



## **ETHICS REVIEW COMMISSION MINUTES**

**REGULAR MEETING  
Tuesday, July 29, 2014**

The Ethics Review Commission (“Commission”) convened in a regular meeting on Tuesday, July 29, 2014, at One Texas Center, 505 Barton Springs Road, Room 325, in Austin, Texas.

Chair Austin Kaplan called the meeting to order at 6:11 p.m.

Commission members in attendance: Chair Austin Kaplan, Vice Chair Velva Price, Peter Einhorn, Donna Beth McCormick, James Ruiz, and Dennis Speight. Not present: James Sassin.

Staff in Attendance: Assistant City Attorney Cynthia Tom, Communications and Public Information Office Public Information Specialist Lara Foss, ATXN Station Manager Keith Reeves, City Auditor Ken Mory, Office of the City Auditor Chief of Investigations Jason Hadavi, City Clerk Jannette Goodall, Office of the City Clerk Boards and Commissions Coordinator Deena Estrada.

Item No. 1: There were no speakers for general citizen communication.

Item No. 3.a.: Chair Kaplan took up Item No. 3.a. out of order. Public Information Specialist Foss, Station Manager Reeves, and Assistant City Attorney Tom provided updates to the Commission regarding the 2014 City Council election candidate forums. Frances McIntyre of the League of Women Voters of the Austin Area also updated the Commission on the League’s plans for the forums.

Item No. 4.a.: Chair Kaplan took up Item No. 4.a. out of order. Chief of Investigations Hadavi briefed the Commission on the complaint and investigations processes of the City Auditor’s Integrity Unit. The Commission asked questions of Chief of Investigations Hadavi and City Auditor Mory. Vice Chair Price made a motion to create a working group to work with the City Auditor’s Office to review the Commission’s processes and the Auditor’s Processes with regard to ethics complaints. After discussion, Vice Chair Price restated her motion as the following: that a working group of the Commission be created with the purpose of reviewing ethics issues in general in consultation with the City Auditor’s Office and the Law Department. The motion was seconded by Commission Member Einhorn. The restated motion was approved on a 6-0 vote. Commission Member Sassin absent. Chair Kaplan, Commission Member Einhorn, and Commission Member Sassin were appointed to serve on the working group.

Items No. 3.c., 4.c., and 4.d.: Chair Kaplan took up Items No. 4.c., 4.d., and 3.c. together and out of order. The Commission heard comments from many members of the public regarding Zero Waste Advisory Commission (ZWAC) Recommendation No. 20140611-003, possible action by the Commission to make a recommendation to the City Council regarding ethics complaint

jurisdiction and City Code, Chapter 2-7, and possible action by the Commission to file a complaint on its own initiative against former ZWAC member Daniela Ochoa Gonzalez. Those making public comment on the items included Daniela Ochoa Gonzalez and her legal counsel, Mariano Conde de Frankenberg, as well as Bob Gregory with Texas Disposal Systems (TDS) and TDS's legal counsel, Michael Whellan. Mr. Conde de Frankenberg presented the Commission with a proposed resolution for the Commission's adoption. The Commission discussed these issues and asked questions of members of the public.

Vice Chair Price made a motion that the newly created working group draft a letter to the City Council regarding the City Auditor for the Commission's review at the next special called Commission meeting. The motion was seconded by Commission Member McCormick. The motion failed on a vote of 3-3. Those members voting in favor were: Chair Kaplan, Vice Chair Price, and Commission Member McCormick. Those voting against were: Commission Members Speight, Einhorn, and Ruiz. Commission Member Sassin absent.

Commission Member Einhorn made a motion that the newly created working group address due process issues relating to the City Auditor's investigatory processes, discussed in the final paragraph of the resolution presented by Mr. Conde de Frankenberg, and that the working group report back to the full Commission on these issues. The motion was seconded by Commission Member Speight. The motion was approved on a 6-0 vote. Commission Member Sassin absent.

Commission Member Einhorn made a motion that the Commission formally request guidance from the Law Department regarding the City Auditor's jurisdiction regarding investigations pertaining to Chapter 2-7 of City Code and whether the Auditor's Office is required to follow the Commission's process as it is outlined in Chapter 2-7. The motion was seconded by Commission Member Speight. The motion was approved on a 6-0 vote. Commission Member Sassin absent.

The Commission took no action with regard to Item No. 3.c., possible action by Commission to file a complaint on its own initiative against former ZWAC member Daniela Ochoa Gonzalez.

Item No. 4.b.: Chair Kaplan took up Item No. 4.b. out of order. City Clerk Goodall briefed the Commission on ethics training, including conflicts of interest training, provided to City boards and commissions members. City Clerk Goodall asked the Commission members for feedback on the boards and commissions ethics training materials. The Commission discussed several suggestions with City Clerk Goodall. Assistant City Attorney Tom briefed the Commission on ethics training that the Law Department provides to boards and commissions upon request. Chair Kaplan discussed the Commission revisiting these training issues in the future.

Item No. 4.e.: Chair Kaplan took up Item No. 4.e. out of order. Boards and Commissions Coordinator Estrada briefed the Commission on the transition to the 10-1 system and how it will affect City boards and commissions.

Item No. 2: Commission Member Speight made a motion to approve the minutes of the December 3, 2014 special called Commission meeting and to postpone approval of the January 29, 2014 regular Commission meeting, the March 26, 2014 special called Commission meeting,

and the April 29, 2014 regular Commission meeting. Vice Chair Price seconded the motion. The motion was approved on a 6-0 vote. Commission Member Sassin absent.

Item No. 3.e.: Chair Kaplan took up Item 3.e. out of order. Assistant City Attorney Tom explained that the Commission's proposed changes to the bylaws had been approved by the City Council Audit and Finance Committee and that the Commission was required to vote on the bylaws once more for them to go into effect. Commission Member Speight made a motion to approve the bylaws, which was seconded by Commission Member Einhorn. The motion was approved on a 6-0 vote. Commission Member Sassin absent.

Item No. 3.d.: Chair Kaplan took up Item No. 3.d. out of order. Vice Chair Price made a report on behalf of the working group, noting a spelling typo in the word "Disqualifcation" on page one of the draft rules and that it should be changed to "Disqualification." Commission Member Speight made a motion to adopt the proposed Commission complaint and hearing procedures and rules, with the change to correct the spelling typo, which was seconded by Commission Member McCormick. The motion was approved on a 6-0 vote. Commission Member Sassin absent. Chair Kaplan asked the working group to report back to the Commission in the future regarding proposed amendment of the Commission's complaint form.

Item No. 3.b.: Chair Kaplan, on behalf of one of the statements of financial information working groups, gave a report on the work done to date. Chair Kaplan stated that the working group would report back to the full Commission at a future meeting regarding proposed changes to the statements of financial information reporting forms and proposed changes to Chapter 2-7, Article 5 of City Code. Commission Member Speight, on behalf of the other working group, stated that the working group had not reached a conclusion regarding whether the Commission should periodically review filed statements of financial information for compliance purposes. Commission Member Speight gave his personal opinion that the Commission did not have the capacity to periodically review statements of financial information given the Commission's other duties. Commission Member Speight stated that the working group would report back at a future Commission meeting with its recommendation.

Item No. 5: Chair Kaplan took up Item No. 5. out of order. Chair Kaplan asked Assistant City Attorney Tom to recite future agenda items previously identified in the meeting, which included the following: reports back from the two statements of financial information working groups, report back from the newly created Auditor working group, and an officer election to elect a new vice chair after the resignation of Vice Chair Price.

Item No. 4.f.: Commission Member Einhorn made a motion to accept the resignation of Vice Chair Price from the Commission, which was seconded by Commission Member Speight. The motion was approved on a 6-0 vote. Commission Member Sassin absent. Vice Chair Price committed to continue to serve on the Commission in a hold over capacity until her successor is appointed by the City Council. Chair Kaplan thanked Vice Chair Price for her years of service to the Commission.

The Chair adjourned the meeting at 9:55 p.m. without objection.