



ETHICS REVIEW COMMISSION
Wednesday, August 9, 2017

REGULAR MEETING MINUTES

The Ethics Review Commission (“Commission”) convened in a regular meeting on Wednesday, August 9, 2017, at City Hall, 301 W. 2nd Street, Room 1027, in Austin, Texas.

Commission Chair Peter Einhorn called the meeting to order at 6:05 p.m.

Commission Members in attendance: Chair Peter Einhorn, Vice Chair Meagan Harding, Secretary Robert “Ben” Stratmann, Donna Beth McCormick, Debra Danburg, Fredda Holmes, Mary Kahle, J. Michael Ohueri, Luis Soberon, Dennis Speight, and Brian Thompson.

City Staff in Attendance: Assistant City Attorney Cindy Tom, Commission Staff Liaison Sue Palmer, City Auditor’s Office Chief of Investigations Nathan Wiebe, and Audit Investigator Temitope Eletu-Odibo.

Items No. 1.a. and b.: EXECUTIVE SESSION

The Commission will go into executive session to discuss legal issues related to:

- a. A complaint filed on April 25, 2017, by Nathan Wiebe against Margo Frasier alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure) (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
- b. A complaint filed on July 17, 2017, by Nathan Wiebe against Isabel Aguilar-Lopez alleging violations of City Code Chapter 2-1 (City Boards) and City Code Chapter 2-7 (Ethics and Financial Disclosure) (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).

The Commission went into executive session at 6:08 p.m. and returned from executive session at 6:45 p.m.

Item No. 2.a.: PRELIMINARY HEARING

Discussion and possible action regarding the following: the Commission will convene a preliminary hearing under Section 2-7-44 of the City Code to consider a complaint filed on April 25, 2017, by Nathan Wiebe against Margo Frasier alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure).

Commission Member Danburg made a motion to dismiss, which was seconded by Commission Member Holmes. The motion failed on a vote of 4-7. Those members voting aye were: Commission Members Danburg, Holmes, McCormick, and Ohueri. Those voting nay were: Chair Einhorn, Vice Chair Harding, Secretary Stratmann and Commission Members Kahle, Soberon, Speight, and Thompson.

Commission Member Thompson made a motion to proceed to final hearing, which was seconded by Commission Member Stratmann. The motion passed on a vote of 8-3. Those members voting aye were: Chair Einhorn, Vice Chair Harding, Secretary Stratmann and Commission Members Danburg, Kahle, Soberon, Speight, and Thompson. Those voting nay were: Commission Members Holmes, McCormick, and Ohueri.

Commission Member Ohueri made a motion to issue a subpoena to the City Auditor's Office for a generalized index of evidence related to the investigation of Ms. Frasier and the forensic image of the computer used by Ms. Frasier that made the basis of the complaint against her; and to direct Commission staff to make that information available to Ms. Frasier's counsel before the September 20, 2017 Commission meeting. The motion was seconded by Commission Member Kahle and passed on a unanimous vote.

Commission Member Thompson made a motion that the City Auditor's Office provide metadata related to its investigation of Ms. Frasier's activities within the statute of limitations period to Ms. Frasier's counsel and that each party have the opportunity to submit a report to the Commission analyzing the metadata, which was seconded by Commission Member Speight. The motion passed on a vote of 10-0, with Commission Member Kahle off the dais.

The Commission discussed setting the final hearing on November 8, 2017.

Item No. 2.b.: PRELIMINARY HEARING

Discussion and possible action regarding the following: the Commission will convene a complaint filed on July 17, 2017, by Nathan Wiebe against Isabel Lopez-Aguilar alleging violations of City Code Chapter 2-1 (City Boards) and City Code Chapter 2-7 (Ethics and Financial Disclosure).

Commission Member Thompson made a motion that a violation had occurred based on the admission of Ms. Lopez-Aguilar, which was seconded by Commission Member Speight. The motion passed on a unanimous vote.

Commission Member Stratmann made a motion that the Commission not recommend prosecution but issue a letter of admonition requiring that Ms. Lopez-Aguilar comply with the ethics ordinance going forward to avoid future violations, which was seconded by Commission Member Thompson. The motion passed on a 6-4-1 vote. Those members voting aye were: Chair Einhorn and Secretary Stratmann and Commission Members Kahle, McCormick, Speight, and Thompson. Those voting nay were: Vice Chair Harding and Commission Members Holmes, Ohueri, and Soberon. Commission Member Danburg abstained.

Item No. 3: GENERAL CITIZEN COMMUNICATION

There were no speakers for general citizen communication.

Item No. 4: APPROVAL OF MINUTES FROM THE MAY 10, 2017 REGULAR COMMISSION MEETING.

Commission Member Speight made a motion to approve the minutes from the May 10, 2017 regular Commission meeting, which was seconded by Commission Member McCormick. The motion passed on a unanimous vote.

Item No. 5: FUTURE AGENDA ITEMS

The Commission discussed the following future agenda items: possible revisions to City Code Chapter 2-7 (Ethics and Financial Disclosure) relating to the Commission's complaint and hearing procedures and the Commission's Hearing Rules, including provisions relating to evidence submission, findings of violation, and issuance of sanctions.

Without objection, Chair Einhorn adjourned the meeting at 9:38 p.m.