

CITY OF AUSTIN ETHICS REVIEW COMMISSION

Pinaki Ghosh,

Complainant,

v.

Rondella Hawkins,

Respondent.

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COMPLAINT NO. 20160523

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On May 23, 2016 Pinaki Ghosh (“Complainant”) submitted to the Austin City Clerk a Sworn Complaint (“the Complaint”) against Rondella Hawkins (“Respondent”), a City employee. The City Clerk sent a copy of the Complaint and a notice of filing to the City Attorney, the Ethics Review Commission (“the Commission”), the Complainant, and the Respondent.

On June 13, 2016, Commission Executive Staff Liaison and City of Austin Assistant City Attorney Cynthia Tom (“Tom”) issued a Notice of Preliminary Hearing, setting a Preliminary before the Commission for June 22, 2016, and advising the Respondent and Complainant of procedures for the Preliminary Hearing.

II. FINDINGS OF FACT

- Currently and at the times stated in the Complaint Respondent has been an employee and salaried official of the City, serving as Director of the Department of Telecommunications and Regulatory Affairs (“DTRA”). Respondent is also City staff liaison to the City’s Community Technology and Telecommunications Commission (“CTTC”), but she is not a member

of the CTTC.

- Complainant alleges that Respondent violated Section 2-1-24 of the City Code (Conflict of Interest, Recusal) (“Section 2-1-24”) and Chapter 2-7 (Ethics and Financial Disclosure) (“Chapter 2-7”). Complainant did not identify the specific sections of Chapter 2-7 he believes Respondent has violated.
- Complainant attached to the Complaint as Exhibits a series of e-mails between Respondent and Mr. Hugh Forrest of South by Southwest Interactive (“SXSW”), a printout of Respondent’s City related travel in 2015, a series of e-mails exchanged between himself, Respondent and third persons concerning a proposed meeting between Complainant and AT&T, and media accounts about Google Fiber.
- In accordance with Chapter 2-7 and the Rules of the Commission, Complainant and Respondent were each afforded an opportunity to appear at the Preliminary Hearing. Complainant appeared in person. Respondent appeared in person.
- The Complainant addressed the Commission. Respondent addressed the Commission. Complainant and Respondent also provided additional written statements and documentation for the Commission’s consideration.

III. CONCLUSIONS OF LAW

- The June 22, 2016, meeting of the Commission and the Preliminary Hearing were properly noticed in accordance with Chapter 2-7 and the Texas Open Meetings Act.

- The Commission has jurisdiction over complaints alleging violations of Chapter 2-2 of the City Code (The Austin Fair Campaign Chapter), Chapter 4-8 of the City Code (Regulation of Lobbyists), Article III, Section 8 of the City Charter, (Limits on Campaign Contributions and Expenditures), Chapter 2-7 (Ethics and Financial Disclosure), and Section 2-1-24 (Conflict of Interest and Recusal).
- The Complaint was filed with the City Clerk, was sworn to by Complainant, and it identified one section of the City Code (Sec. 2-1-24) that Respondent is alleged to have violated, as required by Section 2-7-41 of the City Code. The Complaint identified a chapter of the Code (Chapter 2-7) that Respondent is alleged to have been violated, but did not identify sections of the Code within that chapter that Respondent is alleged to have violated.
- Because Respondent is a City employee and not a member of a City Board subject to Chapter 2-1, Respondent is not subject to the Conflict of Interest and Recusal provisions of Section 2-1-24.
- Because Respondent is a City employee and salaried City official, she is subject to certain “Standards of Conduct” set out in Section 2-7-62, including subsection 2-7-62 (G):

“No City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official employee knows or should know has been offered with the intent to influence or reward official conduct.”

and subsection Section 2-7-62 (I):

"No salaried City official or employee shall use his official position to secure a special privilege or exemption for himself or others, or to secure confidential information for any purposes other than official responsibilities."

- When a Complaint refers to a provision of the City Code within the Commission's jurisdiction but fails to identify the specific Section alleged to have been violated, the Commission at a Preliminary Hearing may elect to review the assertions in the Complaint and the Respondent's statement at the Preliminary Hearing to assess which Section(s) of the Code, if any, the Complaint invokes.
- Under Section 2-7-44 of the City Code ("Section 2-7-44"), the issue to be considered by the Commission at a Preliminary Hearing is the existence of reasonable grounds to believe that a violation of a provision within the jurisdiction of the Commission has occurred.

IV. DETERMINATION OF THE ETHICS REVIEW COMMISSION

- The Commission determines that reasonable grounds do not exist to believe that a violation of Section 2-1-24 or a Chapter 2-7 provision within the jurisdiction of the Commission has occurred as a result of the actions or omissions alleged in the Complaint. Specifically, reasonable grounds do not exist to believe that a violation of Section 2-7-62 (G) or (I) has occurred

V. NON-REFERRAL TO FINAL HEARING

- The Commission will not set the Complaint for a final hearing with respect to the alleged violations.

- The Complaint is DISMISSED.

ORDERED as of this 22nd day of June, 2016.



Peter Einhorn
Chair, Ethics Review Commission

