



Office of the City Attorney

February 15, 2016

Mayor

Oscar Leeser

Ms. Barbara Carrasco
981 Veradera del Valle
El Paso, Texas 79932

City Council

District 1
Peter Svarzbein

District 2
Larry Romero

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Claudia Ordaz

District 7
Lily Limón

District 8
Cortney C. Niland

City Manager

Tommy Gonzalez

By Certified Mail, Return Receipt Requested:

91 7199 9991 7030 7741 9439

RE: Ethics Complaint Filed January 26, 2016 - Claudia Ordaz

Dear Ms. Carrasco:

I am in receipt of the ethics complaint you filed regarding District 6 Representative Claudia Ordaz on January 26, 2016. The City of El Paso Ethics Ordinance is very precise in the manner in which complaints are to be filed, and only those complaints which comply with the Ethics Ordinance are forwarded to the Ethics Review Commission for consideration. Pursuant to Section 2.92.080(G) of the El Paso Municipal Code, the initial review of complaints is my responsibility. Within 20 days of receipt of a complaint I am obligated to:

1. Refer the matter to the ethics review commission if the complaint is filed in conformity with the requirements of Chapter 2.92 of the El Paso Municipal Code and the matter is within the purview of the Ethics Review Commission;
2. In the event that deficiencies in the complaint are identified that prevent the city attorney's office from making a meaningful review of and determination regarding the appropriate disposition of the complaint, the City Attorney's office may notify the complainant in writing of such deficiencies that could be capable of correction and request such correction within fifteen days of the date of the communication to the complainant. The time for action under this section shall be tolled while the city attorney's office awaits the complainant's response, up to a maximum of fifteen days;
3. Dismiss any complaint that does not relate to a person subject to the jurisdiction of the Ethics Review Commission, or any complaint, that if true as alleged, would not as a matter of law constitute a violation of Chapter 2.92 of the El Paso Municipal Code; or
4. Refer complaints that cannot be readily assigned to the Ethics Review Commission because of deficiencies, complaints that lack specificity in identifying the alleged violations of this Chapter 2.92 of the El Paso Municipal Code, and complaints that appear to have been frivolously filed to a panel of the Ethics Review Commission.

Sylvia Borunda Firth – City Attorney
City 1 | P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 212-0033
16-1020-1082 / 505149

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Office of the City Attorney

I have reviewed your complaint to determine which of the actions is appropriate. You have alleged Ms. Ordaz has violated Section 551.146 of the Texas Government Code (a Class B misdemeanor) and have provided documentation to support the allegation. The Ethics Review Commission does not have jurisdiction or authority to make a determination regarding criminal acts. Your entire complaint is predicated on a fact not in evidence – that Ms. Ordaz has committed a Class B misdemeanor by violating Chapter 551.146 of the Local Government Code. You have not provided evidence Ms. Ordaz has been convicted of a Class B misdemeanor and the Ethics Commission does not have the authority to make such a determination. Therefore your complaint does not involve a matter which is within the purview of the Commission.

The evidence you have provided relates to the fact Ms. Ordaz exchanged text messages with a member of the public regarding a topic allegedly discussed by City Council in a closed session. Assuming the facts are true as alleged, the actions you have set forth do not constitute a violation of the Ethics Ordinance. In fact, the complaint you filed does not connect the action (sharing information via text message about a topic discussed in executive session with a member of the public) to a violation of the Ethics Ordinance. The crux of your complaint is that Ms. Ordaz's actions constitute a violation of Section 551.146 of the Local Government Code. The Ethics Review Commission's authority is limited to alleged violations of Chapter 2.92 of the El Paso Municipal Code. A violation of the Government Code is not a matter appropriate for consideration of the Ethics Review Commission.

Consequently, I am dismissing this complaint in accordance with Section 2.92.080(G)(3) of the El Paso City Code. The complaint, if true as alleged, would not as a matter of law constitute a violation of Chapter 2.92 of the El Paso Municipal Ordinance.


Sylvia Borunda Firth
City Attorney

cc: Ms. Claudia Ordaz
Mayor and City Council