

**MINUTES**

**ETHICS REVIEW COMMISSION MEETING  
January 13, 2016**

**MAIN CONFERENCE ROOM  
2<sup>nd</sup> FLOOR  
300 N. CAMPBELL STREET**

**MEMBERS PRESENT**

Stuart R. Schwartz, Mayor  
Theresa Ware-Asbury, District #1  
Audrey A. Marrufo, District #2  
Eduardo Miranda, District #3 – Vice Chair  
Mark-Thomas Bray, District #4  
Adolpho Telles, District #5  
Jed Untereker, District #6  
Emmanuel Echeverria, District #7  
Rafael Adame, District #8

**MEMBERS ABSENT**

**OTHERS PRESENT**

Sylvia Borunda Firth, City Attorney  
Amanda Martinez, Recording Secretary  
Ross Fischer, Attorney  
Josie Aranda, Paralegal  
Dr. Michael Noe, District #5  
Media

**1. CALL TO ORDER.**

Seeing a quorum, Vice Chair Eduardo Miranda called the meeting to order at 6:04 p.m.

**2. APPROVAL OF MINUTES FOR FEBRUARY 19, 2014.**

**Motion made by Theresa Ware-Asbury to approve the minutes of February 19, 2014.**  
Audrey A. Marrufo seconded the motion. The Motion passed, with two ayes and the others abstaining because they were not part of the Commission on Feb. 19, 2014.

**3. PRESENTATION BY CITY ATTORNEY, SYLVIA BORUNDA FIRTH REGARDING THE ROLE OF THE ETHICS REVIEW COMMISSIONERS AND REVIEW OF RELEVANT SECTIONS OF THE EL PASO MUNICIPAL CHARTER AND CODE. (ATTACHMENTS)**

Mrs. Firth made a presentation of the role of the Ethics Review Commissioners and reviewed the relevant sections of the El Paso Municipal Charter and Code, including the process of filing an Ethics Complaint.

Mr. Telles asked who hired Attorney Ross Fischer. Mrs. Firth explained that Mr. Fischer was hired by the City Council to provide to the Ethics Review Commission due to a conflict with the City Attorney's office due to the Complaint having been filed against a member of Council.. Mr. Fischer is independent from the City.

She also explained that the Commission was governed by the Open Meetings Act.

Commissioners acknowledged their understanding of their role and had no further questions. No action needed.

**4. DISCUSSION AND ACTION REGARDING WORK ASSIGNED TO THE ETHICS REVIEW COMMISSION BY THE MAYOR AND COUNCIL IN NOVEMBER 2013; STATUS REPORT REGARDING SAME AND PROCEDURE FOR COMPLETING ASSIGNMENTS.**

Mrs. Firth described the items City Council recommended for review by the Ethics Review Commission, which included:

- a. 2 yr. prohibition after leaving office/employment
- b. Monetary Sanctions for violations of Ethics Ordinance
- c. Code of Conduct
- d. Time limitations on receipt of campaign funds
- e. Confidential information leaks
- f. Use of Social Media
- g. Use of Text Messages
- h. Procurement Practice
- i. Open Government

Mrs. Firth suggested that these items be considered once the present Complaint was concluded. Vice Chair Miranda inquired why the first two items were still on the list, as the Commission took action on them at the last meeting. Mrs. Firth explained that the items had not yet been forwarded to Council.

Mr. Schwartz recommended approving these two items (2 yr. prohibition after leaving office/employment and monetary sanctions for violations of Ethics Ordinance).

**Motion made by Mr. Schwartz to approve the recommendations by the Ethics Review Commission is presented to City Council.** Mr. Adame seconded the motion, all in favor and the motion passed unanimously.

5. DISCUSSION AND ACTION REGARDING ETHICS COMPLAINT DATED DECEMBER 3, 2015, FILED BY JIM TOLBERT REGARDING TOMMY GONZÁLEZ, CITY MANAGER AND LARRY ROMERO, CITY REPRESENTATIVE FOR DISTRICT 2. (ATTACHMENTS)

Vice Chair Miranda informed the Commission that he had a conflict of interest with respect to the Tolbert Complaint and for those reasons, pursuant to Subsection 2.92.090 (e) of the City Code, he would recuse himself from any further discussion regarding that Complaint..

Ms. Marrufo also advised the Commission that she was required to recuse herself as she was the member elected by one of the subjects of the Complaint, Larry Romero.

Vice Chair Miranda suggests that the Ethics Review Commission elect another individual to serve as the interim presiding officer.

**Motion made by Mr. Adame to appoint Mr. Schwartz as the interim presiding officer for the Ethics Review Commission.** Mr. Telles seconded the motion passed unanimously.

Vice Chair Miranda recuses himself at 7:01 p.m.

Ross Fischer provides background information regarding himself and his experience. He invited comment regarding his role in the investigation and presentation of the Tolbert Complaint. He proposed a discovery period followed by a pre-trial hearing.

Mr. Schwartz inquired about the amount of progress Mr. Fischer had been able to complete. Mr. Fischer informed the Commission that he had made three trips to El Paso to interview elected officials, city officials, and former employees.

Ms. Ware-Asbury inquired whether the process contemplated a hearing or a trial. Mr. Fischer stated that the Ethics Ordinance considers it a hearing.

Mr. Adame asked when the Commission should make the decision whether to hold one hearing or two. Ross Fischer responded by recommending that the Complaint be taken up in one hearing, but if there is was an objection, the Ethics Review Commission could revisit the issue.

Mr. Schwartz inquired about the estimated timeline. Mr. Fischer responded by stating that it depended on the Ethics Review Commission's availability, but he believed the process should be deliberative.

Ms. Ware-Asbury requested that Mr. Fischer provide the Commissioners with the information already gathered. Ross Fischer agreed to do so.

Mr. Adame then asked the members about setting a schedule. The members then delegated the amount for a quorum and decide they want to have a super majority of 5 members present for each meeting, since only 7 of the members are left to discuss the investigation. The Commission agreed to meet Wednesday evenings in the Main Conference Room. Mr. Adame requested that the Presiding Officer and Mr. Fischer work together to develop a timeline and schedule for the ethics investigation and future meetings.

Ross Fischer committed to finish his interviews and compile the elements for each alleged offense and provide the members with the documentary evidence and summary to any interviews before the Commission determined whether additional information would be required.

Mr. Schwartz asked that the meeting move into executive session.

**Motion made by Presiding Officer Schwartz to go into Executive Session pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: Section 551.071 Consultation with Attorney.** Mr. Telles seconded the motion. The Motion passed unanimously.

At 7:35 p.m. the Ethics Review Commission members went into Executive Session and Ms. Marrufo recused herself from the meeting.

Mr. Schwartz reconvened the Ethics Review Commission meeting at 8:19 p.m. There was no action taken on the Ethics Complaint dated December 3, 2015, filed by Jim Tolbert regarding Tommy González, City Manager and Larry Romero, City Representative for District 2.

6. DISCUSSION AND ACTION REGARDING DATES FOR FUTURE MEETINGS.

Mr. Schwartz agreed to consult with the other members of the Commission to schedule the next meeting.

7. ADJOURNMENT

Motion made by Ms. Ware-Asbury, seconded by Mr. Adame to adjourn. Motion carried unanimously. The meeting was adjourned at 8:20 p.m.

**APPROVED:**

2.10.16 amm  
Date