



ETHICS REVIEW COMMISSION

REGULAR MEETING MINUTES Wednesday, November 8, 2017

The Ethics Review Commission (“Commission”) convened in a regular meeting on Wednesday, November 8, 2017, at City Hall, 301 W. 2nd Street, Room 1027, in Austin, Texas.

Commission Chair Peter Einhorn called the meeting to order at 6:08 p.m.

Commission Members in attendance: Chair Peter Einhorn, Vice Chair Meagan Harding, Donna Beth McCormick, Fredda Holmes, Mary Kahle, J. Michael Ohueri, Luis Soberon, Dennis Speight, and Brian Thompson.

City Staff in Attendance: Assistant City Attorney Cindy Tom, Commission Staff Liaison Sue Palmer, City Auditor Corrie Stokes, Deputy City Auditor Jason Hadavi, Office of the City Auditor Chief of Investigations Nathan Wiebe, Office of the City Auditor Senior Investigator Keith Salas, Office of the City Auditor Supervising Senior Investigator Tope Eletu-Odibo, and Office of the City Auditor Senior Investigator Matthew Clifton.

1. EXECUTIVE SESSION

The Ethics Review Commission may announce it will go into Executive Session pursuant to Chapter 551 of the Texas Government Code to receive advice from legal counsel on any matters specifically listed on this agenda (Private Consultation with Attorney-Section 551.071).

The Commission will go into executive session to discuss legal issues related to:

- a. A complaint filed on July 17, 2017, by Nathan Wiebe against Clifford Gillard alleging violations of City Code Chapter 2-7 (Ethics and Financial Disclosure) and City Code Chapter 2-1 (City Boards).
- b. A complaint filed on July 17, 2017, by Nathan Wiebe against Stefan Sasko alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure).
- c. A complaint filed on April 25, 2017, by Nathan Wiebe against Margo Frasier alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure), including witness and evidentiary issues under City Code Section 2-7-46 (Oaths and Requests for Information) relating to the final hearing on the complaint.

The Commission went into executive session at 6:10 p.m. on the above matters, and returned at 6:50 p.m.

2. PRELIMINARY HEARINGS

Discussion and possible action regarding the following:

- a. The Commission will convene a preliminary hearing under Section 2-7-44 of City Code to consider a complaint filed on July 17, 2017, by Nathan Wiebe against Clifford Gillard alleging violations of City Code Chapter 2-7 (Ethics and Financial Disclosure) and City Code Chapter 2-1 (City Boards).

Based on the admission of the respondent, Commission Member Danburg made a motion that a violation had occurred and that the Commission issue a letter of notification, which was seconded by Commission Member McCormick. The motion passed on a vote of 8-0-2. Those members voting aye were: Chair Einhorn, Vice Chair Harding and Commission Members Danburg, Holmes, Kahle, McCormick, Ohueri, and Soberon. Those abstaining were: Commission Members Speight and Thompson. Secretary Robert “Ben” Stratmann was absent.

- b. The Commission will convene a preliminary hearing under Section 2-7-44 of City Code to consider a complaint filed on July 17, 2017, by Nathan Wiebe against Stefan Sasko alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure).

Item No. 2.b. was tabled so the Commission could first take up Item No. 3.a.

3. NEW BUSINESS

Discussion and possible action regarding the following:

- a. The Commission will consider witness and evidentiary issues under City Code Section 2-7-46 (Oaths and Requests for Information) relating to the final hearing on a complaint filed on April 25, 2017, by Nathan Wiebe against Margo Frasier alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure).

Chair Einhorn took up Item No. 3.a. out of order.

Commission Member Thompson made a motion to subpoena everything in the index of evidence provided by the City Auditor’s Office, which was seconded by Commission Member Danburg. Commission Member Soberon made a motion to amend Commission Member Thompson’s motion to exclude information identifying the informant including the original allegation itself, which was seconded by Chair Einhorn. The motion failed on a vote of 3–7. Those members voting aye were: Chair Einhorn and Commission Members Holmes and Soberon. Those members voting nay were: Vice Chair Harding and Commission Members Danburg, Kahle, McCormick, Ohueri, Speight and Thompson. Secretary Stratmann was absent.

Commission Member Soberon made another motion to amend Commission Member Thompson’s motion to redact the name and job title of the informant from the materials in the index of evidence, which was seconded by Commission Member Speight. The motion failed on a vote of 4–6. Those members voting aye were: Chair Einhorn and Commission Members Holmes, Soberon, and Speight. Those members voting nay were: Vice Chair Harding and Commission Members Danburg, Kahle, McCormick, Ohueri, and Thompson. Secretary Stratmann was absent.

Commission Member Thompson restated his original motion to subpoena everything in the index of evidence provided by the City Auditor’s Office with no redactions, which had previously been seconded by Commission Member Danburg. The motion passed on a vote of 6-2-2. Those members voting aye were: Vice Chair Harding and Commission Members Danburg, Kahle, McCormick, Ohueri, and Thompson. Those members voting nay were: Chair Einhorn and Commission Member Soberon. Those members abstaining were: Commission Members Holmes and Speight. Secretary Stratmann was absent.

Commission Member McCormick made a motion to subpoena former City Manager Marc Ott and former Deputy City Manager Michael McDonald, which was seconded by

Commission Member Danburg. The motion passed on a vote of 9-0-1. Those members voting aye were Chair Einhorn and Commission Members Danburg, Holmes, Kahle, McCormick, Ohueri, Soberon, Speight, and Thompson. Vice Chair Harding abstained. Secretary Stratmann was absent.

2. PRELIMINARY HEARINGS

Discussion and possible action regarding the following:

- b. The Commission will convene a preliminary hearing under Section 2-7-44 of City Code to consider a complaint filed on July 17, 2017, by Nathan Wiebe against Stefan Sasko alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure).

Commission Member Thompson made a motion to dismiss, which was seconded by Commission Member Danburg. The motion failed on a vote of 5-4-1. Those members voting aye were: Chair Einhorn, Vice Chair Harding and Commission Members Danburg, Ohueri and Thompson. Those members voting nay were: Commission Members Holmes, Kahle, McCormick, and Speight. Commission Member Soberon abstained. Secretary Stratmann was absent.

Commission Member Kahle made a motion that there are reasonable grounds to believe that a violation has occurred and to set the complaint for final hearing, which was seconded by Commission Member McCormick. The motion passed on a vote of 6-4. Those members voting aye were: Commission Members Danburg, Holmes, Kahle, McCormick, Speight, and Soberon. Those members voting nay were: Chair Einhorn, Vice Chair Harding, and Commission Members Ohueri and Thompson. Secretary Stratmann was absent.

Commission Member Thompson made a motion to set the final hearing for the January regular Commission meeting, which was seconded by Vice Chair Harding. The motion passed on a vote of 9-0-1. Those voting aye were: Chair Einhorn, Vice Chair Harding, and Commission Members Danburg, Holmes, McCormick, Ohueri, Soberon, Speight, and Thompson. Commission Member Kahle abstained, and Secretary Stratmann was absent.

3. NEW BUSINESS

Discussion and possible action regarding the following:

- b. The Commission's 2018 regular meeting schedule.

Commission Member McCormick made a motion to approve the schedule as discussed, which was seconded by Commission Member Speight. The motion passed 10-0, with Secretary Stratmann absent.

4. GENERAL CITIZEN COMMUNICATION

The first five speakers signed up prior to the meeting being called to order will each be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

There were no speakers for general citizen communication.

5. APPROVAL OF MINUTES FROM THE OCTOBER 11, 2017 REGULAR COMMISSION MEETING.

Commission Member Speight made a motion to approve the minutes from the October 11, 2017 regular Commission meeting, which was seconded by Vice Chair Harding. The motion passed 10-0, with Secretary Stratmann absent.

6. FUTURE AGENDA ITEMS

No future agenda items were discussed.

ADJOURNMENT

Commission Member Speight made a motion to adjourn, which was seconded by Vice Chair Harding. The motion passed 10-0, with Secretary Stratmann absent. The meeting was adjourned at 9:53 p.m.