

PANEL OF THE ETHICS REVIEW BOARD

MEETING MINUTES

TUESDAY, MARCH 29, 2016

A meeting of a Panel of the Ethics Review Board (ERB) was held on Tuesday, March 29, 2016 at 6:00 pm in the "C" Room of the Municipal Plaza Building, 114 West Commerce Street, San Antonio, Texas with the following present:

Ethics Members Present: Adriana Garcia, Sam Millsap, and Marc Whyte

Ethics Members Absent: Courtney Hilliard and Ileana Gonzalez

Staff Present: Martha Sepeda, *Acting City Attorney*; Kevin Barthold, *City Auditor*; Tina Flores, *Compliance Auditor*; Camila Kunau, *Assistant City Attorney*; Edward Guzman, *Assistant City Attorney*; and Rosalinda Diaz, *Sr. Administrative Assistant*

Others Present: Courtney Friedman, *KSAT 12 News*; Josh Baugh, *Express News*; Andres Peña, *Kaufman & Killen*; Joe Herrera, *KSAT 12 News*; Edmond Ortiz, *Rivard Report*; Jed Maebius, *District 1*; Chris Steward, *District 8*

CALL TO ORDER

Chairman Millsap called the meeting to order at 6:08 pm.

ROLL CALL

Ms. Diaz called the roll noting that a quorum was present.

Chairman Millsap introduced Tina Flores as the new Compliance Auditor. He noted that she replaced Marc Druck.

Chairman Millsap reported that the Governance Committee had referred both of the CCRs submitted regarding proposed Ethics changes back to the ERB for consideration and recommendations. He explained that the CCR submitted by Councilmembers Saldaña and Nirenberg proposed eliminating the City Council's authority to waive alleged Ethics Code violations by Members of the City Council. He stated that the CCR submitted by Councilmember Treviño proposed greater ERB independence from City Council and Staff. He noted that the ERB had informally supported the CCR submitted by Councilmembers Saldaña and Nirenberg but had taken no position on the CCR submitted by Councilmember Treviño. He stated that the proposed changes reflected in the CCRs would amend the City Charter. He noted that the next City Charter Amendment Election could not occur sooner than November 2017.

Chairman Millsap informed Panel Members that he had added Ms. Melanie Castillo and had replaced Ms. Jackson with Mr. Whyte. He noted that Dr. Ray Baird and Mr. Arthur Downey had agreed to assist the Panel with any questions regarding the Codes. Mr. Jed Maebius was introduced by Chairman Millsap and was thanked for preparing the packet distributed to the Panel which addressed issues proposed in Councilmember Treviño's CCR.

At this time, the Panel addressed Item 3.

3. Discussion and possible action of two City Council Consideration (CCR) requests for Ethics Code revisions.

Chairman Millsap read a portion of the CCR submitted by Councilmembers Saldaña and Nirenberg. He stated that the CCR proposed that an Ordinance be drafted requiring that all Ethics Code complaints be addressed by the ERB and removes the City Council's authority to grant waivers. He explained that Councilmember Treviño's CCR was intended to modify the current Ethics Review Process by making the ERB completely independent from City Staff. He stated that the CCR also proposed changing the method in which ERB Members were appointed. He spoke of researching the Appointment Process utilized by other Cities. He added that the CCR proposed that the Compliance Auditor be employed and report directly to the ERB rather than the Auditor's Office and that the City Attorney's Office would no longer serve as the legal advisor to the ERB.

Chairman Millsap stated that the Panel would not be relying on the City Attorney's Office or the Compliance Auditor for advice on proposed Ethics Code revisions. It was explained that said was due to the CCR from Councilmember Treviño proposing greater independence from City Staff and the decision making role the City Attorney's Office and City Auditor have in making Code changes. He reported that legal issues would be addressed by the four Lawyers on the Panel; however, no legal issues were expected to arise since most changes to the Codes were Policy Issues. He explained that all Meetings would be open to the Public and encouraged City Staff to attend. He noted that current and former City Staff in attendance would be called upon, if needed, to answer any questions that arose that were not related to the mission of the ERB.

Ms. Sepeda clarified that the role of the City Attorney's Office as per the City Charter was to provide legal advice to the City Council as well as Boards and Commissions. She advised against the ERB relying solely on the legal advice of the Attorneys on the Panel and reported that, if needed, she would inform Board Members of decisions made that were incongruent with the law and could lead to legal scrutiny. She also cautioned the ERB from seeking the legal advice of the former City Auditor as he no longer was employed by the City of San Antonio.

Chairman Millsap thanked Ms. Sepeda for her comments and stated that he would limit consultation with the City Attorney's Office and City Staff based on their charge of providing legal advice and proposing Ethics Code Changes. Ms. Sepeda replied that the Ethics Code outlined that the City Attorney's Office served as legal counsel for the ERB. She reported that the City Council could not delegate its governmental power to legislate to another body such as the ERB and therefore the ERB did not have the authority to grant Ethics Code Waivers. An option presented by Ms. Sepeda was for the ERB to forward legislative recommendations to the City Council for their consideration. She reiterated that the City Council was the only Legislative Body that could grant Ethics Code Waivers as they created the Ethics Code.

1. Discussion and possible action of potential revisions of the Ethics Code.

Chairman Millsap assigned Mr. Whyte, Ms. Castillo, Dr. Garcia, and Ms. Gonzalez to conduct basic research on Ethics Code procedures utilized by other Cities. He stated that he would contact the Texas Ethics Commission and other national ethics organizations to gather information on best practices. He reported that Dr. Garcia would be the lead on the Research

Team and asked that all research be completed for presentation to the Panel by June 1, 2016. He requested that the Members on the Panel invite individuals from around the country to share their knowledge with the Panel. He added that Public input would also be the key to producing the best Ethics Code.

Mr. Whyte suggested that the Panel review the Codes to identify any weaknesses and determine if any improvements were necessary.

Chairman Millsap outlined the following timeline:

- June and July 2016 – Receive input from City Council, City Staff, and Local Leaders
- August 2016 – Preparation of Proposal and Presentation to the ERB
- September 2016 – Submit recommendations to the Governance Committee for approval
- October 2016 – Conduct Citywide Public Hearings to receive Community input
- November 2016 – Report back to the Governance Committee
- November to December 2016 – Submit recommendations to the City Charter Review Commission
- January to November 2017 – Notify the Community of the proposed Ethics Code changes

Ms. Sepeda stated that the City Charter Review Commission was also working on recommendations to the City Charter. She noted that the November 2017 Election to amend the City Charter would be called in August 2017.

Ms. Kunau asked Chairman Millsap if Ms. Gonzalez, Dr. Garcia, Mr. Whyte, and Ms. Castillo were selected to the Sub-Committee. Chairman Millsap confirmed Sub-Committee Membership. Ms. Kuanu informed the Panel that Sub-Committee Meeting Agendas would need to be posted in accordance with the Open Meetings Act since four of the six Panel Members serve on the Sub-Committee.

Chairman Millsap asked Dr. Garcia to present her research to the Panel at this time.

Dr. Garcia reported on the research she conducted amongst seven Cities regarding the regarding the Ethics Board as follows:

- Number of Members appointed to the Board
- Appointment Process
- Criteria used to appoint Members to the Board
- Frequency of Meetings
- Input Process for making Code revisions

Chairman Millsap requested that the Sub-Committee inquire how other Cities perform the following:

- Appointment Process
- Who provides the Board with legal counsel
- Who performs the initial review of cases as part of the Ethics Complaint Process

- Is there Staff Support for the Board and who puts together the cases presented to the Board
- Does City Staff assist the Board and if so, in what capacity
- What type of independence does the Board have from City Staff

Dr. Garcia asked who she could contact regarding questions she had on the 2013 Redline version of Ethics Code changes. Ms. Kunau informed Dr. Garcia she could clarify any questions she had.

Mr. Barthold reminded the Panel of the requirement to post Meeting Notices for the Sub-Committee per the Open Meetings Act.

Ms. Sepeda recommended that Refresher Training be scheduled for ERB Members. Ms. Flores asked for more details to include when the training should be scheduled. Chairman Millsap replied that the training should be conducted in April.

2. Discussion and possible action of potential revisions to the Municipal Campaign Finance Code.

Item 2 was not discussed.

4. Citizens to be Heard.

There were no Citizens to be Heard.

5. Executive Session: Attorney-Client Matters may be discussed on any of the items listed above under Section 551.071 of the Texas Open Meeting Act.

Executive Session was not held.

ADJOURNMENT

Mr. Whyte made a motion to adjourn the meeting. Dr. Garcia seconded the motion.

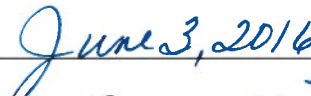
The motion prevailed by the following vote: **AYES:** Garcia, Millsap, and Whyte. **NAY:** None. **ABSENT:** Hilliard and Gonzalez.

There being no further discussion, Chairman Millsap adjourned the meeting at 7:03 pm.

APPROVED: _____


SAM MILLSAP, CHAIR

DATE: _____



ATTEST: _____


ROSALINDA G. DIAZ
OFFICE OF THE CITY CLERK