

# GOVERNANCE COUNCIL COMMITTEE MEETING MINUTES

SEPTEMBER 20, 2017 at 12:00 PM  
CITY HALL, MEDIA BRIEFING ROOM

Committee Present:	Mayor Ron Nirenberg, <i>Chair</i> Councilmember Roberto Treviño, <i>District 1</i> Councilmember Rebecca Viagran, <i>District 3</i> Councilmember Rey Saldaña, <i>District 4</i> Councilmember Ana Sandoval, <i>District 7</i>
Staff Present:	Sheryl Sculley, <i>City Manager</i> ; Andy Segovia, <i>City Attorney</i> ; Leticia Saenz, <i>Deputy City Clerk</i> ; Kevin Barthold, <i>City Auditor</i> ; Tina Flores, <i>Compliance Auditor</i> ; Marisa Bono, <i>Mayor's Chief of Policy</i> ; Ed Guzman, <i>Assistant City Attorney</i> ; Lina Rodriguez, <i>Executive Assistant to the City Clerk</i> ; Patrick Steck, <i>Special Projects Manager</i> ; Jay Podjenski, <i>District 1 Staff</i> ; Justin Renteria, <i>District 1 Staff</i> ; Chris Villa, <i>District 3 Staff</i> ; Tim Salas, <i>District 4 Staff</i> ; Liz McLeod, <i>District 7 Staff</i> ; Zack Lyke, <i>District 10 Staff</i>
Others Present:	Josh Baugh, <i>Reporter – Express News</i> ; Edmond Ortiz, <i>Reporter – The Rivard Report</i> ; Dr. Adriana Garcia, Ron Van Kirk, Paula McGee, Magdalena Alvarado, Wade Shelton, Melanie Castillo, <i>Ethics Review Board Members</i> ; Rob Killen, <i>Kaufman &amp; Killen</i>

## CALL TO ORDER

Mayor Nirenberg called the meeting to order.

### 1. Approval of Minutes for City Council Governance Committee Meeting of August 30, 2017.

Councilmember Sandoval moved to approve the Minutes of the City Council Governance Committee Meeting of August 30, 2017. Councilmember Viagran seconded the motion. The motion prevailed by the following vote:

**AYE:** Mayor Nirenberg, Treviño, Viagran, and Sandoval.

**ABSENT:** Saldaña

### 2. Recommendations from the Ethics Review Board regarding potential amendments to the City's Ethics Code and Campaign Finance Code. [Dr. Adriana Garcia, Chair, Ethics Review Board; Kevin Barthold, City Auditor].

City Auditor Barthold provided a brief background and introduction for Dr. Adriana Garcia the Chair of the Ethics Review Board.

Dr. Garcia thanked the Mayor and members of the Governance Committee and introduced her fellow Ethics Review Board Members in attendance. She began her presentation by drawing a distinction between the Ethics Review Board (ERB) and the Office of Municipal Integrity (OMI). She explained that the ERB is appointed by the City Council and has responsibility over the Ethics Code and the Municipal Campaign Finance Code which includes review of Ethics complaints that arise within the parameters of either Code. The OMI is an internal

function under the City Manager's Office that has responsibility over City Employees and City Vendors. Dr. Garcia stated she made this distinction because many of the cities the ERB researched had one entity overseeing both functions.

Dr. Garcia explained that the ERB was charged with several tasks: (1) Review Ethics Code, (2) Review Municipal Campaign Finance Code, (3) Review Council Consideration Requests (CCRs) forwarded from the Governance Committee, and (4) Study the Possibility of an Independent Ethics Office.

She explained the process beginning with the creation of three panels; one to discuss the Ethics Code, the second to discuss the Campaign Finance Code, and the third to discuss the CCRs forwarded to the ERB. She stated that throughout the process, the ERB collaborated with the City Auditor's Office, City Attorney's Office, and the Office of the City Clerk. Each panel met and discussed recommended changes for their respective Codes then brought those recommendations to the full ERB. She noted that the recommendations presented to the Governance Committee today were agreed on by the full ERB.

Dr. Garcia stated that two types of changes were identified for both Codes, housekeeping versus substantive. She distinguished housekeeping changes as clarifying words or phrases in the Codes versus substantive changes that would affect those who are subject to the Codes. She first discussed changes to the Ethics Code. The first change recommended by the ERB is the addition of the "gift of entertainment" to be included with the current "gift limitations." Another recommendation was to allow and encourage self-reporting for past action of City officials or employees. The ERB also recommends removing the option to report violations to the City Attorney's Office in order to protect attorney/client confidentiality privilege.

Dr. Garcia and the ERB further recommended that the City Clerk provide notification to the respondent, the person the Ethics complaint concerns. Another recommendation was to require all complaints be forwarded by the City Clerk to the Chair and Vice-Chair of the ERB, the Compliance Auditor, and the City Attorney who shall independently review the complaint for compliance. Concerning "requests for waiver" the ERB recommended that the request first be heard by the ERB so that it may give an advisory opinion on the waiver.

Dr. Garcia moved on to the recommended changes to the Municipal Campaign Finance Code. The ERB recommends an increase in campaign finance reports from semi-annually to quarterly, with additional reports to be submitted in April and October of each non-election year and October of each election year. They further recommend the elimination of the 3-day campaign finance report which is not required by the State.

Concerning high-profile contracts, the ERB recommended the addition of subcontractors to the list of persons and entities prohibited from making contributions during the high profile solicitation process and expanding the contribution prohibition from spouses to include any first-degree member of household. She further recommended language be added for clarification that distinguishes between a board officer and business officer and clarification of which is prohibited from contributing during the prohibited period. The ERB also recommended the addition of lobbyists, attorneys, and consultants to the list of prohibited contributors during the zoning change process.

Dr. Garcia discussed the CCR by Mayor Nirenberg and Councilmember Saldaña which asked that the ERB address all ethics complaints and remove the ability for City Council to waive any provisions of the Ethics Code. She stated that after discussion, the ERB recommended that all complaints be forwarded to the Chair and Vice-Chair of the ERB, the Compliance Auditor, and the City Attorney who shall independently review the complaint for compliance. Concerning "requests for waiver" the ERB recommended that the request first be heard by the ERB so that it may give an advisory opinion on the waiver before Council action. The ERB cannot disallow the Council the ability to waive the Code because the Council is the rule-making body.

Dr. Garcia discussed the CCR by Councilmember Treviño which requested the strengthening of the Compliance Auditor position, evaluating the independence of the City Auditor's Office, strengthening Ethics education, the hiring of independent outside counsel, and changing the ERB appointment process. After extensive research of other cities, the ERB believes that there is adequate Ethics education and training, adequate access to outside counsel, and adequate fines for Ethics violations. The ERB recommends that the appointment process is currently representative of all areas of the City and should not be changed.

Dr. Garcia discussed the CCR by Councilmember Courage that would require candidates to report occupation and employer of any individual contributing \$100 or more to a candidate for municipal office. She stated that the ERB strongly discussed the effect of disclosing such information as it would punish those contributing and recommended that no change be added to the disclosure requirements.

Councilmember Saldaña entered the meeting at this time.

Mayor Nirenberg thanked Dr. Garcia for her presentation and the entire ERB for their diligent work and stated that changes that could be made now would be done. He noted that he has asked Common Cause, a company that helps cities develop best practices nationwide, to review the Codes for more widespread recommendations that would require Charter changes. He presented a letter from Common Cause to the Committee which outlined more widespread recommendations.

Councilmember Sandoval requested clarification about the independence of the Compliance Auditor and the process of an ethics complaint. Dr. Garcia reiterated that the amount of complaints would not warrant the creation of an independent Compliance Auditor and explained the process of an ethics complaint. City Attorney Andy Segovia mentioned that of all violations filed, a limited amount were actual violations of the Code. Councilmember Sandoval inquired about Ethics Training for City Vendors. City Auditor Barthold stated that City Vendors receive their Ethics Training as part of the High-Profile Contracts Training.

Councilmember Treviño thanked the ERB for all of their hard work and applauded Mayor Nirenberg for encouraging Common Cause to inquire about more widespread changes. He stated that costs of an independent Compliance Auditor or outside counsel should be viewed as an investment in the City in order to make it an even more ethical forward-looking City.

Councilmember Viagran inquired about the "Common Cause" recommendations. Mayor Nirenberg stated that Common Cause's recommendations would be working in conjunction with the ERB and the Charter Review Commission. Councilmember Viagran thanked Dr. Garcia and the ERB for all of their diligent work. She voiced support for the recommendations concerning the forwarding of the complaints to the appropriate people and the addition of people to the high-profile contract prohibition period.

Councilmember Saldaña thanked Dr. Garcia, his appointee to the ERB, and stated that he has collaborated with her on many of these topics. He recognized the ERB's hard work and research and further noted his excitement for the full City Council to review the recommendations.

Councilmember Treviño moved to forward said ERB recommendations for discussion with the full City Council at a B Session. Councilmember Saldaña seconded the motion. The motion carried unanimously.

**3. Next Scheduled Meeting: October 18, 2017.**

The next Governance City Council Committee Meeting is scheduled for October 18, 2017.

**ADJOURNMENT**

There being no further discussion, Mayor Nirenberg adjourned the meeting at 1:06 pm.

**ATTEST:**

---

*Ron Nirenberg, Mayor*

---

*Leticia Saenz, TRMC*  
*Deputy City Clerk*