



ETHICS REVIEW COMMISSION

REGULAR MEETING
Wednesday, November 9, 2016

The Ethics Review Commission (“Commission”) convened in a regular meeting on Wednesday, November 9, 2016, at City Hall, 301 W. 2nd Street, Room 1027, in Austin, Texas.

Commission Chair Peter Einhorn called the meeting to order at 6:14 p.m.

Commission members in attendance: Chair Peter Einhorn, Vice Chair Matthew Lamon, Meagan Harding, Donna Beth McCormick, J. Michael Ohueri, Paul Quinzi, Kenneth Smith and Dennis Speight. Commissioners Debra Danburg, Robert “Ben” Stratmann and Brian Thompson were absent.

City Staff in Attendance: Commission Executive Liaison and Senior City Attorney Jerikay Gayle, Commission Staff Liaison Sue Palmer, and outside counsel for the Commission Tim Sorrells.

Item No. 4.: The minutes from the meeting of October 12, 2016 were approved on Commissioner Speight’s motion, seconded by Commissioner Quinzi with an unanimous vote.

Item No. 6.a: Update on possible revisions to forms used to file a complaint within the jurisdiction of the Commission, including reports from City Clerk’s Office and Law Department.

- Refillable form should be ready by January 1, 2017.
- Staff will do a mock up for the Commissioners’ review.
- City seal on it.
- Required fields: the name, mailing address, telephone number and email address of the person filing complaint. The name of the person the complaint is against. The city office, department or commission that person works for.
- The mailing address, telephone number and email address of the person the complaint is against would be optional.
- A drop down menu for the sections of the Code in the City Charter or a check box list.
- Provide instructions so that the complainant provides a description of each allegation.
- For each violation provide the date and actions alleged to be in violation of. A space for witnesses/evidence (optional).

Executive Liaison and Senior City Attorney JK Gayle gave an update on whether there is a state law or charter provision that requires a sworn complaint. There is not. Information regarding the Code provision was relayed to the Commission members.

Commissioner McCormick arrived.

Discussion ensued. The Clerk's office will provide the members with a template of the form in December.

Item No. 6.b: The lobby ordinance did pass on September 22, 2016. It will be effective on June 1, 2017.

Item No. 6.c: There will be one run-off for place 10 on December 13, 2016. The Code does require the ERC to host mandatory candidate forums.

Item No. 1.a: The Commission went into executive session at 6:40 p.m. to discuss legal issues related to a complaint filed on August 30, 2016 by Cathy Morgan against Council Member Don Zimmerman alleging violation of City Code Section 2-2-14 (Disclosure of Compliance with Chapter) of Chapter 2-2 of the City Code (Campaign Finance).

The Commission returned from executive session at 7:00 p.m.

Item No. 2.a: The Commission convened a final hearing under Section 2-7-44 of the City Code to consider a complaint filed on August 30, 2016 by Cathy Morgan against Council Member Don Zimmerman alleging violation of City Code Section 2-2-14 (Disclosure of Compliance with Chapter) of Chapter 2-2 of the City Code (Campaign Finance).

ERC outside counsel Tim Sorrels described rules governing the proceedings.

The complainant, Cathy Morgan, appeared in person and, under oath, made her statement supporting her allegations of violations of City Code provisions.

The respondent, Council Member Don Zimmerman, did not appear. Mr. Zimmerman's attorney, Jerad Najvar, sent a letter indicating he would not appear.

The Commissioners discussed and deliberated the complaint.

Commission Member Smith made a motion to dismiss the complaint, and a second was made by Commission Member Lamon.

Commission Members Quinzi, Smith and Lamon voted in favor of the motion to dismiss.

Commission Members Ohueri, Harding, Speight, McCormick and Einhorn voted against the motion to dismiss. The motion failed on a 5 – 3 vote.

Commissioner Speight made a motion to find that a violation did occur. Commissioner McCormick seconded the motion. Commission Members Ohueri, Harding, Speight, McCormick and Einhorn voted in favor. Commission Members Quinzi, Smith and Lamon opposed the motion. The vote on the motion was 5 – 3, but it failed because a vote of a majority of the full Commission was required. [Code 2-1-6: For an 11 member board, a board action must be adopted by an affirmative vote of six board members.]

A motion was made by Commissioner Ohueri that no further action was recommended. Commissioner Harding seconded the motion, which passed unanimously.

Item No. 3.: There were no speakers for general citizen communication.

Item No. 6.c: Discussed.

Item No. 7.: The Clerk's office will provide the members with a template of the form in December.
Update on 2016 Election Candidate Forums.

Chair Einhorn adjourned the meeting at 7:35 p.m. without objection.