

February 1, 2016

Mr. Larry Romero  
City Representative, District Two  
City of El Paso  
3230 Montana  
El Paso, TX 79903

Via First Class Mail and Fax: (915) 212-0012

Re: Sworn Complaint filed with the City of El Paso Ethics Commission

Representative Romero:

On January 19, 2016, our firm provided you with a copy of the sworn complaint filed against you with the City of El Paso Ethics Commission ("the Commission") by Mr. Jim Tolbert ("the complaint"), as well as a copy of the City's Ethics Ordinance. We also asked that, if you are represented by legal counsel, your counsel file a notice of appearance with the Commission. To date, you have not notified me or the Commission that you are represented by legal counsel.

As our previous letter noted, the Commission is in the process of compiling evidence relating to the allegations. In anticipation of its next meeting, the Commission wants to afford you an opportunity to provide a written response to the allegations made by the Complainant. Your written response will be made available to the members of the Ethics Commission as they contemplate what evidence to seek at its next meeting. In addition to any written response that you choose to submit, the Commission asks that you provide answers to the list of questions attached to this letter. Please provide your written response and answers to the attached questions by noon on February 9, 2016, via email to [rf@gobergroup.com](mailto:rf@gobergroup.com) for distribution to the Ethics Commission members.

Thank you for your attention to these matters. Feel free to contact me with any questions.



Ross Fischer  
Special Counsel  
City of El Paso Ethics Commission  
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(512) 354-1786

Enclosure

Cc: City of El Paso Ethics Commission

QUESTIONS TO REP. LARRY ROMERO

I. RFQ for Financial Advisor:

- a. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with City Manager Tommy Gonzalez, including any member of his senior staff (hereinafter collectively "Gonzalez") pertaining to issuing an RFQ for a new financial advisor (the "FA-RFQ") before or after the July 2014 budget hearing? If so, please describe in detail those communications.
- b. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with Estrada Hinojosa, including but not limited to Noe Hinojosa (hereinafter collectively "Hinojosa") to discuss issuing an FA-RFQ before or after the July 22, 2014 budget hearing? If so, please describe in detail those communications.
- c. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with Hinojosa pertaining to the language or terminology to be included in the FA-RFQ? If so, please describe in detail those communications.
- c. Did you believe that your comments at the City Council meeting of July 22, 2014 were sufficient to direct Gonzalez to issue the FA-RFQ? If so, please state in detail what led you to that belief?
- d. Did you re-listen to that that portion of the City Council meeting where you proposed issuing a FA-RFQ to determine whether your remarks were generally approved by City Council?
- e. Was it your impression and/or belief that Gonzalez could/can proceed to issue the FA-RFQ at the request of a single city council representative?
- f. What authority do you believe you had to initiate the issuance of the FA-RFQ without full City Council authorization?
- g. Is it your understanding or belief that the FA-RFQ required City Attorney review before issuance? If so, why was this not done?
- h. When did you first become aware that the contract with First Southwest would have to be terminated in order to retain the services of another financial advisor?
  1. Did you believe that such termination would be for convenience or cause?
  2. What led you to reaching such a belief?
  3. When did you become aware of the notice requirement required for termination of First Southwest's contract?

- i. Did you provide any input into the decision to include a three-week response period in the FA-RFQ even though the City's procurement policy requires a minimum of four weeks to respond to an RFQ?
- j. Why was the City Attorney's office ultimately consulted with respect to the RA-RFQ? Whose idea was it to involve them?
- k. Did you at any time pertinent to the discussion and issuance of the FA-RFQ disclose to anyone with the City of El Paso your prior relationship with Hinojosa?
- l. By seeking the issuance of the FA-RFQ, did you improperly use our official position to secure unwarranted privileges for or from Hinojosa? If not, please state in detail why not.
- l. By seeking the issuance of the FA-RFQ, is it reasonable for one to reach the impression that you could improperly influence Gonzalez in the performance of his official duties? If not, please state in detail why it is not.
- m. By seeking the issuance of the FA-RFQ, is it reasonable for one to reach the impression that Hinojosa could improperly influence Gonzalez in the performance of his official duties? If not, please state in detail why it is not.
- n. By seeking the issuance of the FA-RFQ, is it reasonable for one to reach the impression that you unduly influenced by kinship, rank, position or influence Gonzalez? If not, please state in detail why it is not.
- o. By seeking the issuance of the FA-RFQ, is it reasonable for one to reach the impression that you were unduly influenced by kinship, rank, position or influence of Hinojosa? If not, please state in detail why it is not.
- p. By seeking the issuance of the FA-RFQ, is it reasonable for one to reach the impression that you could unduly enjoy the favor of Gonzalez in the performance of his official duties? If not, please state in detail why it is not.
- q. By seeking the issuance of the FA-RFQ, is it reasonable for one to reach the impression that Hinojosa could unduly enjoy your favor in the performance of your official duties? If not, please state in detail why it is not.
- r. By seeking the issuance of the FA-RFQ did you utilize city resources or by omission allow city resources to be utilized for the personal benefit of either yourself or Hinojosa? If not, please state in detail why not.
- s. By seeking the issuance of the FA-RFQ did you utilize city resources or by omission allow city resources to be utilized for the personal benefit of any other person or entity? If not, please state in detail why not.
- t. By introducing Hinojosa to executives with the Public Services Board, did you utilize city resources or by omission allow city resources to be utilized for the personal benefit of any other person or entity? If not, please state in detail why not.

2. Resurfacing Streets in Dist. Two:

- a. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with Gonzalez pertaining to any modifications of the City of El Paso Street Infrastructure Capital Plan of FY 2013 (the “Resurfacing Plan”)? If so, please describe in detail those communications.
- b. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with any member of the public to discuss any modifications of or additions to the Resurfacing Plan? If so, please describe in detail those communications.
- c. Did you instruct Gonzalez to modify or add streets to the Resurfacing Plan?
- d. Were you aware of any obligation to return to City Council for approval of modifications of or additions to the Resurfacing Plan?
- e. Why did you choose not to obtain City Council approval to the modifications or additions that you proposed to the Resurfacing Plan?
- f. Did you consult with anyone, including but not restricted to City Manager Gonzalez, about the Resurfacing Plan and your proposed changes/additions to the Resurfacing Plan?
- g. Were there communications between yourself and Gonzalez regarding the modifications or additions to the Resurfacing Plan?
- h. Did you take into consideration that, by adding unlisted streets to the Resurfacing Plan for Dist. Two, streets that were higher on the Pavement Condition Index would not be resurfaced for lack of funding?
- i. If you perceived that you had the authority to modify the Resurfacing Plan as it pertained to Dist. Two, please identify the source of that perception and describe in detail the basis for same.
- k. By adding streets to the Resurfacing Plan without Council approval, is it reasonable for one to reach the impression that you could improperly influence Gonzalez in the performance of his official duties? If not, please state in detail why it is not.
- l. By adding streets to the Resurfacing Plan without Council approval, is it reasonable for one to reach the impression that you could unduly enjoy Gonzalez’s favor in the performance of his official duties? If not, please state in detail why it is not.
- m. Is there any basis for concluding that you deliberately thwarted the execution of a city ordinance, rule, regulation or official city program with respect to the decision to add streets to the Resurfacing Plan without Council approval? If not, please state in detail why there is not.

- n. Is there any basis for concluding that you recklessly disregarded an applicable policy or procedure by authorizing the modifications to the Resurfacing Plan without City Council approval? If not, please state in detail why not?
- o. Do you believe that the Resurfacing Plan provides for the re-paving of an already paved alleyway? If so, please explain in detail the basis for your belief.

**3. Installation of the Stanton Street Speed Cushions:**

- a. When and how did you first become aware of a request for the installation of the Stanton Street Speed Cushions (the “Speed Cushions”)? Please state in detail what action you took upon becoming aware of the request?
- b. Identify each member of the public with whom you had any communication (conversations, emails, text messages, telephone calls, etc.) pertaining to the installation of Speed Cushions? Describe in detail those communications.
- c. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with anyone on City Council pertaining to the installation of the Speed Cushions? If so, please describe in detail those communications.
- d. Did you have any communication (conversations, emails, text messages, telephone calls, etc.) with Gonzalez pertaining to the installation of the Speed Cushions? If so, please describe in detail those communications.
- e. Describe in detail any input, advice, or direction you provided to Gonzalez or the City’s Streets and Maintenance Department pertaining to the process that should have been undertaken by the City before the decision was made to install the Speed Cushions.
- f. Did you have any communication with Gonzalez regarding paying for the Speed Cushions with NTMP funds?
- g. Did the Neighborhood Traffic Management Program (“NTMP”) permit the installation of the Speed Cushions?
- h. As it pertains to the Speed Cushions, were there any steps undertaken to fulfill the obligation in the NTMP, including compliance with what is identified therein as the “NTMP Process” and/or the “NTMP Implementation?” Please state in detail why or why not.
- i. Were you aware prior to the installation of the Speed Cushions of any engineering criteria established by the NTMP that would permit the installation of the Speed Cushions? If so, please state how you were aware?
- j. When and how did you first become aware that the installation of the Speed Cushions on an arterial street such as Stanton Street was not permitted by the terms of the NTMP?

Please state in detail what action you took once you became aware of the limitations imposed by the NTMP?

- k. Once you became aware that the terms of the NTMP did not permit the installation of the Street Cushions on Stanton Street, did you nevertheless direct that the project proceed and that they be installed? To whom was that direction given?
- l. If you believed that the Speed Cushions were not paid for with NTMP funds, with whom did you consult and what documentation did you review to reach that conclusion?
- m. Once you became aware that the Speed Cushions were paid for with NTMP funds, please state in detail what action you took.
- n. Upon whose direction was there a reallocation of the expenditure from NTMP funding to the general fund? What knowledge or input did you have into that decision?
- o. By requesting the installation of the Street Cushions, is it reasonable for one to reach the impression that you could improperly influence Gonzalez in the performance of his official duties? If not, state in detail why it is not.
- p. By requesting the installation of the Street Cushions, is it reasonable for one to reach the impression that you could unduly enjoy Gonzalez's favor in the performance of his official duties? If not, state in detail why it is not.