



ETHICS REVIEW COMMISSION MINUTES

**SPECIAL CALLED MEETING
Monday, September 28, 2015**

The Ethics Review Commission (“Commission”) convened in a special called meeting on Monday, September 28, 2015, at City Hall, 301 W. 2nd Street, Room 1101, in Austin, Texas.

Commission Chair Austin Kaplan called the meeting to order at 7:04 p.m.

Commission members in attendance: Austin Kaplan, Peter Einhorn, Donna Beth McCormick, Meagan Harding, Matthew Lamon, J. Michael Ohueri, Paul Quinzi, Kenneth Smith, Dennis Speight, Robert “Ben” Stratmann, and Brian Thompson.

Staff in Attendance: Assistant City Attorney Cynthia Tom, Staff Liaison Jessica Aranda, Commission Outside Counsel Tim Sorrells, and City Auditor Corrie Stokes.

Items No. 1.a. and No. 1.b.: The Commission went into executive session at 7:07 p.m. to discuss legal issues related to Items No. 1.a. and No. 1.b.: (1.a.) an amended complaint filed on June 30, 2015, by Mark Walters against Don Zimmerman alleging violations of Chapter 2-7 of City Code (Ethics and Financial Disclosure); and (1.b.) a complaint filed on July 27, 2015, by Mark Walters against Don Zimmerman alleging violations of Chapter 2-2 of City Code (Campaign Finance).

The Commission returned from executive session at 7:58 p.m.

Items No. 2.a. and No. 2.b.: Chair Kaplan took up Items No. 2.a. and 2.b. together. The Commission convened a preliminary hearing under Section 2-7-44 of the City Code to consider: (2.a.) an amended complaint filed on June 30, 2015, by Mark Walters against Don Zimmerman alleging violations of Chapter 2-7 of City Code (Ethics and Financial Disclosure); and (2.b.) a complaint filed on July 27, 2015, by Mark Walters against Don Zimmerman alleging violations of Chapter 2-2 of City Code (Campaign Finance).

Outside Counsel Tim Sorrells described the proceeding.

The complainant, Mr. Walters, appeared in person and under oath and made a statement regarding the alleged violations of City Code.

The respondent’s attorney, Jerad Najvar, appeared in person on behalf of his client, Council Member Zimmerman, and made a statement responding to the alleged violations of City Code. The respondent, Council Member Zimmerman, did not personally attend the preliminary hearing.

After discussion by the Commission, Commission Member Smith made a motion that reasonable grounds do not exist to believe that Council Member Zimmerman violated City Code, Section 2-

7-1(A), which was seconded by Commission Member Quinzi. The motion was approved on a 10-0-1 vote, with Commission Member Lamon abstaining. The allegation that Council Member Zimmerman violated City Code, Section 2-7-1(A) was dismissed.

Vice Chair Einhorn made a motion that reasonable grounds do not exist to believe that Council Member Zimmerman violated City Code, Section 2-7-62(J), which was seconded by Commission Member Smith. The motion failed on a 5-5-1 vote. Those voting aye were: Chair Kaplan, Vice Chair Einhorn, and Commission Members Smith, Stratmann, and Quinzi. Those voting nay were: Commission Members Harding, Lamon, McCormick, Speight, and Thompson. Commission Member Ohueri abstained.

Commission Member Harding made a motion that reasonable grounds exist to believe that Council Member Zimmerman violated City Code, Section 2-7-62(J) and to proceed to final hearing, which was seconded by Commission Member Thompson. The motion failed on a 5-5-1 vote. Those voting aye were: Commission Members Harding, Lamon, McCormick, Speight, and Thompson. Those voting nay were: Chair Kaplan, Vice Chair Einhorn and Commission Members Quinzi, Smith, and Stratmann. Commission Member Ohueri abstained. Due to the failure to receive six votes in favor of proceeding to final hearing, the allegation that Council Member Zimmerman violated City Code, Section 2-7-62(J) was automatically dismissed.

Commission Member Thompson made a motion that reasonable grounds exist to believe that Council Member Zimmerman violated City Code, Section 2-2-25, and to proceed to final hearing on the allegation, which was seconded by Commission Member Speight. The motion was approved on an 11-0 vote.

Commission Member Lamon made a motion that reasonable grounds exist to believe that Council Member Zimmerman violated City Code, Section 2-2-42, and to proceed to final hearing on the allegation, which was seconded by Vice Chair Einhorn. The motion was approved on an 11-0 vote.

Commission Member Speight made a motion to continue the Commission meeting past 10:00 p.m., which was seconded by Commission Member McCormick. The motion was approved on an 11-0 vote.

Commission Member Speight made a motion that Vice Chair Einhorn work with outside counsel to draft the orders on preliminary hearing, which was seconded by Commission Member Smith. The motion was approved on an 11-0 vote.

Commission Member Speight made a motion that the Commission request the following witnesses and evidence for the final hearing: (1) Councilman Zimmerman; (2) Mr. Walters; (3) from Council Member Zimmerman, documentary evidence of any campaign debt in existence during the time period relevant to the allegations in the complaint, including the candidate's personal funds reported as loans to the campaign and any campaign debt owed to another person; and (4) from the City Clerk's Office, for all current Austin City Council Members, copies of any filed candidate/officeholder campaign finance reports, including attached City schedule forms (including Schedule ATX. 3), that were required to be filed by January 15, 2015, and by July 15,

2015. The motion was seconded by Commission Member Quinzi. The motion was approved on an 11-0 vote.

Commission Member Harding made a motion that the final hearing take place at a special called meeting of the Commission to be held on October 13, 2015, which was seconded by Commission Member Stratmann. The motion was approved on an 11-0 vote.

Items No. 3.a. and No. 3.b.: Chair Kaplan took up Items No. 3.a. and No. 3.b. together. Commission Member Thompson briefed the Commission on behalf of the lobbying working group regarding proposed changes to Chapter 4-8 of City Code (Regulation of Lobbyists) and Chapter 2-7 of City Code (Ethics and Financial Disclosure). The Commission heard citizen communication on the item.

Item No. 3.c.: Chair Kaplan briefed the Commission on behalf of the Commission working group tasked with reviewing and proposing amendments to Chapter 2-7 of City Code (Ethics and Financial Disclosure). City Auditor Corrie Stokes also briefed the Commission on proposed changes related to the City Auditor and the Commission.

Item No. 3.d.: The Commission working group tasked with reviewing and proposing amendments to Chapter 2-2 of City Code (Campaign Finance) and Article III, Section 8 of the City Charter (Limits on Campaign Contributions and Expenditures) briefed the Commission. Commission Member Quinzi made a motion to remove Commission Member Thompson from the working group due to his demanding role as chair of another Commission working group. The motion was seconded by Commission Member Stratmann. The motion was approved on an 11-0 vote.

Item No. 4: Commission Member Speight made a motion to approve the minutes of the Commission's August 31, 2015 special called meeting, which was seconded by Commission Member Quinzi. The motion was approved on an 11-0 vote.

Item No. 5: There were no speakers for general citizen communication.

Item No. 6: The Commission discussed the following future agenda items: updates from the lobbying working group and an explanation from the Law Department regarding the Public Information Request process.

The meeting was adjourned at 11:39 pm.