



ETHICS REVIEW COMMISSION

MEETING MINUTES

Wednesday, September 22, 2021

The Ethics Review Commission (“Commission”) convened in a special called meeting on Wednesday, September 22, 2021, at City Hall, Room 1101, 301 W 2nd Street, Austin, Texas, and via Videoconference.

Chair Luis Soberon called the meeting to order at 6:10 p.m.

Commissioners in attendance: Chair Luis Soberon, Secretary Robin Lerner, and Commissioners Debra Danburg, Betsy Greenberg, Mary Kahle, Michael Lovins, Donna Beth McCormick, and Nguyen Stanton were present at City Hall. Commissioner Teneyuca attended via videoconference.

Members absent: Commissioner Raafia Lari. There is a vacancy for District 1.

City Staff in Attendance: Caroline Webster, Division Chief and Assistant City Attorney, and Meredith Mooney, Executive Assistant, Law Department.

CITIZEN COMMUNICATION

Each person who signed up to speak prior to the meeting being called to order and who designated this item on which to speak, or who did not designate an agenda item on which to speak will be allowed three minutes to speak.

No public speakers registered to speak.

1. NEW BUSINESS

Discussion and possible action regarding the following:

- a. Election of a Commission vice chair due to Vice Chair J. Michael Ohueri’s resignation from the Commission.

Commissioner McCormick nominated Commissioner Kahle for vice chair, which was seconded by Commissioner Greenberg. The motion passed on the unanimous vote of the members present (9-0). Voting in favor: Chair Soberon, Secretary Lerner, and Commissioners: Danburg, Greenberg, Kahle, Lovins, McCormick, Stanton, and Teneyuca. Commissioner Lari was absent, and there was one vacancy.

- b. Parliamentary training available to Chair and Vice Chair and option of electing a parliamentarian.

The Commission discussed upcoming parliamentary training provided by the City for a limited number of attendees. Commissioner McCormick nominated Commissioner Greenberg as parliamentary, which was seconded by Commissioner Danburg. The motion passed on the unanimous vote of the members present (9-0). Voting in favor: Chair Soberon, Vice-Chair Kahle, Secretary Lerner, and Commissioners: Danburg, Greenberg, Lovins, McCormick, Stanton, and Teneyuca. Commissioner Lari was absent, and there was one vacancy.

- c. A working group to review, evaluate, and make recommendations on dollar limits established in Chapter 2-2 (Campaign Finance) in accordance with City Code subsection (A)(5) of Section 2-7-30 (Duties) and to review and make recommendations related to the Campaign Finance Brochure for the 2022 elections.

Commissioner Danburg made a motion that the Working Group on Sanctions, Procedures, and Other Issues (Members: Greenberg, Lerner, Soberon, Stanton, and Teneyuca) review the dollar limits in Chapter 2-2 (Campaign Finance) and the campaign finance brochure. The motion was seconded by Commissioner Stanton. The motion passed on the vote of the eight members in favor and one abstaining (8-0-1). Voting in favor: Chair Soberon, Vice Chair Kahle, Secretary Lerner, and Commissioners: Danburg, Lovins, McCormick, Stanton, and Teneyuca. Commissioner Greenberg abstained. Commissioner Lari was absent, and there was one vacancy.

- d. The Candidate Forum Working Group for candidate forums for the 2022 city council elections.

Secretary Lerner volunteered to participate in the Candidate Forum Working Group with Vice Chair Kahle and Commissioner McCormick. Commissioner McCormick and Vice-Chair Kahle discussed the scope of work of the working group; encouraged all commissioners to attend their district's candidate forums; and pointed out that the schedule of the candidate forums has historically been printed on the Austin Energy bill. Chair Soberon acknowledged that the working group is now a group of three. Commissioner Lovins volunteered to serve on the working group if more members were needed, and Commissioner McCormick pointed out that the key involvement of importance is that each commissioner attend the candidate forums, especially in their districts. No further action was taken.

2. OLD BUSINESS

Discussion and possible action regarding the following:

- a. Draft Op-Ed by the Working Group on Race, Identity, and Equity

After discussion, Vice-Chair Kahle described the draft op-ed that was circulated for commissioner input and comment. Discussion included recommendations to translate to Spanish, Chinese, and Vietnamese. No action was taken.

- b. Draft Commission Statement on Equity, Access, and the Need for Reform by the Working Group on Race, Identity, and Equity

This item was tabled / postponed to a future meeting when Commissioner Lari may be present. Other members were encouraged to join the working group.

- c. Working group status reports and/or recommendations on the following.

- i. Working Group on Sanctions, Procedures, and other Issues (Chair Soberon, Vice-Chair Ohueri, and Commissioners Greenberg, Lerner, and Stanton) on the following subjects:

- Commission sanctions including effectiveness, past cases, and recommendations.
- Potential amendments to City Code, Chapter 2-7 (Ethics and Financial Disclosure).
- Commission procedures including effectiveness, past cases, and recommendations.
- Scope of work of the Commission (powers, duties, and obligations), including effectiveness, past cases, and recommendations.
- Potential amendments to the Rules of the Ethics Review Commission.
- Best practices for city attorney opinions including effectiveness, past cases, and recommendations.

- ii. Working Group on Race, Identity, and Equity (Commissioners Kahle, Lari, and Soberon) status report and/or recommendations on: addressing issues of race, identity, and equity including: (i) planning for presentations or trainings by the Equity Office; (ii) helping focus the Commission's evaluation of racial injustice and how the Commission can operate more fairly and effectively in light of racial injustice.

Item 2(c)(ii) – the Working Group on Race, Identity, and Equity was taken up out of order. Vice-Chair Kahle gave a short status update with input from Chair Soberon, including the potential for commission-wide training with Brion Oaks from the City's Equity Office and collecting data and demographics on complaints to see how these issues intersect.

Item 2(c)(i) – Working Group on Sanctions, Procedures, and other Issues: Commissioner Greenberg gave a presentation on the following issues:

- Penalties, including possible fines, instead of criminal prosecution referrals
- Campaign expenditures reporting requirement triggers
- Financial disclosure requirements
- Announcements and postponements
- Potentially simplifying the complaint form – whether to require identifying the date of the violation and the section of the City Code violated

- **Hearing process – swearing in of witnesses, cross-examination rules, exclusion of witnesses during other witness testimony**
- **Limitations on ex parte communication**
- **Annual training for the Commission that is specific to the responsibilities of the Ethics Review Commission**
- **Potentially allowing settlements to resolve complaints**
- **Loosening the *ex parte* communication prohibition**
- **Jurisdiction**
- **A spread sheet of the Charter and City Code provisions within the Commission’s jurisdiction**
- **A survey for past commissioners, and persons and attorneys who have appeared before the Commission, outside counsel, as well as the general public; potential for in-person interviews and anonymous responses to the survey**

Chair Soberon made a motion to direct the City Law Department to develop an outline for a training specific to the duties and jurisdiction of the Ethics Review Commission. The motion was seconded by Commissioner Danburg. The motion passed on the unanimous vote of the nine members present (9-0). Voting in favor: Chair Soberon, Vice-Chair Kahle, Secretary Lerner, and Commissioners: Danburg, Greenberg, Lovins, McCormick, Stanton, and Teneyuca. Commissioner Lari was absent, and there was one vacancy.

Chair Soberon briefly recessed the meeting at 7:57 pm.

Chair Soberon called the meeting back in session at 8:04 pm, at which point discussion of Item 2(c)(i) continued in regard to changing the complaint form.

3. APPROVAL OF MINUTES: APRIL 14, 2021, JUNE 9, 2021, and JULY 14, 2021 REGULAR COMMISSION MEETINGS

Discussion and possible action regarding the minutes for:

- the April 14, 2021 regular commission meeting;
- the June 9, 2021 regular commission meeting; and
- the July 14, 2021 regular commission meeting.

Chair Soberon noted that the inclusion of the June meeting minutes was an error on this agenda. Those minutes were approved at the July meeting. The minutes for April and July were tabled / postponed to the next meeting to allow all members time to review the minutes.

5. FUTURE AGENDA ITEMS AND ANNOUNCEMENTS

Future agenda items were discussed, including the need to set meeting dates for the last two meetings of the Commission for 2021. Commissioner Stanton requested that two

agenda items be added to the next meeting: the scope or jurisdiction of the Ethics Review Commission and whether the district that each commission member represents could be added on the agenda. Chair Soberon agreed to add as an item on the next meeting's agenda the two matters raised by Commissioner Stanton.

ADJOURNMENT

The meeting adjourned at 9:00 p.m.