

**State of Texas
County of Bexar
City of San Antonio**



DRAFT

**Meeting Minutes
City Council B Session**

City Hall Complex
105 Main Plaza
San Antonio, Texas 78205

Wednesday, November 8, 2017

2:00 PM

Municipal Plaza Building

The City Council of San Antonio convened in the “B” Room of the Municipal Plaza Building. City Clerk Leticia Vacek took the Roll Call with the following Councilmembers present:

PRESENT: 11 - Mayor Nirenberg, Treviño, Shaw, Viagran, Saldaña, Gonzales, Brockhouse, Sandoval, Pelaez, Courage, and Perry

1. A Briefing on proposed amendments to the Ethics Code and Municipal Campaign Finance Code, as recommended by the Ethics Review Board. [Kevin Barthold, City Auditor]

City Auditor Kevin Barthold introduced Dr. Adriana Garcia, Chair of the Ethics Review Board (ERB).

Dr. Garcia discussed the differences between the ERB and the Office of Municipal Integrity and stated that the ERB was charged with the following goals: (1) Review of the Ethics Code; (2) Review of the Municipal Campaign Finance Code; (3) Review Council Consideration Requests (CCRs) and requests forwarded from the Governance Council Committee; and (4) Study the possibility of an independent Ethics Office. She provided an overview of the review process and noted that they had presented their recommendations to the Governance Council Committee on September 20, 2017. She stated that their research

process included contact with and study of 26 other municipalities and two presentations by Dr. Raymond Baird, an Ethics Research Expert. She noted that all City Employees received ethics education as part of their onboarding process and training was provided to elected officials and appointees on relevant topics. She stated that the Ethics Code currently required outside counsel in matters involving the Mayor, City Council, or employees at the Department Head Level or higher. She noted a recommendation to require outside counsel in cases where a complaint was filed against a candidate. She stated that the ERB examined the possibility of changing its appointment process but the current process ensured representation across all area of San Antonio.

Dr. Garcia stated that 26 ethics violation complaints had been filed since the creation of the Auditor Compliance position in 2013 but 22 were returned for being outside the jurisdiction of the ERB. She mentioned that one was withdrawn by the complainant and the remaining three were dismissed by the ERB after consideration. She noted that the ERB researched disclosures and that Federal and State Offices required disclosure of a contributor's occupation and employer when contributions were over a certain amount. She added that Bexar County currently had no requirements for occupation or employer disclosure and noted high opposition to disclosure requirements, particularly in local elections.

Dr. Garcia stated that the ERB recommended the Ethics Code be revised to define a client to include any business, financial, or professional relationship to which a duty of care, confidence, trust or privilege applies and that gift restrictions include entertainment with the current limits of \$50 per occurrence and \$500 annually. She proposed the addition of self-reporting to the Compliance Auditor or ERB in cases of a past or potential violation and the removal of self-reporting to the City Attorney's Office in order to remove confidential client-attorney privilege. She recommended that the City Clerk notify respondents, ERB Chair and Vice Chair, Compliance Auditor, and City Attorney of all complaints received. She suggested that all requests for a waiver from the Ethics Code be submitted to the ERB and waivers could only be granted by the City Council after a recommendation from the ERB. She noted a request that the City Council not be allowed to grant waivers but City Council's role as the rulemaking body would not allow it to defer this power to another body.

Dr. Garcia stated that the ERB recommended changes to the Municipal Campaign Finance Code to add a contribution cycle for Special Elections and the transfer of funds to municipal campaign accounts. She recommended quarterly filings of campaign finance reports to include periods in April and October of each non-election year and in October of election years. Additionally, that the 3-day reporting requirement be removed. She noted a recommendation that subcontractors be added to the list of prohibited contributors during the high profile solicitation process and that contribution prohibitions be expanded to include first degree household members. She proposed new language distinguishing between business

officers and board officers and clarifying whether one or both were prohibited from making contributions during the prohibited period. She stated that the ERB recommended that property owners, lobbyists, attorneys, and consultants be prohibited from making contributions during zoning applications.

Dr. Garcia acknowledged the Mayor's interaction with Common Cause to review the Ethics Code, Municipal Campaign Finance Code, and City Charter and stated that the ERB was available for dialogue and collaboration.

Mayor Nirenberg thanked Dr. Garcia and the ERB for their work on the review process.

Councilmember Treviño asked that ERB appointees be selected independently of City Staff and the City Council.

Councilmember Saldaña asked of the recommendation that waiver requests go before the ERB before City Council. Dr. Garcia replied that this would ensure the request was on record and exposed to the media to encourage accountability. City Attorney Andy Segovia added that the City Council cannot create a body that has more authority or jurisdiction over the Ethics Code than they do and the recommendation would counteract this structural issue. Councilmember Saldaña asked of the municipalities that had created independent review bodies for ethics violations. Dr. Garcia replied that in other municipalities, the ERB worked in conjunction with their Office of Municipal Integrity and therefore had enough complaint volume to justify an independent body. Councilmember Saldaña asked of disclosure requirements for City Staff. City Manager Sculley stated that staff was subject to the same disclosure rules and Ethics Code expectations were laid out clearly during training.

Councilmember Brockhouse asked how the number of complaints received compared to other municipalities. Dr. Garcia stated that San Antonio had the lowest number by far but that the number of complaints in other cities included those made against employees. Councilmember Brockhouse expressed concern that the low number indicated impediments in the reporting process and noted his opposition to the addition of more campaign finance filing periods. He stated that the recommendations for prohibition in zoning cases may lead to indefinite blocks on contributions for certain groups. Dr. Garcia stated that the ERB shared his concerns and would revisit the issue.

Councilmember Pelaez asked of the selection of outside counsel in cases of complaints against officials. Mr. Segovia replied that outside counsel was selected by the City Attorney to determine if the complaint fell within the jurisdiction of the ERB, after which the official could select their own counsel in response to the complaint. Councilmember Pelaez stated that he did not see the need for an independent ethics official because of the existing ethical expectations for the City Attorney and City Auditor and asked of subpoena power in cases

where a violation was suspected but self-reporting was not performed. Dr. Garcia replied that if someone had knowledge of a violation they could file a formal complaint to initiate the investigation process.

Councilmember Courage expressed concern that the ERB declined to recommend the inclusion of occupation and employer disclosures with campaign finance contributions and asked them to reconsider in the interest of increased transparency.

Councilmember Viagran expressed support for the proposed violation notification requirements to be placed on the City Clerk.

Councilmember Sandoval expressed support for the proposed changes to the waiver request process and asked if the notification process for complaints would extend to all members of the ERB. Dr. Garcia replied that the City Attorney's Office would brief the full ERB on any complaints received. Councilmember Sandoval asked of the timeline for coordination with Common Cause. Dr. Garcia replied that she had not yet been contacted but the ERB was ready for collaboration at any time. Councilmember Sandoval asked that disclosures be required of all entities doing business with the city including cases of City Council approval and asked which city entities would be subject to such disclosure requirements. Mr. Barthold replied that they were comprised of the following: (1) City of San Antonio, Texas Education Facilities Corporation; (2) San Antonio Health Facilities Development Corporation; (3) Hemisfair Park Public Facilities Corporation; (4) Office of Urban Redevelopment San Antonio; (5) San Antonio Economic Development Corporation; (6) San Antonio Housing Trust Finance Corporation; and (7) San Antonio Housing Trust Public Facility Corporation. Mr. Segovia added that Councilmember Sandoval's suggestion was already being implemented in practice and would be formally codified once appropriate language was identified.

Councilmember Perry expressed concern with additional disclosure requirements due to the potential discouragement of contributions.

Councilmember Viagran asked the ERB to recommend an implementation date for their proposed changes. Dr. Garcia stated that a timeline would be provided.

Councilmember Saldaña asked of the next steps in the process. Mr. Barthold stated that an A Session would be necessary to codify the proposed changes and the City Council had red line versions that could be modified by City Council vote.

Councilmember Brockhouse expressed concern that there was not enough agreement within the City Council to move forward with an A Session and asked that another round of discussion occur before continuing the codification process.

Councilmember Pelaez asked if the ERB had discussed raising the campaign contribution caps. Dr. Garcia stated that it had not been addressed in detail but could be included in future meetings. Councilmember Pelaez concurred with Councilmember Brockhouse's request to postpone the scheduling of an A Session to codify the changes.

Councilmember Shaw expressed concern with the proposed increased disclosure requirements due to unclear language and suggested examination of raising campaign contribution caps.

Councilmember Sandoval asked for clarification regarding what issues the ERB would reexamine as a result of the current discussion. Dr. Garcia replied that they would address expanding disclosure requirements for business with city entities, requiring occupation and employer disclosures for campaign contributions, raising the campaign contribution cap amounts, and blackout periods for zoning case participants.

Mayor Nirenberg suggested that City Council pursue simple amendments to the City Code first and continue work on more complicated issues long-term. He thanked the Ethics Review Board for their work.

EXECUTIVE SESSION

The Executive Session was not held. Mayor Nirenberg recessed the meeting at 4:14 pm.

- A. Economic development negotiations pursuant to Texas Government Code Section 551.087 (economic development).
- B. The purchase, exchange, lease or value of real property pursuant to Texas Government Code Section 551.072 (real property).

RECONVENED

Mayor Nirenberg reconvened the meeting at 5:20 pm and addressed the Ceremonial Items.

CEREMONIALS

Mayor Nirenberg, City Council, and City Manager Sheryl Sculley recognized City of San Antonio Employees who are Military Veterans and thanked them for their service.

The Office of Military Affairs presented a cake-cutting ceremony in honor of the 242nd Birthday of the United States Marine Corps.

CITIZENS TO BE HEARD

Mayor Nirenberg exited the meeting and Mayor Pro Tem Pelaez presided. He called upon the citizens registered to speak under Citizens to be Heard.

Terry Burns, Alamo Sierra Club Chair, urged the City Council to vote against the proposed SAWS rate increase and spoke of inequities in the current water delivery system.

Mark Perez expressed concern with businesses operating without the necessary permits and noted issues with zoning cases.

Alice Canestaro-Garcia asked the City Council to vote against the proposed SAWS rate increase and to charge high-usage businesses rather than constituents.

Sofia Sepulveda asked the City Council to vote against the proposed SAWS rate increase and spoke against the lack of transparency behind the increases.

Liz Franklin referenced an ordinance identifying the Hays Street Bridge as a significant historical landmark and asked the City Council to protect the bridge for continued public access.

Isaac Garcia asked the City Council to postpone the vote on the SAWS rate increase and to be more transparent in their processes.

Felicia Aleman asked City Council to vote against the SAWS rate increase and stated it would disproportionately affect lower income residents while providing inequitable breaks to businesses.

Beto De Leon asked for increased transparency behind utility rate increases and better public engagement.

Cosima Colvin spoke in support of Councilmember Treviño's Council Consideration Request for large area rezoning to address issues with zoning incompatibility.

Isabel Zepeda spoke against the Vista Ridge Pipeline and the proposed SAWS rate increase. She asked City Council to prioritize citizens over businesses.

Diana Lopez asked the City Council to vote against the proposed SAWS rate increase because of the additional burden it would place on struggling families.

Edith Blanco presented 900 signatures from the Southwest Workers Union and San Antonio

residents against the Vista Ridge Pipeline and the SAWS rate increase.

Nazirite Ruben Flores Perez spoke of the shooting in Sutherland Springs and cautioned against similar incidents in San Antonio. He presented an article regarding HIV rates in Texas.

Ruben Martinez asked the City Council to postpone the vote on the proposed SAWS rate increase and encouraged increased conservation efforts.

James Baumann spoke in favor of Councilmember Treviño's CCR regarding large area rezoning to encourage consistency with Neighborhood Land Use Plans.

Raymond Zavala spoke against the proposed SAWS rate increase and expressed concerns with accountability. He noted code violations and public safety issues in Districts 1 and 5.

Rhett Smith expressed concern with the lack of a State Water Use Plan and noted his objection to the adoption of the trademark of Military City, USA and faith-based initiatives.

Robert Feria, Vice President of the Beacon Hill Neighborhood Association, asked the City Council to postpone voting on the proposed SAWS rate increase due to lack of public awareness.

Faris Hodge, Jr. submitted written testimony noting that the Department of Public Safety was stepping up support for San Antonio. He wrote of the Dream Act and highlighted the work of B.J. "Red" McCombs.

ADJOURNMENT

There being no further discussion, Mayor Pro Tem Pelaez adjourned the meeting at 7:05 pm.

APPROVED

RON NIRENBERG
MAYOR

ATTEST:

LETICIA M. VACEK, TRMC/CMC/MMC
CITY CLERK