

MINUTES

ETHICS REVIEW COMMISSION MEETING December 2, 2004 5th FLOOR CONFERENCE ROOM -1:30 P.M.

MEMBERS PRESENT

Iliana Munoz, District #3
Emily Garcia-Heaton – District # 4
David Palmer – District #5
Rebecca Salcido – District #7
Jerry Jarvis – District #8

MEMBERS ABSENT

Nicole Pinon – District #1

OTHERS PRESENT

Elaine S. Hengen, Assistant City Attorney
Monica Acuña, Recording Secretary
Lisa Turner
Representative Paul Escobar (present from 1:55 until adjournment)

I. CALL TO ORDER

Seeing a quorum, Chair David Palmer called the meeting to order at 1:40 p.m.

II. DISCUSSION AND ACTION REGARDING CITIZEN COMPLAINT PERTAINING TO CITY REPRESENTATIVE PAUL ESCOBAR

Ms. Elaine Hengen advised that a complaint had been filed by Lisa Turner. Ms. Hengen explained the procedure for filing complaint and explained the process by which this complaint was reviewed and submitted to the Ethics Commission for their review. Ms. Hengen advised that the complaint had been received on November 2, 2004 and was being submitted to the Commission within the 45 day time period set forth in Section 2.92.080 D. Ms. Hengen advised that the required notices had been sent to the participants by Monica Acuña.

Ms. Hengen explained the provisions in the ordinance as to the procedure the Commission must use in making its review and determinations. Ms. Hengen noted the two provisions that were being complained of for the Commission. Chair Palmer read complaint for the purposes of examining whether there is “just cause” under the Ethics Ordinance. Member Garcia-Heaton asked about Attorney David Escobar’s representation of Horizon Truck Wash. Ms. Hengen stated that this matter involved an item placed before City Council to award a contract for washing large City vehicles. The contract was put out for bidding to be awarded by the City on a “Best Value Basis”. The contract has not been awarded and the Purchasing Department is presently preparing revised specifications to put the contract back out for bid.

Members of the Commission discussed the ordinance and the process by which the Commission makes its review with Lisa Turner. Representative Escobar arrived at the meeting and the Commission asked if he would answer questions. Rep. Escobar advised that he had no problem with provided information to the Commission. He advised that the owner of Horizon Truck Wash, Hector Escobar, is his uncle. Rep. Escobar stated that he owns no part of the company and has never worked there. Hector Escobar has owned the truck wash for 10 to 15 years. Rep. Escobar advised that David Escobar is also his uncle and that David and Hector Escobar are brothers. David was hired by Hector to represent him.

Chair Palmer read information pertaining to the definition of “relative,” as contained in Section 2.92.030 G, and provisions from the standards of conduct provisions in the ordinance concerning matters involving relatives. After discussion by several members, Member Jarvis moved to dismiss complaint. Member Garcia-Heaton seconded the motion. Member Jarvis stated that he believed that the issue is moot as the contract has not been awarded. Member Garcia-Heaton added that her position is based on the “Best Value” criteria and that Horizon Truck Wash had a right to bid on the contract. Discussion was also had by the Commission that there is no evidence on some of the specific provisions contained in the standards of conduct cited by Ms. Turner. The Chair called for a vote on the question of whether there was enough evidence to establish a finding of just cause that a violation may have occurred. The Commission voted unanimously that there was no just cause.

Ms. Hengen asked the Commission for input and guidance on the preparation of the written report on the complaint. The Commission requested that the City Attorney’s Office prepare a draft of the report based on comments made during meeting and to present that to Commission at its next meeting.

III. ADJOURNMENT

Seeing no further business, Chair Palmer adjourned the meeting at approximately 2:25 p.m.