



## **2023 Internal Review Report**

### **ETHICS REVIEW COMMISSION**

**This report covers Ethics Review Commission activity from 07/01/2022 to 06/30/2023**

**The Board/Commission mission statement is set forth in the following provisions of the City Code:**

#### **§ 2-1-145 - ETHICS REVIEW COMMISSION.**

The Ethics Review Commission has duties and responsibilities established by Chapter 2-2 (Campaign Finance) and Chapter 2-7 (Ethics and Financial Disclosure).

#### **§ 2-2-65 OTHER CONSIDERATIONS FOR CAMPAIGN CONTRACT.**

- (A) A candidate who signs a campaign contract must participate in a series of candidate forums, whether or not the candidate qualifies for funds.
- (B) The Ethics Review Commission shall produce not fewer than three forums for each contested race as follows:
  - (1) one forum must air on public access television; and
  - (2) other forums may be produced and made available to the public by radio, broadcast, publication on the Internet, or other means approved by the commission.
- (C) The City shall make recordings of audio or video forums available to the public at all branches of the City library.
- (D) The City may purchase advertising promoting the candidate forums.
- (E) The Ethics Review Commission shall establish equitable guidelines to coordinate and produce the candidate forums.

#### **§ 2-7-26 FUNCTIONS.**

The Ethics Review Commission has jurisdiction over this chapter, Section 2-1-24 (Conflict of Interest and Recusal), Chapter 2-2 (Campaign Finance), Chapter 4-8 (Regulation of Lobbyists), and Article III, Section 8, of the City Charter (Limits on Campaign Contributions and Expenditures). The commission shall hear and rule on sworn complaints alleging violations of the provisions within the commission's jurisdiction. The city manager shall provide funding for all necessary and reasonable functions of the commission in fulfilling its duties.

#### **§ 2-7-30 DUTIES.**

- (A) The Ethics Review Commission shall, in addition to its other duties:

- (1) prescribe forms for reports, statements, notices, and other documents required by the provisions within the commission's jurisdiction;
  - (2) prepare and publish materials explaining the duties of individuals subject to the provisions within the commission's jurisdiction;
  - (3) accept and file any information voluntarily supplied that exceeds the requirements of the provisions within the commission's jurisdiction;
  - (4) preserve statements and reports filed with the commission for a period of five years from the date of receipt;
  - (5) review the provisions within the commission's jurisdiction and make appropriate recommendations to the city council concerning the provisions within the commission's jurisdiction, and perform an annual review and evaluation of the dollar limits established in Chapter 2-2 (Campaign Finance) and make recommendations to the city council as to those limits;
  - (6) conduct hearings in accordance with the provisions of this chapter and the commission's rules on sworn complaints alleging violations of the provisions within the commission's jurisdiction;
  - (7) schedule and oversee the forums among candidates in City elections provided for in Chapter 2-2 (Campaign Finance).
- (B) The commission may:
- (1) prepare reports and studies to advance the purposes of the provisions within the commission's jurisdiction;
  - (2) request the city council and city manager to provide such assistance as it may require in the discharge of its duties; and
  - (3) review statements and reports filed under provisions within the commission's jurisdiction in order to obtain compliance with the provisions.

## **ARTICLE 6. - ANTI-LOBBYING AND PROCUREMENT**

### **SECTION 2-7-109 - ENFORCEMENT [Appeals of Anti-Lobbying Disqualifications]**

(A) A respondent that has been disqualified pursuant to Section 2-7-110(A) may appeal such disqualification to a subcommittee that is less than a quorum of the Ethics Review Commission established in Chapter 2-7, Article 2 (Ethics Review Commission), whose decision on appeal shall be final and binding. Any appeal must be filed in the manner prescribed by the Ethics Review Commission within 5 calendar days of the notice given by the purchasing officer pursuant to Section 2-7-110(B).

1. Describe the board's actions supporting its mission during the previous calendar year. Address all elements of the board's mission statement as provided in the relevant sections of the City Code.

The Ethics Review Commission (ERC or Commission) engaged in the following activities during the review period:

### **July 2022**

The Commission held a regular meeting on July 27, 2022.

A recommendation was approved for amendments to City Code Ch. 2-7, Article 5 (Financial Disclosures) to be sent to the Audit and Finance Committee.

Further discussions were held regarding language interpretation services for the city council candidate forum. Caroline Webster with the Law Dept briefed the Commission.

A working group was approved to prepare a calendar of ERC duties and responsibilities. Secretary Stanton and Commissioner Teneyuca volunteered to be on the working group. The motion to create the working group to prepare calendar commission duties and responsibilities, composed of Secretary Stanton and Commissioner Teneyuca was approved on Chair Soberon's motion. Commissioner Lovins seconded on a 7-0 vote. Voting in favor: Chair Soberon, Secretary Stanton, and Commissioners Danburg, Lovins, McCormick, Teneyuca and Williams. Vice-Chair Kahle, and Commissioners Greenberg and Lari were absent.

Further briefing was held regarding updates to the candidate and officeholder campaign finance brochure due to anticipated changes to campaign contribution limits based on recent increases in the U.S. Bureau of Labor Statistics' CPI.

### **August 2022**

The Commission held a regular meeting on August 24, 2022.

The ERC discussed the creation of a working group to address general lobbying issues, including lobbyist thresholds, which was approved by a vote of 10-0. In addition, a working group was created to explore revisions to relevant sections of city code governing complaints. Chair Soberon and Commissioner Lovins volunteered to be on the working group. The motion to create the working group composed of Chair Soberon and Commissioner Lovins was approved (10-0) on Chair Soberon's motion.

Further briefing was held on the City Council candidate forum and foreign language interpretation services.

### **September 2022**

The Commission held a regular meeting on September 28, 2022. During this meeting, the ERC held a preliminary hearing on a complaint filed by Leslie M. Padilla against Katie Jarl Coyle,

raising claimed violations of City Code Chapter 4-8 (Regulation of Lobbyists), Section 4-8-3 (Registration Requirements), and Subsection (C) of Section 2-1-21 (Eligibility Requirements and Removal).

Complainant Padilla, and Respondent's attorney, Cates, made presentations during the preliminary hearing and the Commission asked questions of the parties. At the conclusion of the preliminary hearing, Commissioner Danburg's motion that the Commission find that there is a reasonable basis to believe a violation may have occurred and to refer the allegation to city attorney for prosecution failed on a 4-4-1-1 vote. Secretary Stanton seconded the motion. Voting in favor: Secretary Stanton, and Commissioners Greenberg, Teneyuca and Williams; Chair Soberon, and Commissioners Danburg, Lovins, and McCormick voted against the motion; Vice-Chair Kahle recused. Commissioner Lari was absent.

After the preliminary hearing, the staff provided a briefing regarding ways the public can access the Austin Utilities Now newsletter in Spanish. In addition, the Commission adopted a regular meeting calendar for 2023.

### **October 2022**

The Commission held a regular meeting on October 26, 2022. During this meeting, the ERC held a preliminary hearing on a complaint filed by Julie Oliver against Richard Smith, raising claimed violations of City Code Chapter 2-2 (Campaign Finance), Section 2-2-14 (Disclosure of Compliance with Chapter). Complainant Oliver, and Respondent's attorney, Buxie, made presentations during the preliminary hearing. Buxie acknowledged there was a violation of City Code and informed the Commission, that actions were taken immediately on behalf of the respondent to correct the violation. The Commission asked questions of the parties. At the conclusion of the preliminary hearing, Commissioner Greenberg's motion that the Commission find that there are reasonable grounds to believe a violation within the jurisdiction of the Ethics Review Commission has occurred was approved on a 9-0 vote of all members present. Secretary Stanton seconded the motion. Voting in favor: Chair Soberon, Vice-Chair Kahle, Secretary Stanton and Commissioners Greenberg, Lari, Lovins, McCormick, Teneyuca, and Williams. Commissioner Danburg was absent. Secretary Stanton's motion that the Commission issue a letter of notification was approved on a 6-3 vote. Commissioner Williams seconded the motion. Voting in favor: Secretary Stanton, and Commissioners Greenberg, Lari, Lovins, Teneyuca and Williams. Chair Soberon, Vice-Chair Kahle, and Commissioner McCormick voted against the motion. Commissioner Danburg was absent.

Further, a discussion was held regarding a final statement and/or video of what the Commission does & how the public can use the Commission and/or a Statement on Equity, Access, and the need for reform by the Working Group on Race, Identity and Equity. The final statement was approved on a 9-0 vote of all members present.

### **November 2022**

The Commission's regular meeting on November 9, 2022 was cancelled.

## **December 2022**

The Commission held a regular meeting on December 14, 2022. During this meeting, the ERC held a preliminary hearing on a complaint filed by Doug Keenan against Paige Ellis, raising claimed violations of City Code Chapter 2-2 (Campaign Finance), Section 2-2-21 (Additional Information Required on all Campaign Finance Reports Filed with the City), City Charter, Article III Section 8 (Limits on Campaign Contributions and Expenditures).

Complainant Keenan, and Respondent Ellis and manager Edward Espinoza, made presentations during the preliminary hearing and the Commission asked questions of the parties. Commissioner Greenberg made a motion that there are reasonable grounds to believe that a violation has occurred regarding accepting contributions over the legal limit. Respondent Ellis acknowledged a violation had occurred with respect to seven contributions as they were over the allowed limit without reflecting the refunds in the correct time period. Commissioner Greenberg's motion passed on a 7-1-1 vote of all members present. Voting in favor: Vice-Chair Kahle, Secretary Stanton and Commissioners Danburg, Greenberg, Lovins, McCormick and Teneyuca. Commissioner Williams abstained. Chair Soberon was absent; Commissioner Lari recused. Commissioner Lovins's motion that the Commission find that there is no reasonable basis to believe a violation may have occurred with respect to reporting of employer and occupation information was approved on an 8-0 vote of all members present. Commissioner Williams seconded the motion. Voting in favor: Vice-Chair Kahle, Secretary Stanton, and Commissioners Danburg, Greenberg, Lovins, McCormick, Teneyuca and Williams. Chair Soberon was absent; Commissioner Lari recused. Regarding sanctions, Commissioner Danburg made a motion to send a letter of notification to the Council Member and provide steps to avoid any future violations. Commissioner McCormick seconded the motion. Commissioner Lovins made a substitute motion that the Commission send a letter of admonition under Section 2-7-48(C)(2). The substitute motion failed on a 4-3-1 vote of all members present. Secretary Stanton seconded the motion. Voting in favor: Secretary Stanton and Commissioners Greenberg, Lovins and Teneyuca. Voting against: Vice-Chair Kahle and Commissioners McCormick and Williams. Commissioner Danburg abstained. The Commission voted on Commissioner Danburg's original motion to issue a letter of notification. The motion passed on a 8-0 vote. Voting in favor: Vice-Chair Kahle, Secretary Stanton and Commissioners Danburg, Greenberg, Lovins, McCormick, Teneyuca and Williams. Chair Soberon was absent; Commissioner Lari recused.

The Commission also discussed potential amendments to City Code 2-7-67 (Restrictions on Providing Representation of Others), however no action was taken. A follow-up discussion was held regarding a final statement of what the Commission does and how the public can use the ERC by the Working Group on Race, Identity, and Equity. Vice Chair Kahle provided an update to the Commission on the final media statement since it was approved at the October 26, 2022 Regular Meeting; the final media piece would be posted on the platform, Next Door, in English, Spanish, Chinese and Vietnamese.

## **January 2023**

The Commission's regular meeting on January 25, 2023 was cancelled.



## **February 2023**

The Commission held a regular meeting on February 22, 2023.

Staff of the City Clerk's Office briefed the Commission on the revisions to City Code Chapter 4-8, Section 4-8-5 and 4-8-11.

During the meeting, the ERC discussed potential amendment to the registration and late filing fee provisions of City Code Chapter 4-8. Chair Soberon made a motion to adopt the proposed ordinance and request that the City Clerk's office take into considerations recommendations made by the Commission as they forward the ordinance to Council. Secretary Stanton-Adams seconded on a 7-1 vote. Voting in favor: Chair Soberon, Vice-Chair Kahle, Secretary Stanton-Adams and Commissioners Danburg, Greenberg, Lari and Teneyuca. Commissioner Williams abstained and Commissioners Lovins and McCormick were absent.

## **March 2023**

The Commission's regular meeting on March 22, 2023 was cancelled.

## **April 2023**

The Commission held a regular meeting on April 26, 2023.

The ERC held annual officer elections and voted to re-elect Luis Soberon as Chair, Mary Kahle as Vice Chair, Nguyen Stanton-Adams as Secretary and voted to elect Michael Lovins as Parliamentarian. The motion to re-elect the current Chair, Vice-Chair and Secretary and to elect a Parliamentarian passed on a vote of 6-1. Voting in favor: Chair Soberon, Vice-Chair Kahle, Secretary Stanton-Adams and Commissioners Lovins, Teneyuca and Williams. Commissioner Low abstained and Commissioners Danburg, Lari and McCormick were absent.

A discussion was held on the scheduling of the Preliminary Hearings filed by Teri Adams against Hana Cofer and Evan Taniguchi, in which the complaints allege violations of City Code Chapter 2-1 (City Boards), Section 2-1-24 (Conflict of Interest & Recusal). The Commission decided to hold both complaints in the May meeting.

A discussion was held on the documentation of ERC activities for public access in which Chair Soberon would work with City Staff on an interim statement about the annual report, which would be added to the website.

A discussion was held on active working groups and the organization of working groups going forward. During that discussion, Staff Liaison, Lizette Benitez, advised the Commission that a list of working groups would be emailed to the Commissioners.

## **May 2023**

The Commission held a regular meeting on May 24, 2023.

Corrie Stokes, City Auditor, briefed the Commission on the revisions to City Code Chapter 4-8, Section 4-8-8 and 4-8-10. The Commission asked questions of City Auditor Stokes.

During the meeting, the ERC discussed potential amendment to the Appearance and Audit provisions of City Code Chapter 4-8. Commissioner Lovins' motion to recommend to City Council that the amendments to City Code Chapter 4-8-8 remain as currently drafted failed on a 5-2 vote of all members present. The motion was seconded by Commissioner Teneyuca. Voting in favor: Vice-Chair Kahle, Commissioners Casto, Lovins, Teneyuca and Williams. Voting against: Secretary Stanton-Adams and Commissioner Low. Chair Soberon was absent. Commissioner Casto made a motion to incorporate Secretary Stanton-Adams' suggestion of language: "a person who makes an appearance by telephone or by videoconference" and keeping the language consistent throughout. The motion was seconded by Secretary Stanton-Adams. The Commission continued discussion of the motion. Commissioner Casto withdrew her motion. Commissioner Low's motion that the Commission send both sections back to the Law Department for further refinement based on content of the Commission's discussion and potential amendments be returned to the Commission for further review was approved on a 6-1 vote of all members present. The motion was seconded by Secretary Stanton-Adams. Voting in favor: Vice-Chair Kahle, Secretary Stanton-Adams, Commissioners Casto, Low, Teneyuca and Williams. Voting against: Commissioner Lovins; Chair Soberon was absent. Further refinement includes specifying more structure than "as needed" for section 4-8-10.

A discussion was held on membership of working groups to review the ERC complaint process. The ERC Complaint Process Working Group is currently made up of Chair Soberon and Commissioner Lovins. Commissioner Casto's motion to add Commissioner Low to the working group was approved on a 7-0 vote of all members present. Voting in favor: Vice-Chair Kahle, Secretary Stanton-Adams, Commissioners Casto, Low, Lovins, Teneyuca and Williams. Chair Soberon was absent.

Further, a discussion was held regarding approval of the final statement and/or video of what the Commission does & how the public can use the Commission and/or a Statement on Equity, Access, and the need for reform by the Working Group on Race, Identity and Equity. Vice-Chair Kahle's motion to adopt the revised final statement of what the Commission does and how the public can use the Commission, and have the City post the statement was approved on a 7-0 vote of all members present. The motion was seconded by Commissioner Casto. Voting in favor: Vice-Chair Kahle, Secretary Stanton-Adams, Commissioners Casto, Low, Lovins, Teneyuca and Williams. Chair Soberon was absent. Vice-Chair Kahle will incorporate the grammatical correction of "imposes" into the statement.

### **June 2023**

The Commission held a special called meeting on June 5, 2023. During this meeting, the ERC held a preliminary hearing on a complaint filed by Teri Adams against Hanna Cofer raising claimed violations of City Code Chapter 2-1 (City Boards), Section 2-1-24 (Conflict of Interest and Recusal). The Commission heard opening statements from Complainant Teri Adams and counsel for the Respondent, Ross Fischer. The Commission then asked questions of both parties. Secretary Stanton-Adams' motion to find that there are reasonable grounds that a violation of City Code section 2-1-24 (Conflict of Interest and Recusal) has occurred failed on a 4-2 vote of all members

present and thereby the complaint against Respondent Cofer was dismissed. Commissioner Teneyuca seconded the motion. Voting in favor: Secretary Stanton-Adams, Commissioners Low, Teneyuca and Williams. Voting against: Chair Soberon and Commissioner Casto. Vice-Chair Kahle recused and Commissioner Lovins was absent.

A Preliminary Hearing was held regarding complaints filed by Teri Adams against Evan Taniguchi, raising claimed violations of City Code Chapter 2-1 (City Boards), Section 2-1-24 (Conflict of Interest and Recusal). The Commission heard opening statements from Complainant Teri Adams and Respondent Evan Taniguchi. The Commission then asked questions of both parties. Commissioner Low's motion to find that there are reasonable grounds that a violation of City Code section 2-1-24 (Conflict of Interest and Recusal) has occurred failed on a 5-1 vote of all members present and thereby the complaint against Respondent Taniguchi was dismissed. Commissioner Teneyuca seconded the motion. Voting in favor: Chair Soberon, Secretary Stanton-Adams, Commissioners Low, Teneyuca and Williams. Voting against: Commissioner Casto. Vice-Chair Kahle recused and Commissioner Lovins was absent.

The Commission held a regular meeting on June 28, 2023.

A discussion was held on potential amendments to the Appearance and Audit provisions of City Code Chapter 4-8. Corrie Stokes City Auditor, briefed the Commission on the amendments to City Code Chapter 4-8 (Regulation of Lobbyists), Sections 4-8-8 (Appearance) and 4-8-10 (Audit), made by the Law Department. The Commission asked questions of City Auditor Stokes. Chair Soberon's motion to approve the amendments to City Code Chapter 4-8 with the change to replace "periodically" with "every 3 years" was approved on an 8-0 vote of all members present. The motion was seconded by Commissioner Williams. Voting in favor: Chair Soberon, Secretary Stanton-Adams and Commissioners Casto, Low, Pumfrey, Lovins, Teneyuca and Williams. Vice-Chair Kahle was absent.

## **2. Determine if the board's actions throughout the year comply with the mission statement.**

For the reporting period of July 2022 through June 2023, the Ethics Review Commission's activities complied with the Commission's mission, functions, and duties.

## **3. List the board's goals and objectives for the new calendar year (or next reporting period).**

The Ethics Review Commission will continue to meet its stated responsibilities as an independent ethics and compliance body, including but not limited to the following:

- Holding preliminary and final hearings regarding complaints within the Commission's jurisdiction.

Considering potential recommendations to Council for amending the City Code or Commission rules and procedures related to the ERC's jurisdiction.