



## **Annual Internal Review**

### **ETHICS REVIEW COMMISSION**

**This report covers the time period of 7/01/2018 to 6/30/2019**

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**The Board/Commission mission statement is set forth in the following provisions of the City Code:**

#### **§ 2-1-145 - ETHICS REVIEW COMMISSION.**

The Ethics Review Commission has duties and responsibilities established by Chapter 2-2 (Campaign Finance) and Chapter 2-7 (Ethics and Financial Disclosure).

#### **§ 2-2-65 OTHER CONSIDERATIONS FOR CAMPAIGN CONTRACT.**

- (A) A candidate who signs a campaign contract must participate in a series of candidate forums, whether or not the candidate qualifies for funds.
- (B) The Ethics Review Commission shall produce not fewer than three forums for each contested race as follows:
  - (1) one forum must air on public access television; and
  - (2) other forums may be produced and made available to the public by radio, broadcast, publication on the Internet, or other means approved by the commission.
- (C) The City shall make recordings of audio or video forums available to the public at all branches of the City library.
- (D) The City may purchase advertising promoting the candidate forums.
- (E) The Ethics Review Commission shall establish equitable guidelines to coordinate and produce the candidate forums.

#### **§ 2-7-26 FUNCTIONS.**

The Ethics Review Commission has jurisdiction over this chapter, Section 2-1-24 (Conflict of Interest and Recusal), Chapter 2-2 (Campaign Finance), Chapter 4-8 (Regulation of Lobbyists), and Article III, Section 8, of the City Charter (Limits on Campaign Contributions and Expenditures). The commission shall hear and rule on sworn complaints alleging violations of the provisions within the commission's jurisdiction. The city manager shall provide funding for all necessary and reasonable functions of the commission in fulfilling its duties.

## **§ 2-7-30 DUTIES.**

- (A) The Ethics Review Commission shall, in addition to its other duties:
  - (1) prescribe forms for reports, statements, notices, and other documents required by the provisions within the commission's jurisdiction;
  - (2) prepare and publish materials explaining the duties of individuals subject to the provisions within the commission's jurisdiction;
  - (3) accept and file any information voluntarily supplied that exceeds the requirements of the provisions within the commission's jurisdiction;
  - (4) preserve statements and reports filed with the commission for a period of five years from the date of receipt;
  - (5) review the provisions within the commission's jurisdiction and make appropriate recommendations to the city council concerning the provisions within the commission's jurisdiction, and perform an annual review and evaluation of the dollar limits established in Chapter 2-2 (Campaign Finance) and make recommendations to the city council as to those limits;
  - (6) conduct hearings in accordance with the provisions of this chapter and the commission's rules on sworn complaints alleging violations of the provisions within the commission's jurisdiction;
  - (7) schedule and oversee the forums among candidates in City elections provided for in Chapter 2-2 (Campaign Finance).
- (B) The commission may:
  - (1) prepare reports and studies to advance the purposes of the provisions within the commission's jurisdiction;
  - (2) request the city council and city manager to provide such assistance as it may require in the discharge of its duties; and
  - (3) review statements and reports filed under provisions within the commission's jurisdiction in order to obtain compliance with the provisions.

### **SECTION 2-7-109 (Appeals of Anti-Lobbying Disqualifications)**

In accordance with City Code Section 2-7-109, a subcommittee consisting of less than a quorum of the members of the Ethics Review Commission will consider an appeal of a disqualification decision under City Code Chapter 2-7, Article 6 (Anti-Lobbying and Procurement).

**1. Describe the board's actions supporting its mission during the previous calendar year. Address all elements of the board's mission statement as provided in the relevant sections of the City Code.**

The Ethics Review Commission engaged in the following activities during the review period:

July 2018

The Commission's regular meeting on July 11, 2018 was cancelled.

August 2018

The Commission held a regular meeting on August 8, 2018.

Preliminary Hearing: A preliminary hearing was held in regard to a complaint filed by Jason Hadavi (City Auditor's Office) against Curtis Graves in regard to alleged violation City Code Chapter 2-3 (City Auditor) and City Code Chapter 2-7 (Ethics and Financial Disclosure). The Commission determined that reasonable grounds exist to proceed to a final hearing.

After receiving recommendations from a working group consisting of Commissioners Danburg, Einhorn, Kahle, and Ohueri, the Commission adopted rules and procedures for appeals of a disqualification under Chapter 4-8, Article 6 (Anti-Lobbying and Procurement).

September 2018

The Commission held a special called meeting on September 19, 2018

Commissioners deliberated over evidentiary issues for the final hearing (including witnesses and documents/electronic records) in regard to the complaint filed by Jason Hadavi, Deputy City Auditor, against Curtis Graves. The Commission voted to request specific witnesses and records for the final hearing on this complaint.

In regard to the Rules for Appeals of Disqualifications under City Code Chapter 2-7, Article 6 (Anti-Lobbying and Procurement), which were adopted at the August meeting of the Commission, the Commission voted to omit item 6(B) of Page 4 of the rules adopted on August 8, 2018. .

City staff provided an update on city council candidate forums.

October 2018

The Commission meeting for October 10, 2018 was cancelled.

### November 2018

The commission held a regular called meeting on November 14, 2018.

City staff briefed the Commission on proposed amendments to City Code Chapter 2-7 related to anti-discrimination/anti-harassment policies applicable to board and commission members. The Commission voted to recommend that council not place the anti-discrimination/anti-harassment policy within the jurisdiction of the Ethics Review Commission.

The Commission's 2019 regular meeting schedule was approved.

### December 2018

The Commission held a regular meeting on December 12, 2018.

Preliminary Hearing: The Commission held a preliminary hearing on a complaint filed by Juan Penelas against James Duncan, Zoning and Platting Commissioner, which complaint alleged violation of Section 2-1-24 (Conflict of Interest and Recusal) of City Code Chapter 2-1 (City Boards). A motion to find that reasonable grounds exist to find the respondent violated City Code Section 2-1-24 failed due to the lack of six favorable votes. Pursuant to City Code Section 2-7-44(C), the complaint was dismissed.

City staff briefed the Commission on proposed amendments to City Code Chapter 2-7 (Ethics and Financial Disclosure) and City policy related to gifts and use of city property. The Commission voted to recommend approval of the draft ordinance.

### January 2019

The Commission held a regular meeting on January 9, 2019.

Final Hearing: A final hearing was held by the Commission under City Code Section 2-7-44 to consider a complaint filed by Jason Hadavi in his capacity as Deputy City Auditor against Curtis Graves, which alleged violation of City Code Section 2-3-5(A)(2) related to unauthorized use of city resources and violations of City Code Sections 2-7-62(J) and 2-7-62(O) (Standards of Conduct) of City Code Chapter 2-7 (Ethics and Financial Disclosure). The motion to find that the respondent violated City Code Sections 2-7-62(J), 2-7-62(O), and 2-3-5(A) failed due to the lack of six favorable votes.

Preliminary Hearing: The Commission held a preliminary hearing on a complaint filed by James Wick against Luke McAlpin, Treasurer of Megaphone GPAC, which alleged violation of City Code Section 2-2-23(C) (Political Committees) of Chapter 2-2 (Campaign Finance). The Commission voted to dismiss the complaint based on the U.S. Fifth Circuit Court of Appeals decision in *Catholic Leadership Coalition of Texas v. Reisman*, 764 F.3d 409, 428-432 (5th Cir. 2014).

Preliminary Hearing: The Commission held a preliminary hearing on a complaint filed by Brian Molloy, Chief of Investigations, Office of the City Auditor, against DeShawn Scott, which alleged violation of City Code Section 2-7-62(J) (Standards of Conduct) of Chapter 2-7 (Ethics and Financial Disclosure). The Commission determined that reasonable

grounds exist to believe that a violation did occur within the Commission's jurisdiction and to proceed to a final hearing.

#### February 2019

The Commission held a regular meeting on February 13, 2019.

Preliminary Hearing: The Commission held a preliminary hearing on a complaint filed by Jason Hadavi, Deputy City Auditor, against Frank Rodriguez, which complaint alleged violations of City Code Sections 2-7-62(A), 2-7-62(H1), 2-7-62(I), 2-7-62(J), and 2-7-62(L), (Standards of Conduct); 2-7-63(A) (Prohibition on Conflict of Interest); 2-7-64(A), 2-7-64(B) and 2-7-64(C) (Disclosure of Conflict of Interest); 2-7-65(C) (Substantial Interest of Relative); 2-7-67(B) (Restrictions on Providing Representation of Others); and 2-7-72(E) (Reports) of City Code Chapter 2-7 (Ethics and Financial Disclosure). The Commission determined that reasonable grounds exist to believe a violation did occur within the Commission's jurisdiction in regard to the allegations against the respondent and to proceed to a final hearing.

Preliminary Hearing: The Commission held a preliminary hearing on a complaint filed by Michael J. Gaudini, for Kathie Tovo Campaign, against Center for Austin's Future PAC, Jeffrey L. Hahn, Treasurer, which complaint alleged violation of City Code Section 2-2-23(C) (Political Committees) of Chapter 2-2 (Campaign Finance). The Commission voted to dismiss the complaint based on the U.S. Fifth Circuit Court of Appeals decision in *Catholic Leadership Coalition of Texas v. Reisman*, 764 F.3d 409, 428-432 (5th Cir. 2014).

Preliminary Hearing: The Commission held a preliminary hearing on a complaint filed on December 11, 2018 by Brian Molloy, Chief of Investigations, Office of the City Auditor, against Joya Hayes, Human Resources Department Director, which complaint alleged violations of City Code Chapter 2-7 (Ethics and Financial Disclosure), specifically Sections 2-7-62(G), (J), and (O) (Standards of Conduct), and violation of City Code Section 2-3-5(A)(1) (Abuse of City Office). The Commission voted to dismiss the complaint.

#### March 2019

The Commission held a regular meeting on March 13, 2019.

Preliminary Hearing: The Commission held a preliminary hearing on a complaint by Fred I. Lewis against No on Prop J PAC, which complaint alleged violation of Section 2-2-32 (Reporting of Direct Campaign Expenditures) of City Code Chapter 2-2 (Campaign Finance). Respondent admitted violation of City Code Section 2-2-32, and the Commission determined that reasonable grounds exist to believe that a violation did occur within the Commission's jurisdiction. The Commission voted to request witnesses and documentary evidence for the final hearing.

Final Hearing: A final hearing was held by the Commission under City Code Section 2-7-44 to consider a complaint filed by Brian Molloy, Chief of Investigations, Office of the City Auditor, against former city employee, DeShawn Scott, which complaint alleged

violation of City Code Section 2-7-62(J) (Standards of Conduct) of Chapter 2-7 (Ethics and Financial Disclosure). The Commission determined that respondent violated City Code Section 2-7-62(J), and the Commission issued a letter of reprimand to DeShawn Scott as a sanction.

Officer Elections: Commissioner Kahle was elected as interim chair; Secretary Soberon was elected as interim vice-chair; and Commissioner Gober was elected to as interim secretary of the Commission.

#### April 2019

The Commission meeting for April 10, 2019 was cancelled.

#### May 2019

The Commission held a regular meeting on May 8, 2019.

The Commission considered a settlement proposal/complaint resolution by the complainant and respondent in regard to the complaint filed by Jason Hadavi, Deputy City Auditor, against Frank Rodriguez. A motion to approve the parties' settlement proposal failed for lack of six votes.

Final Hearing: The Commission held a final hearing on a complaint filed by Fred I. Lewis against No on Prop J PAC, which alleged violation of Section 2-2-32 (Reporting of Direct Campaign Expenditures) of City Code Chapter 2-2 (Campaign Finance). The Commission determined that respondent violated City Code Section 2-2-32 and issued a letter of reprimand to No on Prop J PAC as a sanction.

Officer Elections: Interim Chair Kahle was elected as chair; Interim Vice-Chair Soberon was elected as vice-chair; and Interim Secretary Gober was elected as secretary of the Commission.

#### June 2019

The Commission held a regular meeting on June 12, 2019.

Final Hearing: The Commission held a final hearing on a complaint filed by Jason Hadavi, Deputy City Auditor, against former city employee, Frank Rodriguez, which complaint alleged violations of City Code Sections 2-7-62(A), 2-7-62(H1), 2-7-62(I), 2-7-62(J), and 2-7-62 (L), (Standards of Conduct); 2-7-63(A) (Prohibition on Conflict of Interest); 2-7-64(A), 2-7-64(B) and 2-7-64(C) (Disclosure of Conflict of Interest); 2-7-65(C) (Substantial Interest of Relative); 2-7-67(B) (Restrictions on Providing Representation of Others); and 2-7-72(E) (Reports) of City Code Chapter 2-7 (Ethics and Financial Disclosure). The Commission determined that respondent violated City Code Sections 2-7-62, 2-7-64(C), 2-7-67(B), and 2-7-72(E), and issued a letter of admonition to Frank Rodriguez as a sanction.

The Commission considered and voted to recommend council approval of a draft ordinance amending City Code Chapters 2-7 and 4-8 and revising lobbyist registration fees for Fiscal

Year 2018-2019.

**2. Determine if the board's actions throughout the year comply with the mission statement.**

In regard to the reporting period (July. 2018-June 2019), the Ethics Review Commission's activities complied with the Commission's mission, functions and duties.

**3. List the board's goals and objectives for the new calendar year (or next reporting period).**

The Ethics Review Commission will continue to meet its stated responsibilities as an independent ethics and compliance body, including but not limited to:

- holding preliminary and final hearings regarding complaints within the Commission's jurisdiction;
- advising city council in regard to proposed amendments to Article III, section 8 (*Limits on Campaign Contributions and Expenditures*) of the City Charter; City Code Chapter 2-2 (*Campaign Finance*); and Chapter 2-7 (*Ethics and Financial Disclosure*);
- reaching out to stakeholders in regard to campaign finance report instructions;
- reviewing the Candidate and Officeholder Campaign Brochure and other campaign finance report instructions, including instructions to political committees;
- scheduling and overseeing candidate forums for the 2020 City elections in accordance with Chapter 2-2 (*Campaign Finance*);
- conducting an annual review and evaluation of the dollar limits established in Chapter 2-2 (*Campaign Finance*) and make recommendations to city council as to those limits;
- reviewing the Commission's rules.