



ETHICS REVIEW COMMISSION

MEETING MINUTES Wednesday, May 8, 2019

The Ethics Review Commission (“Commission”) convened in a regular meeting on Wednesday, May 8, 2019, at City Hall, Room 1027, in Austin, Texas.

Interim Chair Mary Kahle called the meeting to order at 6:00 p.m.

Commissioners in attendance: Interim Chair Mary Kahle, Interim Secretary Tray Gober, and Commissioners: Debra Danburg, Peter Einhorn, Betsy Greenberg, Mary Kahle, Raafia Lara, Donna Beth McCormick, and J. Michael Ohueri. Interim Vice-Chair Luis Soberon, Commissioners Lerner and Thompson were absent.

City Staff in Attendance: Lynn Carter, Commission Executive Liaison & Assistant City Attorney and Sue Palmer, Commission Staff Liaison, Law Department; Brian Molloy, Chief of Investigations, Office of the City Auditor.

1. 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 concerns regarding items not posted on the agenda.

There were no speakers for citizen communication.

2. 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 matter specifically listed on this agenda (Private Consultation with Attorney-Section 551.071).

The commission may go into executive session to discuss legal issues related to:

A complaint filed on August 3, 2018, by Jason Hadavi, Deputy City Auditor, against Frank Rodriguez, which complaint alleges violations of City Code Chapter 2-7 (Ethics and Financial Disclosure), specifically violation of Sections 2-7-63(A) (Prohibition on Conflict of Interest); 2-7-65(C) (Substantial Interest of Relative); 2-7-64 (Disclosure of Conflict of Interest); 2-7-62(A), (H1), (I), (J) and (L) (Standards of Conduct); 2-7-67(B) (Restrictions on Providing Representation of Others); and 2-7-72(E) (Reports).

A complaint filed on November 2, 2018, by Fred I. Lewis against No on Prop J PAC, which complaint alleges violation of Section 2-2-32 (Reporting of Direct Campaign Expenditures) of City Code Chapter 2-2 (Campaign Finance).

The Commission went into executive session at 6:14 p.m., and the open meeting resumed at 7:12 p.m.

3. FINAL HEARINGS

Discussion and possible action regarding the following:

- (a) A complaint filed on August 3, 2018, by Jason Hadavi, Deputy City Auditor, against Frank Rodriguez, which complaint alleges violations of City Code Chapter 2-7 (Ethics and Financial Disclosure), specifically violation of Sections 2-7-63(A) (Prohibition on Conflict of Interest); 2-7-65(C) (Substantial Interest of Relative); 2-7-64 (Disclosure of Conflict of Interest); 2-7-62(A), (H1), (I), (J) and (L) (Standards of Conduct); 2-7-67(B) (Restrictions on Providing Representation of Others); and 2-7-72(E) (Reports).

Commissioner Ohueri made a motion to reopen the preliminary hearing to find violations and accept the complaint resolution, which was seconded by Commissioner Einhorn subject to counsel advice on whether the meeting was posted to allow reopening the preliminary hearing. Following advice of counsel, Commissioner Einhorn withdrew his second to the motion. No vote was taken on the motion.

Commissioner Einhorn made a motion to accept the parties' proposed complaint resolution, which was seconded by Secretary Gober. The motion failed on a 5-2-1 vote. Those voting in favor were Interim Chair Kahle, Interim Secretary Gober, and Commissioners Danburg, Einhorn, and Greenberg. Commissioners Lari and McCormick voted against. Commissioner Ohueri abstained. Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

The parties requested one hour per side for presentation of the evidence at the final hearing. No vote was taken by the commission on this request.

- (b) A complaint filed on November 2, 2018, by Fred I. Lewis against No on Prop J PAC, alleging violation of Section 2-2-32 (Reporting of Direct Campaign Expenditures) of City Code Chapter 2-2 (Campaign Finance).

Prior to the presentation of evidence, the Chair raised the issue of two late-filed exhibits by Complainant. Respondent stated his objection, and Complainant and Respondent provided argument related to the exhibits. Commissioner Greenberg made a motion to accept the two exhibits submitted by Complainant after the deadline, which was seconded by Commissioner Einhorn. The motion failed on a 4-4 vote. Those voting in favor: Commissioners Danburg, Einhorn, Greenberg and Ohueri. Interim Chair Kahle, Interim Secretary Gober, and Commissioners Lari and McCormick voted against the motion. Interim Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

At the conclusion of the hearing, Commissioner Einhorn made a motion, which was seconded by Interim Secretary Gober that a violation of City Code Section 2-2-32 had occurred. The motion passed unanimously on an 8-0 vote. Those voting in favor: Interim Chair Kahle, Interim Secretary Gober, and Commissioners Danburg, Einhorn,

Greenberg, Lari, McCormick, and Ohueri. Interim Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

Commissioner Einhorn made a motion, which was seconded by Commissioner Gober, that the case not be referred for prosecution and that the Commission issue a letter of admonition as a sanction per City Code Section 2-7-48. Chair Kahle made an amended motion to recommend that a reprimand be issued with no prosecution, which was seconded by Commissioner Greenberg. The amended motion failed on a 5-2-1 vote. Those voting in favor: Interim Chair Kahle and Commissioners Danburg, Greenberg, Lari, and McCormick. Commissioners Einhorn and Interim Secretary Gober voted against the motion. Commissioner Ohueri abstained. Interim Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent. The Commission then voted on Commissioner Einhorn's original motion that the case not be referred for prosecution and that the sanction be a letter of admonition per City Code Section 2-7-48. The motion failed on a 4-3-1 vote. Those voting in favor: Interim Secretary Gober and Commissioners Danburg, Einhorn, and Ohueri. Interim Chair Kahle and Commissioners Greenberg and McCormick voted against the motion. Commissioner Lari abstained. Interim Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

Commissioner Ohueri made a motion, which was seconded by Commissioner Lari, that the case not be recommended for prosecution and that a letter of reprimand be issued. The motion passed on a 6-2 vote. Those voting in favor: Interim Chair Kahle and Commissioners Danburg, Greenberg, Lari, McCormick, and Ohueri. Those voting against the motion: Interim Secretary Gober and Commissioner Einhorn. Interim Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

4. NEW BUSINESS

Discussion and possible action regarding the following:

(a) Election of officers.

Commissioner Einhorn made a motion to nominate Interim Chair Kahle as chair, Interim Vice-Chair Soberon as vice chair, and Interim Secretary Gober as secretary, which was seconded by Commissioner McCormick. The motion passed unanimously on an 8-0 vote. Those voting in favor: Interim Chair Kahle, Interim Secretary Gober, and Commissioners Danburg, Einhorn, Greenberg, Lari, McCormick, and Ohueri. Interim Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

(b) Consider draft amendments or a draft ordinance amending City Code Chapter 4-8 (Lobbying Regulations), Chapter 2-7 (Ethics and Financial Disclosure) and Chapter 2-2 (Campaign Finance).

No action was taken on this item; it was postponed until a future meeting.

5. APPROVAL OF MINUTES FROM THE MARCH 8, 2019 REGULAR COMMISSION MEETING.

Commissioner Danburg made a motion to approve the minutes, which was seconded by Commissioner Einhorn. The motion passed unanimously on an 8–0 vote. Those voting in favor were Chair Kahle, Secretary Gober, and Commissioners Danburg, Einhorn, Greenberg, Lari, McCormick, and Ohueri. Vice-Chair Luis Soberon and Commissioners Lerner and Thompson were absent.

6. FUTURE AGENDA ITEMS

Commissioner Einhorn notified the Commission of his intended resignation.

ADJOURNMENT

Without objection, the meeting adjourned at 10:25 p.m.

The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or alternative formats, please give notice at least two (2) days (48 hours) before the meeting date. Please call Sue Palmer at the Law Department, at (512) 974-2915 for additional information; TTY users route through Relay Texas at 711.

For more information on the Ethics Review Commission, please contact Sue Palmer at (512) 974-2915 or Lynn Carter at (512) 974-2171.