



ETHICS REVIEW COMMISSION MINUTES

**REGULAR MEETING
Tuesday, January 27, 2015**

The Ethics Review Commission (“Commission”) convened in a regular meeting on Tuesday, January 27, 2015, at City Hall, 301 W. 2nd Street, Room 1029, in Austin, Texas.

Chair Austin Kaplan called the meeting to order at 6:15 p.m.

Commission members in attendance: Chair Austin Kaplan, Vice Chair Peter Einhorn, Sylvia Hardman-Dingle, Jolene Kiolbassa, Donna Beth McCormick, James Sassin, and Dennis Speight.

Staff in Attendance: Assistant City Attorney Cynthia Tom; James Cousar, outside legal counsel for the Commission; City Clerk Jannette Goodall; Austin Police Department (“APD”) Chief Hubert “Art” Acevedo (appeared via telephone); APD Administrative Supervisor Janet De La Rosa; Communications and Public Information Office Public Relations Manager Patricia Fraga; and Acting City Auditor Corrie Stokes.

Item No. 2.b.: Chair Kaplan took up Item No. 2.b. out of order, relating to a Commission resolution thanking the League of Women Voters of the Austin Area and City staff for assistance coordinating the 2014 City Council candidate forums. Commission Member McCormick read the resolution. Commission Member McCormick made a motion to adopt the resolution, which was seconded by Commission Member Speight. The motion was approved on a 7-0 vote.

Item No. 1.a.: Chair Kaplan voluntarily recused himself from Items No. 1.a. and No. 2.a. and left the dais. The Commission went into executive session at 6:25 p.m. to discuss legal issues related to an amended complaint filed on December 22, 2014, by Jermaine A. Hopkins against Chief Acevedo alleging violation of City Code, Chapter 2-7 (Ethics and Financial Disclosure).

The Commission returned from executive session at 7:00 p.m.

Item No. 2.a.: The Commission convened a final hearing under Section 2-7-44 of City Code to consider an amended complaint filed on December 22, 2014, by Jermaine A. Hopkins against Chief Acevedo alleging violation of City Code, Chapter 2-7 (Ethics and Financial Disclosure).

Commission Counsel Cousar described the proceeding.

Vice Chair Einhorn asked Chief Acevedo if he was acknowledging the violation in his sworn affidavit. Keith Gamel, attorney for Chief Acevedo, stated that there was a violation. Commission Member Speight made a motion that based on the sworn affidavit, a violation of City Code, Section 2-7-72 had occurred due to the untimely filing of Chief Acevedo’s statement of financial information, which was seconded by Commission Member Sassin. The motion was

approved on a 6-0-1 vote. Chair Kaplan voluntarily recused himself from this item and was off the dais.

The complainant, Mr. Hopkins, appeared in person and under oath, made a statement regarding the severity of the violation, and asked that the Commission recommend criminal prosecution of Chief Acevedo.

Mr. Gamel, attorney for the respondent, Chief Acevedo, made a statement regarding the severity of the violation and asked that no sanction be issued against Chief Acevedo.

Ms. De La Rosa appeared in person and under oath as a witness and made a statement regarding her efforts to file the statement of financial information on Chief Acevedo's behalf.

Commission Member Speight made a motion that the Commission not recommend prosecution of Chief Acevedo, which was seconded by Commission Member Kiolbassa. The motion was approved on a 6-0-1 vote. Chair Kaplan voluntarily recused himself from this item and was off the dais.

Commission Hardman-Dingle made a motion that the Commission issue a letter of notification to Chief Acevedo because the violation was clearly unintentional, which was seconded by Commission Member Speight. The motion was approved on a 6-0-1 vote. Chair Kaplan voluntarily recused himself from this item and was off the dais.

Commission Member Hardman-Dingle made a motion that the letter of notification include direction to Chief Acevedo that to avoid future violations, he or his assistant should obtain written confirmation that the Clerk has received his statement of financial information filing. Commission Member McCormick seconded the motion. The motion was approved on a 6-0-1 vote. Chair Kaplan voluntarily recused himself from this item and was off the dais.

Commission Member Speight made a motion that Vice Chair Einhorn work with outside counsel and Commission staff to draft the appropriate Commission order and sanction letter, which was seconded by Commission Member Hardman-Dingle. The motion was approved on a 6-0-1 vote. Chair Kaplan voluntarily recused himself from this item and was off the dais.

The final hearing was concluded, and Chair Kaplan rejoined the dais.

Item No. 2.c.: The Commission received public comment from various citizens and engaged in discussion regarding the Commission's annual review of the dollar limits established in Chapter 2-2 of City Code (Campaign Finance), the remainder of Chapter 2-2 of City Code (Campaign Finance), and Article III, Section 8 of the City Charter (Limits on Campaign Contributions and Expenditures).

Item No. 3.b.: Chair Kaplan took up Item No. 3.b. out of order. Commission Member Speight made a motion to expand the charge of existing Commission working group tasked with reviewing and proposing revisions to Chapter 2-2 of City Code (Campaign Finance) to also include reviewing and proposing changes to Article III, Section 8 of the City Charter (Limits on

Campaign Contributions and Expenditures). Vice Chair Einhorn seconded the motion. The motion was approved on a 7-0 vote.

Item No. 3.c.: Chair Kaplan took up Item No. 3.c. out of order, relating to a report from the Commission working group tasked with reviewing and proposing revisions to Chapter 2-2 of City Code. Vice Chair Einhorn made a motion that the working group continue to accept public comment on campaign finance provisions through the end of March 2015. Commission Member Hardman-Dingle seconded the motion. The motion was approved on a 7-0 vote. City Clerk Goodall answered questions from the Commission regarding the role of the Clerk's Office in advising candidates regarding filings, and regarding creating an online filing system for campaign finance filings.

Item No. 2.d.: Commission Member Speight made a motion to approve the Commission's 2014 annual internal review report, which Vice Chair Einhorn seconded. The motion was approved on a 7-0 vote.

Item No. 3.a.: Commission Member McCormick provided an update from the Commission candidate forums working group about the completed City Council 2014 candidate forums and planning for the upcoming 2016 candidate forums.

Item No. 3.d.: Chair Kaplan and Assistant City Attorney Tom briefed the Commission on the draft recommendation put forth by the Commission working group and upcoming City Council action relating to the powers, duties, and functions of the Commission and the City Auditor, including City Council Resolution No. 20141016-033 and possible Chapter 2-3 (City Auditor) and Chapter 2-7 (Ethics and Financial Disclosure) City Code amendments. Acting City Auditor Stokes also briefed the Commission on this topic. Vice Chair Einhorn made a motion to adopt the proposed Commission recommendation to City Council drafted by the working group and relating to proposed amendments to City Code, Chapter 2-7 and the jurisdiction of the Commission, which was seconded by Commission Member Speight. The motion was approved on a 7-0 vote.

Item No. 3.e.: The Commission working group tasked with reviewing and proposing revisions to Chapter 2-7 of City Code (Ethics and Financial Disclosure) had nothing to report.

Item No. 3.f.: On behalf of the working group tasked with reviewing and proposing revisions to Chapter 4-8 of City Code (Regulation of Lobbyists), Commission Member McCormick had nothing to report but asked a question of City Clerk Goodall relating to City Code, Section 4-8-7(E) (Activity Reports) and duties of the Office of the City Clerk with regard to reviewing lobbying reports for compliance and investigating complaints of violations of Chapter 4-8.

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

Item No. 5: The Commission discussed the following future agenda items: reports from the existing Commission working groups relating to: campaign finance, ethics and financial disclosure, and lobbying regulation.

The meeting adjourned at 9:35 p.m.