

MINUTES

ETHICS REVIEW COMMISSION MEETING

February 24, 2016

MAIN CONFERENCE ROOM

2ND FLOOR

300 N. CAMPBELL STREET

MEMBERS PRESENT:

Stuart R. Schwartz, Mayor – Presiding Officer
Daniel Anchondo, District #3
Mark-Thomas Bray, District #4
Adolpho Telles, District #5
Jed Untereker, District #6
Emmanuel Echeverria, District #7
Rafael Adame, District #8

MEMBERS ABSENT:

Audrey Ann Marrufo, District #2

OTHERS PRESENT:

Amanda Martinez, Recording Secretary
Ross Fischer, Attorney
Media
Camilo Jimenez

I. CALL TO ORDER

Seeing a quorum, Presiding Officer Stuart Schwartz called the meeting to order at 6:03 pm.

II. APPROVAL OF MINUTES FROM FEBRUARY 10, 2016.

Motion made by Mr. Telles to approve the minutes of February 10, 2016. Mr. Untereker seconded the motion, and was approved unanimously.

III. DISCUSSION AND ACTION REGARDING ETHICS COMPLAINT DATED DEC. 3, 2015, FILED BY JIM TOLBERT REGARDING TOMMY GONZALEZ, CITY MANAGER AND LARRY ROMERO, CITY REPRESENTATIVE FOR DISTRICT 2.

Presiding Officer Schwartz advised the Commissioners regarding the activities which had taken place since the last meeting on February 10, 2016.

1. Attorney Ross Fischer advised Commissioners of the meeting he and Mr. Schwartz held with Noe Hinojosa of the firm Estrada Hinojosa regarding his knowledge of the events described in the Complaint filed against Rep. Romero. Questions were asked about the RFQ process. Mr. Fischer stated that Mr. Hinojosa answered all the questions asked to him and that the meeting went well. Mr. Schwartz reminded the Commissioners that Mr. Hinojosa's remarks were not made under oath. The meeting lasted an hour and a half. Mr. Hinojosa informed Messrs. Fischer

and Schwartz that Estrada Hinojosa has had no relationship with Rep Romero since 2000. He did recall a phone call he received from Rep. Romero after Rep. Romero was elected as City Representative to discuss the status of the City's financial adviser. Mr. Hinojosa informed Messrs. Fischer and Schwartz that he specifically recommended that an RFQ process be used should the City choose to rebid the services in order to avoid any suggestion of impropriety. Mr. Anchondo asked if Mr. Hinojosa had been forthcoming with the information and Mr. Fischer agreed that he was forthcoming.

2. Mr. Fischer then discussed his communications pertaining to City Manager, Tommy Gonzalez. Through his counsel, Jim Darnell, Mr. Gonzalez requested an extension to answer the questions posed by Mr. Fischer, which was granted. Mr. Gonzalez did subsequently submit the answers to the questions by the new deadline, which was previously sent to the Commissioners. Mr. Darnell and Mr. Fischer are now attempting to arrive at the date for the final hearing.

3. Discussion with Respect to Complaint against Rep. Larry Romero: Mr. Fischer advised the Commissioner that while Rep. Romero had officially resigned from City Council and City Council had accepted the resignation, Rep. Romero remained in office until his successor is appointed in a special election scheduled for May 7. Mr. Fischer stated that the Ethics Review Commission had the option to pursue or dismiss the Complaint. However, since Rep. Romero has already resigned, the option of removal from office was meaningless. Mr. Fischer advised the Commissioners that he has not received any response to the questions posed from Rep. Romero.

Mr. Telles made a motion to cease further action against Larry Romero due to his recent resignation and range of sanctions. Mr. Adame seconded the motion. Discussion followed.

Ms. Ware-Asbury expressed her opinion that, in the spirit of transparency and to alleviate any conspiracy, she would like to see the Commission pursue the Complaint against Rep. Romero.

Mr. Anchondo questioned if Rep. Romero was medically able to respond to the Complaint and continue through this process and if he was not, questioned how long the Commission should be expected to delay the process.

Mr. Untereker agreed that, since Rep. Romero was still able to serve in as City Representative, the Commission should continue to pursue the Complaint against him.

Mr. Telles explained that the Complaint against Rep. Romero was very serious and expressed his disappointment that he had failed to respond to the questions posed. He expressed concern about the possibility of having two hearings where everyone was required to testify twice. He opined that continuing with the Complaint against Mr. Gonzalez would afford the City the transparency it was seeking.

Mr. Echeverria shared the opinion of others and proposed that efforts continue to contact Rep. Romero and proceed with the Complaint against him.

Mr. Adame inquired whether the Commission had any leverage to have Rep. Romero respond since he had already given himself the harshest sanction. Mr. Fischer responded by stating the City Council had the option to subpoena him, but that that the City Charter did not provide any guidelines regarding sanctioning a former employee or officer. Mr. Adame questioned, if Mr. Tolbert withdrew his Complaint against Rep. Romero, whether the Complaint became mute? Mr. Fischer confirmed that it would.

Mr. Fischer advised the Commission that they needed to make a decision regarding allowing all of Mr. Tolbert's evidence to be submitted. Mr. Fischer agreed to notify Mr. Tolbert of the need to provide his list of witnesses and documents.

Mr. Telles withdrew his motion. Mr. Adame withdrew his second.

Mr. Schwartz confirmed that Rep. Romero did not have legal counsel. A request was made to inquire as to the state of Rep. Romero's health. Mr. Fischer agreed to contact Rep. Romero.

4. Adopting procedural guidelines for hearing: Mr. Fischer provided Commissioners with the proposed procedural guidelines. (Attachment) Mr. Fischer informed the Commissioners about the process going forward.

The Commissioners discussed whether the hearing against the two Respondents should be separate or together regarding the three claims. They discussed the four sanctions that can be rendered: (1) letter of notification; (2) letter of admonition; (3) letter of reprimand; or (4) a recommendation that the Respondents be removed from office.

The members agreed to add the terminology that the presiding officer has the right to rule on relevancy, redundancy, and admissibility.

Motion made by Ms. Ware-Asbury to adopt the procedural guidelines. Seconded by Mr. Telles. No discussion, approved unanimously.

5. Establishing a Schedule: Mr. Fischer informed the members of the need to establish a hearing date any pre-hearing deadlines.

It was proposed that the Respondents and Complainant had until March 31st to submit any motions for continuance.

The hearing date was scheduled for April 13th at 9:00 am in Council Chambers unless a continuance was filed.

Motion made by Mr. Echeverria to schedule the hearing date for April 13, 2016 at 9:00 a.m. Ms. Ware-Asbury seconded the motion. No discussion, approved unanimously.

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. Untereker seconded the motion, with the Commission voting unanimously to retire into executive session. Ethics Review Commission retired into executive session at 7:49 pm.

The Ethics Review Commission reconvened in open session at 8:39 p.m., having taken no action on this subject matter in Executive Session.

IV. DISCUSSION AND ACTION REGARDING DATES FOR FUTURE MEETINGS.

Next meeting is tentatively scheduled for April 13, 2016 at 9:00 a.m. in council chambers.

V. ADJOURNMENT.

Motion made by Mr. Anchondo, seconded by Ms. Ware-Asbury and unanimously carried to adjourn the meeting at 8:40 p.m.

APPROVED:

April 13, 2016