely responsible for the payment of any and all applicable taxes related to the services provided under this Agreement and if such taxes are required to be passed through to the City by law, the same shall be duly itemized on any billings submitted to the City by the Ethics Officer.
- 18. Entire Agreement. This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 13th day of November, 2019.

CITY OF KENNEWICK

ETHICS OFFICER

MARIE E. MOSLEY, City Manager Approved as to form:

EXHIBIT A

SCOPE OF WORK

- Scope of Work. The Ethics Officer shall perform all services and provide all goods as identified below.
- <u>City Direction.</u> All duties shall be performed pursuant to the direction of the City Manager, or their designee.
- Designated Ethics Officer. The City of Kennewick hereby designates Tom Atwood, as the City's Ethics Officer.
- Ethics Officer Responsibilities.
 - a. The Ethics Officer shall provide services and fulfill duties set forth in the following:
 - Kennewick Municipal Code, Section 2.06.050 Ethics Officer and Section 2.06.060 Complaints, Investigations, Hearings and Enforcement; and
 - Provide Rules of Procedure for the Ethics Officer.
 - b. The Ethics Officer will work independently and without direct supervision. They will remain fully knowledgeable regarding the Ethics Code. The City will provide all municipal codes, ordinances, resolutions, regulations, policies and guidelines and revisions thereof, necessary for the Ethics Officer to maintain the required level of knowledge and understanding.
- Schedule of Hearings.
 - Hearings will be held in the evening and scheduled based upon the availability of City Council Chambers and the Ethics Officer.
 - b. The Ethics Officer may, on occasion, be requested to conduct an additional hearing, depending upon the number of matters pending; such additional hearing will be scheduled per the availability of the Ethics Officer and the mutual agreement of the parties, without amendment of this Agreement.
- 6. Performance Standard. All duties shall be performed to the City's satisfaction, including, but not limited to, conducting orderly and impartial hearings, creating a professional and courteous environment for complainants, citizens and staff; and timely preparing findings of fact and conclusion of law which are clear and based on sound reasoning and all applicable law.

- Administrative Support. The City of Kennewick will provide administrative support services to the Ethics Officer. These include:
 - Coordinate and assign hearing schedule with Ethics Officer and affected City Departments;
 - Advertise hearings according to legal requirements;
 - Attend all hearings to setup meeting room, record and create a record of the hearings;
 - Maintain the official City file for each case;
 - e. Perform administrative duties for the Ethics Officer as required;
 - Coordinate distribution of Ethics Officer decisions to City Council and the Parties of Record;
 - g. Screen correspondence, email, and telephone calls to the Ethics Officer in an effort to assure that prohibited ex parte contacts are not made;
 - h. Process and approve all Ethics Officer invoices;
 - Oversee any contract changes on an annual basis; and
 - j. Keep the Ethics Officer apprised of all ordinance amendments or enactments relating to the provisions governing Ethics and Ethics Officer services by sending copies of ordinances as soon as possible after adoption.
- 8. <u>Compensation.</u> In consideration of the Ethics Officer performing the services under the Scope of Work, the City agrees to pay the Ethics Officer as follows:
 - a. A fee of \$200.00 per hour will be paid for holding the hearing, writing decisions and recommendations, and stipulated settlement agreements where appropriate.
 - b. A fee of \$200.00 per hour for preparation of rules of procedure and any amendments there to if such services are requested.
 - c. The parties agree that the hourly fee for the services described in 8a. will increase in the second year to \$240.00 per hour.
 - d. The Ethics Officer shall be responsible for the cost of transportation.
- Term of Agreement. This Agreement shall commence on the date of signature, and continue through December 31, 2021. The Agreement may be extended for additional periods of time upon mutual agreement of the City and the Ethics Officer.
- 10. Advice to the City. The Ethics Officer may meet with City staff and City Council as needed and scheduled by the City, to advise the City regarding clarity and adequacy of City codes and other matters relating to the Ethics Officer's duties and responsibilities. If additional meetings are required from time-to-time, the Ethics Officer and the City will mutually agree on time, place, and participants to be included in such discussions. The time spent on such advisory duties will be compensated at the same professional rate agreed above.

CHAPTER 2.06 COUNCIL CODE OF ETHICS

2.06.010: Policy:

- (1) Purpose. The Kennewick City Council has adopted a Code of Ethics for members of the City Council to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for Council Members; both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.
- (2) Intent. The citizens and businesses of Kennewick are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. The City Council is committed to upholding the City of Kennewick Core Values which state:

We will provide excellent public service and ensure the safety and wellbeing of our community and one another through the empowerment of each employee. We value integrity, inclusiveness, stewardship and communication.

We are accountable to our community for innovation and collaborative efforts that anticipate needs, leverage resources and deliver solutions.

Integrity: We hold ourselves to the highest standard of professionalism and ethical conduct.

Inclusiveness: We embrace diversity and value different perspectives as we work together for the common good.

Stewardship: We ensure the public's resources are used responsibly to provide the greatest benefit.

Communication: We will listen and engage in an open, honest and timely exchange of information.

- (3) In keeping with the City of Kennewick's commitment to excellence, the effective functioning of democratic government therefore requires that:
 - (a) Public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
 - (b) Public officials be independent, impartial and fair in their judgment and actions;
 - (c) Public office be used for the public good, not for personal gain; and
 - (d) Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

(Ord. 5812 Sec. 1(part), 2019)

2.06.020: Definitions.

- (1) "Official" means a member of the City Council elected or appointed.
- (2) "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

(Ord. 5812 Sec. 1(part), 2019)

2.06.030: Prohibited Conduct.

- (1) Conflicts of Interest. In order to ensure their independence and impartiality on behalf of the common good, officials shall not participate in government decisions in which any of the following has a financial interest:
 - (a) The official;
 - (b) A relative;
 - (c) An individual with whom the official resides; or
 - (d) An entity that the official serves as an officer, director, trustee, partner or employee.

Officials shall abstain from participating in deliberations and decision-making where conflicts exist.

- (2) Appearance of Conflict. If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the official's judgment is impaired because of either:
 - (a) A personal or business relationship not covered under the foregoing subsection; or
 - (b) A transaction or activity engaged in by the official;

the official shall disclose the facts giving rise to the appearance of a conflict before participating in the matter.

- (3) Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the City, officials shall not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.
- (4) Representation of Third Parties. The members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.
- (5) Solicitations of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from city employees.
- (6) Gifts and Favors. Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.
- (7) Confidential Information. Officials shall not disclose or use any confidential information gained by reason of their official position for other than a city purpose. "Confidential information" means:
 - (a) Specific information, rather than generalized knowledge, that are not available to a person who files a public records request; and
 - (b) Information made confidential by law.

(Ord. 5812 Sec. 1(part), 2019)

2.06.040: Ethical Standards.

In addition to Section 2.06.030 of the Code of Ethics, which shall be administered by the Ethics' Officer, officials are also required to comply with the following standards:

- (1) Compliance with Other Laws. Officials shall comply with federal, state and city laws in the performance of their public duties. These laws include, but are not limited to: the United States and Washington Constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and city ordinances and policies. See Appendix A. As required by RCW 42.17A.565, no official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee. Except under limited circumstances described in RCW 42.17A.555 no official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.
- (2) Working for the Common Good. Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of Kennewick and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the City Council. Officials need to be mindful that making special requests of staff even when the response does not benefit the official personally puts staff in an awkward position. Questions for city staff members shall be submitted to the City Manager who will then coordinate with staff to provide a response.
- (3) Respect for Process. Officials shall perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by city staff.
- (4) Commitment to Transparency. Transparency, openness, and accountability are fundamental values of the City and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used or retained by any official, including email, text messages and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from city staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the city public records officer (the city clerk), who has responsibility to ensure that the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the public records officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility of the public records officer, together with the city attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.
- (5) Conduct of Public Meetings. Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
- (6) Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

- (7) Ex Parte Communications. In quasi-judicial matters, officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
- (8) Attendance. Attendance at regular council meetings by Council Members is required absent being excused per KMC 2.04.050(2). As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council.
- (9) Nepotism. A Council Member may not vote or participate in the interview or appointment of a relative to boards or commissions or other appointed positions.
- (10) Advocacy. When acting in an official capacity as a city official representing the City, officials shall represent the official policies or positions of the City Council, to the best of their ability when the City Council, has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kennewick, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during council meetings, board/commission meetings, or other official city meetings.
- (11) Policy Role of Officials. Officials shall respect and adhere to the council-manager structure of Kennewick city government as outlined by Chapter 35A.13 RCW. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and city staff. Except as provided by state law, officials shall not interfere with the administrative functions of the City or the professional duties of city staff; nor shall they impair the ability of staff to implement Council policy decisions.

APPENDIX A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
RCW 35A.12.060	Vacancy for nonattendance
Ch. 35A.13 RCW	Council-Manager plan of government
	Incompatible offices
Ch. 40.14 RCW	Preservation and destruction of public records
RCW 42.17A.555	Use of public office or agency facilities in Campaigns - Prohibition - Exceptions
RCW 42.17A.565	Solicitation of contributions by public officials or Employees
Ch. 42.23 RCW	Code of Ethics for municipal officers - Contract Interests
Ch. 42.36 RCW	Appearance of Fairness Doctrine - Limitations
Ch. 42.56 RCW	Public Records Act

(Ord. 5888 Sec. 1, 2020; Ord. 5812 Sec. 1(part), 2019)

2.06.050: Ethics Officer.

- (1) The City Council creates the office of the Ethics' Officer. The Ethics' Officer will interpret and apply the council code of ethics to complaints submitted to the Officer. The Ethics Officer will be appointed solely with regard to their qualifications for the duties of the office which shall include, but not be limited to, appropriate educational and legal experience. The Ethics' Officer, in addition to other duties, may recommend changes or additions to this Council Code of Ethics to the City Council.
- (2) The Council Interview Committee, City Manager and City Attorney will interview applicants who respond to the City's Request for Proposals for the Ethics Officer. The Committee will forward two candidates to the full City Council for review and appointment by a majority vote of the Council.

(Ord. 5812 Sec. 1(part), 2019)

2.06.060: Complaints, Investigations, Hearings and Enforcement:

The Ethics Officer may resolve inadvertent and minor violations of the Code of Ethics informally, unless the Ethics' Officer determines that doing so would not serve the public interest. When a violation is neither inadvertent nor minor, the Ethics' Officer shall initiate an action in accordance with this section.

- (1) Complaint Process.
 - (a) Complaint Requirements Service. Two officials are required to sign off on a written complaint before it can be filed with the Ethics' Officer alleging one or more violations of this Code of Ethics by an official. The complaint must set forth specific facts with enough precision and detail for the Ethics' Officer to make a determination of sufficiency. It must be signed under penalty of perjury by the officials submitting it in a manner consistent with Chapter 9A.72 RCW. The complaint shall be filed with the city clerk who will date-stamp it as received and forward it to the Ethics Officer.
 - (b) Finding of Sufficiency. The Ethics Officer shall make a determination of sufficiency within 30 days of receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate Section 2.06.030 or 2.06.040 of this Code. The Ethics Officer's determination is not reviewable. If the finding is one of sufficiency of the complaint, then the Ethics Officer shall investigate the complaint as set forth below.
 - (c) Dismissal. The Ethics Officer shall dismiss the complaint if the Ethics Officer determines that the violation was inadvertent and minor; or a violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct. A decision for dismissal as noted above is final and not reviewable.
 - (d) Notice. Notice of action by the Ethics Officer shall be provided as follows:
 - (i) Notice of a finding of insufficiency or dismissal of a complaint by the Ethics Officer shall be sent to the officials who made the complaint and the official complained against within seven days of the decision by the Ethics Officer. A finding of insufficiency or dismissal of a complaint by the Ethics Officer is final and binding, and no administrative or other legal appeal is available through the Ethics Officer.
 - (ii) Within seven days of the Ethics Officer rendering a finding of sufficiency, the city clerk shall send notice to the officials who made the complaint and the official complained against, of the Ethics Officer's determination. If, after investigation, the Ethics Officer has reason to believe that a material violation of Section 2.06.030 or 2.06.040 has occurred, the city clerk shall give notice of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least 30 days prior to the date set for the hearing. The following must be submitted to the Ethics Officer via the City Clerk at least fifteen days prior to the scheduled hearing:
 - A. Written response to the assertions in the complaint by the accused;
 - B. Any motions by the accused asserting Procedural or Technical challenges to the complaint;
 - C. Witness list including contact information (Name, Address, and Telephone number).

- (iii) If at any point in the process, a recall petition is filed based on substantially the same charges as the ethics complaint as determined by the Ethics Officer, the process will be stayed until final resolution of the recall petition.
- (e) Stipulations. At any time after a complaint has been filed with the Ethics Officer, the Ethics Officer may seek and make recommendations that the City Council enter into a stipulation with the official complained against. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the Ethics Officer thinks a stipulation is appropriate, an admission of the violation by the official complained against, a promise by the official complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the officials who made the complaint and the official complained against and forwarded to the City Council for action.

(2) Conduct of Hearings.

- (a) All hearings on complaints found to be sufficient shall be conducted by the Ethics Officer and are open to the public. The official who is the subject of the compliant may appear at the hearing with or without counsel and may call witnesses and cross examine witnesses. The hearing shall be informal, meaning that the Ethics Officer shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Ethics Officer may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Ethics Officer shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the Ethics Officer. The Ethics Officer may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Ethics Officer shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided, that the Ethics Officer shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.
- (b) Within 30 days after the conclusion of the hearing, the Ethics Officer shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be sent to the officials who made the complaint and to the official complained against. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the City Council.
- (3) City Council Action. Final City Council action to decide upon stipulations and recommendations from the Ethics Officer or findings, conclusions, and recommendations from the Ethics Officer shall be by majority vote in a public meeting. Deliberations by the Council may be in executive session. The member of the Council against whom the complaint was made will not participate in any executive session and shall not vote on any matter involving him or herself. However, upon request of the member of the Council against whom the complaint was made, a public meeting before the Council will be held on the issue of penalties.
- (4) Disposition. In the event the Ethics Officer finds that the person against whom the complaint was made has violated the Code of Ethics, then the City Council may take any of the following actions by a majority vote of the Council. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law or as provided in subsection (5) of this section.
 - (a) Dismissal. Dismissal of the complaint without penalties.
 - (b) Referral. A complaint may be referred to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

- (c) Admonition. An admonition shall be an oral non-public statement made by the mayor, or his/her designee, or if the complaint is against the mayor, the mayor pro-tem or his/her designee, to the official
- (d) Reprimand. A reprimand shall be administered to the official by a motion of reprimand by the majority of the City Council.
- (e) Censure. A resolution of censure shall be a resolution read to the person in public. The resolution shall be prepared by the City Council and shall be signed by the mayor, or if the complaint is against the mayor, the mayor pro-tem. The person shall appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least 20 calendar days before the scheduled appearance at which time a copy of the proposed resolution of censure shall be provided to the person. The resolution of censure shall be read publicly, and the person shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the official appears as required.
- (f) Civil Penalties. The City Council may assess a civil penalty of up to one thousand dollars or three times the economic value of anything received in violation of this Code of Ethics or three times the economic value of any loss to the City, whichever is greater. Any monetary penalty assessed civilly shall be placed in the City's general fund. The City Council may also suspend a portion of a civil penalty imposed on condition the Council Member have no other violations of the Council Code of Ethics for one year.
- (g) Contract Void. As provided by RCW 42.23.050, any contract made in violation of Chapter 42.23 RCW, "Code of Ethics for municipal officers contract interests," is void.
- (h) Other Penalties. The City Council may impose a restriction, loss of a committee assignment, or loss of appointment as a representative of the city for any regional or multijurisdictional body or membership on any board or commission which requires an appointment or confirmation of an appointment by the City Council.
- (5) Review of Civil Penalties. If the City Council orders an official to pay a civil penalty, the official may seek a writ of review from the superior court pursuant to Chapter 7.16 RCW, within 30 days of the City Council's order.
- (6) Protection Against Retaliation. Neither the City nor any official may take or threaten to take, directly or indirectly, official or personal action, including, but not limited to, discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any council member because that council member files a complaint with the Ethics Officer.
- (7) Public Records. Records filed with the Ethics Officer become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.56.230(2), identity information may be redacted when an unsubstantiated complaint is made available in response to a public records request; however, in each case, the justification for the redaction shall be explained fully in writing. A finding by the Ethics Officer determining that a complaint is sufficient shall contain at the beginning the following specific language:

NOTICE: ANY PORTION OF THIS FINDING DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE ETHICS' OFFICER. THE ETHICS' OFFICER HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE ETHICS' OFFICER, THEN VIOLATION(S) OF THE CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Ethics' Officer Orders, and any written censures or reprimands issued by the City Council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

- (8) Liberal Construction Limitation Period Effective Date.
 - (a) This Code of Ethics shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.
 - (b) Any action taken under this Code of Ethics must be commenced within two years from the date of violation.

(Ord. 5888 Sec. 2, 2020; Ord. 5812 Sec. 1(part), 2019)



City Council Meeting Schedule February 2022

The City broadcasts all City Council meetings on the City's website https://www.go2kennewick.com/CouncilMeetingBroadcasts.

February 1, 2022

Tuesday, 6:30 p.m. REGULAR COUNCIL MEETING

February 8, 2022

Tuesday, 6:30 p.m.

WORKSHOP MEETING

- 1. Facilities Master Plan Update
- 2. Hanford Update
- 3. 2022 Parks & Recreation Commission Work Plan Update
- 4. River of Fire Update

February 15, 2022

Tuesday, 6:30 p.m. REGULAR COUNCIL MEETING

February 22, 2022 Tuesday, 6:30 p.m.

WORKSHOP MEETING

- 1. Entertainment District Partnership Update (A-1 Pearl)
- 2. Public Facilities Update
- 3. Animal Control Update

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.