



## **ETHICS REVIEW COMMISSION**

## **REGULAR MEETING MINUTES Wednesday, October 11, 2017**

The Ethics Review Commission ("Commission") convened in a regular meeting on Wednesday, October 11, 2017, at City Hall, 301 W. 2<sup>nd</sup> Street, Room 1027, in Austin, Texas.

Commission Chair Peter Einhorn called the meeting to order at 6:08 p.m.

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

City Staff in Attendance: Assistant City Attorney Cindy Tom, Commission Staff Liaison Sue Palmer, Council Member Leslie Pool, Assistant City Attorney Chris Weema, Purchasing Officer James Scarboro and Director of Contract and Land Management Rolando Fernandez.

### **3. NEW BUSINESS**

Discussion and possible action regarding the following:

- b. Proposed amendments to Article 6 (Anti-lobbying and Procurement) of City Code Chapter 2-7 (Ethics and Financial Disclosure), including a staff briefing and a possible recommendation to Council.

**Chair Einhorn took up Item No. 3.b. out of order.**

**Vice Chair Harding made a motion to refer the proposed amendments to the Chapter 2-7 working group and for the working group to report back at the next Commission meeting, which was seconded by Secretary Stratmann. The motion passed on an 8-0-2 vote. Those members voting aye were: Chair Einhorn, Vice Chair Harding, Secretary Stratmann and Commission Members Holmes, McCormick, Ohueri, Speight, and Thompson. Those abstaining were: Commission Members Kahle and Soberon. Commission Member Debra Danburg was absent.**

### **1. GENERAL CITIZEN COMMUNICATION**

The first five speakers signed up prior to the meeting being called to order will each be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

**There were no speakers for general citizen communication.**

### **2. EXECUTIVE SESSION**

The Ethics Review Commission may announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from legal counsel on matters specifically listed on this agenda (Private Consultation with Attorney-Section 551.071).

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

- a. A complaint filed on August 3, 2017, by Abel Ochoa against Idara Bessard, 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. Proposed amendments to Article 6 (Anti-lobbying and Procurement) of City Code Chapter 2-7 (Ethics and Financial Disclosure) (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
- c. Failure of Don Pitts to comply with a subpoena issued by the Commission and served on Mr. Pitts on April 26, 2017, ordering him to appear and testify as a witness at a May 10, 2017 final hearing on a complaint filed on February 17, 2017, by Nathan Wiebe against Ashley Buchanan alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure), including a possible Commission recommendation regarding prosecution of Mr. Pitts under City Code Section 2-7-99 (Offenses; Penalty) (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
- d. 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 (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).

**The Commission did not go into executive session.**

### **3. NEW BUSINESS**

Discussion and possible action regarding the following:

- a. The Commission will review, and may sustain or overturn, the chair's initial determination that the Commission lacks jurisdiction over a complaint filed on August 3, 2017, by Abel Ochoa against Idara Bessard, alleging violation of City Code, Chapter 2-7 (Ethics and Financial Disclosure), and may refer the complaint to the City Auditor, in accordance with City Code Section 2-7-41 (Complaints).

**Commission Member Thompson made a motion to sustain the determination of the Chair that the Commission lacks jurisdiction, which was seconded by Commission Member Speight. The motion passed on a unanimous vote. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.**

- c. Existing, dissolved, and potential future Commission working group tasks and membership, including the following:
  - 1) The working group tasked with recommending revisions to City Code Section 2-1-24 (Conflicts of Interest and Recusal), City Code Chapter 2-7 (Ethics and Financial Disclosure), the Commission's Hearing Rules, and associated forms;

**Secretary Stratmann made a motion to add Commission Member Kahle to the working group, which was seconded by Commission Member Thompson. The motion passed on 7-0-1. Those members voting aye were: Chair Einhorn and Secretary Stratmann and Commission Members Holmes, Ohueri, Soberon, Speight, and Thompson. Commission Member Kahle abstained. Vice Chair Harding and Commission Member McCormick were off the dais. Commission Member Danburg was absent.**

- 2) The working group tasked with recommending revisions to City Code Chapter 2-2 (Campaign Finance), City Charter Article III Section 8 (Limits on Campaign Contributions and Expenditures), and associated forms;

**Commission Member Speight made a motion to add Commission Member Soberon to the working group, which was seconded by Commission Member Kahle. The motion passed on a unanimous vote. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.**

- 3) The working group tasked with recommending revisions to City Code Chapter 4-8 (Regulation of Lobbyists); and

**No action was taken regarding this working group.**

- 4) The working group tasked with coordinating production of the Commission's City Council election candidate forums as required by City Code Section 2-2-65 (Other Considerations for Campaign Contract).

**Commission Member Speight made a motion to reconstitute the working group for the 2018 Council election with Commission Member McCormick as the sole member, which was seconded by Commission Member Thompson. The motion passed on a unanimous vote. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.**

- d. Failure of Don Pitts to comply with a subpoena issued by the Commission and served on Mr. Pitts on April 26, 2017, ordering him to appear and testify as a witness at a May 10, 2017 final hearing on a complaint filed on February 17, 2017, by Nathan Wiebe against Ashley Buchanan alleging violation of City Code Chapter 2-7 (Ethics and Financial Disclosure), including a possible Commission recommendation regarding prosecution of Mr. Pitts under City Code Section 2-7-99 (Offenses; Penalty).

**Commission Member Speight made a motion to authorize the chair to refer the matter for prosecution by swearing a Municipal Court complaint against Mr. Pitts, which was seconded by Commission Member McCormick. The motion passed on a vote of 7-0-2. Those members voting aye were: Chair Einhorn, Secretary Stratmann and Commission Members Holmes, McCormick, Ohueri, Speight, and Thompson. Those abstaining were: Commission Members Kahle and Soberon. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.**

- e. 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.

**Commission Member Ohueri made a motion to refer the issue of incidental use as well as possible changes to sanctions and violations to the Chapter 2-7 working group, which was seconded by Secretary Stratmann. The motion passed on a unanimous vote. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.**

**4. APPROVAL OF MINUTES FROM THE AUGUST 9, 2017 REGULAR COMMISSION MEETING.**

Secretary Stratmann made a motion to approve the minutes from the August 9, 2017 regular Commission meeting, which was seconded by Commission Member Thompson. The motion passed on a unanimous vote. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.

**5. FUTURE AGENDA ITEMS**

No future agenda items were discussed.

Commission Member Speight made a motion to adjourn, which was seconded by Secretary Stratmann. The motion passed on a unanimous vote. Vice Chair Harding was off the dais. Commission Member Debra Danburg was absent.

The meeting was adjourned at 8:27 p.m.