

ETHICS REVIEW COMMISSION

MEETING MINUTES Wednesday, March 10, 2021

The Ethics Review Commission (“Commission”) convened in a regular meeting on Wednesday, March 10, 2021, Austin, Texas via Videoconference.

Chair Luis Soberon called the meeting to order at 6:05 p.m.

Commissioners in attendance: Chair Luis Soberon, Secretary Kenneth “Tray” Gober, and Commissioners Debra Danburg, Betsy Greenberg, Mary Kahle, Raafia Lari, Robin Lerner, and Donna Beth McCormick were present at roll call. Vice-Chair Ohueri joined the meeting during executive session. Commissioner Lari left the meeting after the conclusion of item 3, Final Hearing. Members absent: Nathan Ryan and Pedro A. Villalobos.

City Staff in Attendance: Lynn Carter, Commission Executive Liaison & Assistant City Attorney and Annette Bogusch, Paralegal, Law Department.

CITIZEN COMMUNICATION

Each person who signed up to speak prior to the meeting being called to order and who designated this item on which to speak, or who did not designate an agenda item on which to speak will be allowed three minutes to speak.

Two speakers registered for citizen communication: Donna Garcia Davidson and Mark Littlefield registered to speak on item 2 and reserved their time to speak when the item was called.

1. EXECUTIVE SESSION

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

- (a) Complaints filed by Mark Littlefield against Save Austin Now, which complaint alleges violations of City Code Chapter 2-2 (Campaign Finance) Sections 2-2-23 (Political Committees) and 2-2-26 (Filing Campaign Finance Report Data) of Chapter 2-2 (Campaign Finance).
- (b) Complaints filed by Mark Littlefield against Peck Young, Voices of Austin, which complaints allege violation of City Code Chapter 2-2 (Campaign Finance) Section 2-2-33 (Disclosure Statement Required).
- (c) Whether the City Code can be amended to provide authority for civil fines as a sanction for violations within the Commission’s jurisdiction.

The Commission went into executive session at 6:10 p.m. and the open meeting resumed at 7:05 p.m. Outside counsel, Steve Sheets, advised the Commission on item 1(a); Assistant City Attorney, Lynn Carter, advised the Commission on items 1(b) and (c).

2. PENDING COMPLAINT – EVIDENTIARY MATTERS

Discussion and possible action regarding the following:

Evidentiary matters, including requests for records and/or witnesses in regard to the complaint(s) filed on October 13, 2020 by Mark Littlefield against Save Austin Now, which

complaint alleges violations of City Code Chapter 2-2 (Campaign Finance) Sections 2-2-23 (Political Committees) and 2-2-26 (Filing Campaign Finance Report Data) of Chapter 2-2 (Campaign Finance).

Outside counsel, Steve Sheets, appeared for the Commission in regard to this complaint; Executive Liaison and Assistant City Attorney, Lynn Carter assisted with procedural questions.

Donna Garcia Davidson, counsel for Save Austin Now and Complainant, Mark Littlefield, were each given an opportunity to speak for three minutes about the requests for evidence by the parties and each answered questions of the Commission.

At the conclusion of the Commission's questions of the parties and discussion, Chair Soberon made a motion to request the following evidence (item 1 through 6 listed below from Save Austin Now and to request legal advice in regard to item 7 described below).

- 1. The aggregate total of donations to Save Austin Now for the time period of January 1, 2020 through June 30, 2020.**
- 2. The aggregate total of expenditures of Save Austin Now from January 1, 2020 through June 30, 2020.**
- 3. All external communications from Save Austin Now or its representatives to the general public including emails, direct mail, and social media posts from January 1, 2020 through June 30, 2020.**
- 4. All internal communications from Save Austin Now or its representatives to any candidate for elected office in Travis County between January 1, 2020 through June 30, 2020.**
- 5. For the time period of January 1, 2020 through June 30, 2020, any contracts or agreements between Save Austin Now and service providers, or agencies or groups that provide services to people experiencing homelessness.**
- 6. All public 501(c) paperwork and filings by Save Austin Now.**
- 7. Separately, the Commission requested that its outside counsel and the City Attorney's Office review the question of Respondent's request for communications related to jurisdictional determinations.**

The motion was seconded by Commissioner Kahle.

The motion passed on a unanimous vote (9-0-2) of the members present. Voting in favor of the motion to amend: Chair Soberon, Vice-Chair Ohueri, Secretary Gober, and Commissioners Danburg, Greenberg, Kahle, Lari, Lerner, McCormick. Commissioners Ryan and Villalobos were absent.

3. FINAL HEARING

Discussion and possible action regarding the following:

- (a) Complaint filed by Mark Littlefield against Peck Young, Voices of Austin, which complaints allege violation of City Code Chapter 2-2 (Campaign Finance) Section 2-2-33 (Disclosure Statement Required).

Complainant Mark Littlefield appeared; neither Respondent nor Respondent's counsel of record appeared for the final hearing. Mr. Littlefield presented evidence and argument to the Commission during the final hearing, and the Commission asked questions of Mr. Littlefield.

At the conclusion of the final hearing and after discussion by the Commission, Commissioner Danburg made a motion to find that Voices of Austin violated City Code Chapter 2-2 (Campaign Finance), Section 2-2-33 (Disclosure Statement Required). The motion was seconded by Commissioner Kahle. After further discussion by the Commission, the motion passed on a unanimous vote of 9-0-2 of the members present. Voting in favor of the motion: Chair Soberon, Vice-Chair Ohuery, Secretary Gober, and Commissioners Danburg, Greenberg, Kahle, Lari, Lerner, and McCormick. Commissioners Ryan and Villalobos were absent.

After some introductory comments by the Chair about possible sanctions, the Commission took a short recess at 9:12 p.m. and reconvened at 9:17 p.m.

Upon reconvening, the Commission then determined the issue of sanctions pursuant to City Code Sections 2-7-48 and 2-7-49. After discussion, a restated motion was made by Commissioner Danburg to issue a letter of censure to Voices of Austin as the appropriate sanction for violation of City Code Section 2-2-33. The motion was seconded by Secretary Gober. The motion passed on a vote of 6-1-2-2 with six members voting in favor of the motion, one member opposing, two members abstaining, and two members absent. Members voting in favor of the motion: Chair Soberon, Secretary Gober, and Commissioners Danburg, Kahle, Lari, and McCormick. Commissioner Greenberg voted against the motion; Vice-Chair Ohuery and Commissioner Lerner abstained; and Commissioners Ryan and Villalobos were absent.

Commissioner Lari left the meeting after the conclusion of all action on item 3.

4. OLD BUSINESS

a. Discussion and possible action regarding the following:

- i. Working group status reports and/or recommendations on the following.

Working group one (Vice-Chair Ohuery and Commissioners Greenberg and Lerner) on the following subjects:

- Commission sanctions including effectiveness, past cases, and recommendations.
- Potential amendments to City Code, Chapter 2-7 (Ethics and Financial Disclosure).

- ii. Working group two (Chair Soberon and Secretary Gober) on the following subjects:

- Commission procedures including effectiveness, past cases, and recommendations.
 - Scope of work of the Commission (powers, duties, and obligations), including effectiveness, past cases, and recommendations.
 - Potential amendments to the Rules of the Ethics Review Commission.
 - Best practices for city attorney opinions including effectiveness, past cases, and recommendations.
- iii. Working Group on Race, Identity, and Equity (Commissioners Kahle, Lari, and Ryan) status report and/or recommendations on addressing issues of race, identity, and equity including:
- (i) planning for presentations or trainings by the Equity Office;
 - (ii) helping focus the Commission's evaluation of racial injustice and how the Commission can operate more fairly and effectively in light of racial injustice.

One or more working groups provided updates to the Commission; no action was taken.

5. APPROVAL OF MINUTES: JANUARY 13, 2021 AND FEBRUARY 10, 2021 REGULAR COMMISSION MEETINGS.

Discussion and possible action regarding the minutes for the January 13, 2021 regular commission meeting.

Discussion and possible action regarding the minutes for the February 10, 2021 regular commission meeting.

The minutes were not ready; no action was taken.

6. FUTURE AGENDA ITEMS AND ANNOUNCEMENTS

Future agenda items were discussed.

ADJOURNMENT

The meeting adjourned at 9:50 p.m.