



## **ETHICS REVIEW COMMISSION MINUTES**

**SPECIAL CALLED MEETING  
Monday, October 20, 2014**

The Ethics Review Commission (“Commission”) convened in a special called meeting on Monday, October 20, 2014, at City Hall, 301 W. 2nd Street, Room 2005, in Austin, Texas.

Chair Austin Kaplan called the meeting to order at 6:05 p.m.

Commission members in attendance: Chair Austin Kaplan, Vice Chair Peter Einhorn, Donna Beth McCormick, James Ruiz, and Dennis Speight. Not present: James Sassin and Sylvia Hardman-Dingle.

Staff in Attendance: Assistant City Attorney Cynthia Tom; James Cousar, outside legal counsel for the Commission; C. Robert Heath, outside legal counsel for the Commission; City Clerk Jannette Goodall; Deputy City Auditor Corrie Stokes; and Office of the City Auditor Chief of Investigations Jason Hadavi.

Items No. 1.a. and 1.b.: The Commission went into executive session at 6:07 p.m. to discuss legal issues related to: (1) an amended complaint filed on October 2, 2014, by Gloria Morales against Monica A. Guzmán alleging violations of Article II, Section 2 of the City Charter (Eligibility of Council Members) and City Code, Chapter 2-2 (Campaign Finance) (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code); and (2) a complaint filed on October 13, 2014, by Lance R. Pettus against Gregorio “Greg” Casar alleging violations of City Code, Chapter 2-2 (Campaign Finance) (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).

The Commission returned from executive session at 7:13 p.m.

Item No. 2.a.: The Commission convened a preliminary hearing under Section 2-7-44 of City Code to consider an amended complaint filed on October 2, 2014, by Gloria Morales against Monica A. Guzmán alleging violations of Article II, Section 2 of the City Charter and City Code, Chapter 2-2.

Commission Counsel Cousar described the proceeding and noted that the allegation regarding residency had been dismissed by the Commission previously as outside of its jurisdiction. Commission Counsel Cousar also noted that the Commission had previously dismissed a complaint by Ms. Morales against Ms. Guzmán and had permitted Ms. Morales one opportunity to revise and resubmit her complaint.

Chair Kaplan stated that the Commission did not have jurisdiction over the subject matter of the residency allegation in the complaint. Commission Member Speight made a motion that there

were not reasonable grounds to believe that a violation of a provision within the jurisdiction of the Commission had occurred with regard to the residency allegation in the complaint, which was seconded by Vice Chair Einhorn. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

With regard to the second allegation in the complaint relating to the voluntary campaign contract, Chair Kaplan stated that the Commission did not have jurisdiction over breach of contract violations or issues relating to the validity of a candidate entering into the voluntary contract. Vice Chair Einhorn made a motion that reasonable grounds did not exist to believe that a violation of a provision within the jurisdiction of the Commission had occurred as a result of the actions or omissions alleged in the complaint with respect to the respondent entering into the voluntary campaign contract. The motion was seconded by Commission Member Speight. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent. The preliminary hearing was concluded.

Item No. 2.b.: The Commission convened a preliminary hearing under Section 2-7-44 of City Code to consider a complaint filed on October 13, 2014, by Lance R. Pettus against Gregorio “Greg” Casar alleging violations of City Code, Chapter 2-2.

Commission Counsel Heath described the proceeding, and noted that Allegation No. 2 in the complaint did not properly identify the proper section of City Code violated, which would be Section 2-2-21(A) of City Code.

The complainant, Mr. Pettus, appeared in person and under oath and made a statement regarding the two alleged violations.

The respondent, Mr. Casar, appeared in person and under oath and made a statement responding to the alleged violations. With regard to Allegation No. 2, Mr. Casar admitted to violating City Code by failing to disclose occupation and employer information for one contributor. Mr. Casar stated that he would file a correction. Mr. Casar stated that he did not believe that he committed a violation with regard to Allegation No. 1 pertaining to bundling of contributions.

Commission Counsel Heath advised that the complainant, Mr. Pettus, might want to amend the complaint to show the proper section of City Code alleged to be violated with regard to Allegation No. 2. The respondent, Mr. Casar, stated that he was not opposed to the amendment of the complaint. Commission Member Speight made a motion that the Commission accept an amended complaint by Mr. Pettus to reference the correct section of City Code alleged violated with regard to Allegation No. 2 in the original complaint, which is Section 2-2-21(A) of City Code. The motion was seconded by Commission Member McCormick. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Based on the admission by Mr. Casar, Commission Member Speight made a motion that a violation of Section 2-2-21(A) of City Code had occurred. Commission Member McCormick seconded the motion. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Vice Chair Einhorn made a motion that the Commission not recommend prosecution of Mr. Casar, which was seconded by Commission Member McCormick. Commission Member Ruiz stated his opinion that the Commission should wait to vote on a prosecution recommendation until after the Commission had made a determination regarding Allegation No. 1. Vice Chair Einhorn withdrew his motion.

The Commission discussed Allegation No. 1 pertaining to bundling of contributions and asked questions of Mr. Casar and Mr. Pettus. Commission Member Ruiz made a motion that Allegation No. 1 regarding bundling be dismissed because there were not reasonable grounds to believe that a violation of Section 2-2-22 of City Code by Mr. Casar had occurred. The motion was seconded by Vice Chair Einhorn. After discussion by the Commission, the motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Vice Chair Einhorn made a motion that the Commission not recommend prosecution of Mr. Casar, which was seconded by Commission Member Speight. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Vice Chair Einhorn made a motion that Chair Kaplan draft a letter of notification to Mr. Casar stating that the violation was clearly unintentional and advising of any steps to be taken to correct the violation. The motion was seconded by Commission Member Speight. After discussion by the Commission, the motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Commission Member Speight made a motion that Chair Kaplan draft orders on preliminary hearing for Items No. 2.a. and No. 2.b., which was seconded by Vice Chair Einhorn. After discussion by the Commission, the motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

City Clerk Goodall stated for the record that she had received the revised complaint form from Mr. Pettus. The preliminary hearing was concluded.

Item No. 2.c.: The Chair took up Item No. 2.c. relating to the powers, duties, and functions of the Commission and the City Auditor, including City Council Resolutions No. 20141016-024 and No. 20141016-033 and a report from the Commission working group. The Commission heard citizen communication on this item. The Commission also heard from the members of the working group and from City staff, including Assistant City Attorney Tom, Deputy City Auditor Stokes, Chief of Investigations Hadavi, and City Clerk Goodall. The working group stated that it would look at the issues further and report back.

Item No. 2.d.: Chair Kaplan discussed his proposal to post all Commission orders and sanctions in an additional manner online than how they are currently posted. The Commission heard information from Assistant City Attorney Tom and City Clerk Goodall. City Clerk Goodall stated that she would get more information from her staff and come back to the Commission with that information. Commission Member Speight made a motion asking that the City Clerk look at the feasibility of posting Commission complaints, orders, and sanctions online in a more

centralized manner, which was seconded by Vice Chair Einhorn. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Item No. 3.a.: Commission Member McCormick provided a brief update from the working group regarding the 2014 City Council election candidate forums.

Item No. 3.b.: Chair Kaplan provided a brief update from the statements of financial information working group tasked with possible City Code revision and forms revision. Assistant City Attorney Tom briefed the Commission on an additional issue relating to City Code provisions regarding statements of financial information. Commission Member Speight made a motion to add issues relating to the applicability of certain provisions of City Code, Section 2-7-72(B) to City Council Members to the scope of the working group's duties. The motion was seconded by Commission Member McCormick. The motion was approved on a 5-0 vote. Commission Member Hardman-Dingle and Commission Member Sassin absent.

Item No. 3.c.: Commission Member Speight made a report on behalf of the working group tasked with making a recommendation on a plan for possible Commission review of filed statements of financial information forms. The recommendation from the working group was that the Commission not periodically review filed statements for compliance purposes.

Item No. 4: There were no speakers for general citizen communication.

Item No. 5: The Commission discussed future agenda items to include: complaint preliminary hearings, officer elections, setting the 2015 regular meeting schedule, reports from working groups, and consideration of a proposed resolution relating to Commission jurisdiction.

The meeting adjourned at 10:00 p.m.