

# **COMMITTEE OF THE ETHICS REVIEW BOARD**

## **MEETING MINUTES**

### **THURSDAY, JULY 14, 2016**

A meeting of a Committee of the Ethics Review Board (ERB) was held on Thursday, July 14, 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: Melanie Castillo, Adriana Garcia, Sam Millsap, and Marc Whyte

Ethics Member Absent: Courtney Hilliard

Staff Present: Kevin Barthold, *City Auditor*; Melinda L. Uriegas, *Assistant City Clerk*; and Edward Guzman, *Assistant City Attorney*

Others Present: Andres Peña, *Kaufman & Killen*; Madison Gaona, *Mayor's Office*; Jed Maebius, *District 1*

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#### **CALL TO ORDER**

Chairman Millsap called the meeting to order at 6:00 pm.

#### **ROLL CALL**

Mrs. Uriegas called the roll noting that a quorum was present.

#### **1. Approval of the minutes of a Committee of the Ethics Review Board Meeting held on June 3, 2016.**

Dr. Garcia moved to approve the Minutes of the Committee of the Ethics Review Board Meeting held on June 3, 2016. Mrs. Castillo seconded the motion.

The motion prevailed by the following vote: **AYES:** Castillo, Garcia, Millsap, and Whyte. **ABSENT:** Hilliard.

#### **2. Discussion and possible action and possible action of potential revisions of the Ethics Code.**

Chairman Millsap reported on the timeline regarding Code Changes and noted that time needed to be made up. He highlighted next steps which included finalizing Code Changes, the Mayor and City Council approving said Changes, and holding a Charter Amendment Election.

Chairman Millsap recommended that the position of the Compliance Auditor be independent and report directly to the Ethics Review Board (ERB). He noted that said could be accomplished by

including the appointment and responsibilities of the City Auditor in either the Ethics Code or the City Charter.

Excerpts from the City Charter and the Ethics Code which addressed the relationship between the City Attorney's Office and ERB were read. Chairman Millsap stated that the recommendation was for the City Charter to clarify said relationship so that a conflict was not automatically created by the City Attorney's Office serving as legal counsel to the ERB and City Departments. He noted that the Ethics Code would be updated, if needed, based on the results of a future Charter Amendment Election.

Chairman Millsap spoke of the creation of an Independent Ethics Office which would be responsible for all Ethics functions performed by City Departments and noted that said action would require a Charter Change. Also highlighted were proposed Ethics Code Revisions regarding the removal of the Compliance Auditor and clarification on Attorney-Client Privilege. Chairman Millsap reported that Attorney-Client Privilege prevented the City Attorney's Office from informing the ERB and City Departments that a Waiver Request had been submitted. He suggested how the topic could be worded in the Ethics Code.

Chairman Millsap stated that the ERB would not act on Proposed Changes until input was received from the Public, Mayor, and City Council. He noted that the list of Proposed Revisions included the issuance of waivers; independence of the ERB to include the selection and appointment of Board Members, legal advice provided to the ERB by the City Attorney's Office, and independence of the Compliance Auditor.

Chairman Millsap requested that Board Members review the Ethics and Municipal Campaign Finance Codes with the intent of identifying additional Changes.

Dr. Garcia provided an overview of concerns she had with the Code, specifically language used, dates for reporting, and enforcement. Discussion ensued regarding her concerns. Chairman Millsap clarified that the ERB had the responsibility of determining if actions were performed properly and timely and that the legal community typically used the terms and definitions denoted in the Ethics Code.

Chairman Millsap reported that the Office of the City Clerk, City Auditor's Office, and City Attorney's Office had developed lists of Proposed Ethics and Municipal Campaign Finance Code Changes and that the City Attorney's Office would provide a history of changes made.

Chairman Millsap voiced concern with the Hearing Process outlined in the Ethics Code and stated that both Parties should have the same rights. Mr. Guzman explained that ERB Hearings were administrative in nature, not adversarial.

Chairman Millsap requested that Committee Members send each other their list of Code Changes.

Dr. Garcia voiced concern with language outlined in the Municipal Campaign Finance Code and noted how it was different from that used in the Ethics Code.

Chairman Millsap stated that one comprehensive document listing all Ethics and Campaign Finance Code Changes would be presented to the Mayor and Council for review and adoption. He reported his intent to gather input during the Summer and requested that the Public, Mayor, Members of Council, Executive Leadership Team Members, Department Directors, and Community Leaders be invited to ERB Meetings.

At the request of Chairman Millsap, Mr. Whyte concurred with the ERB gathering Public Comments as Committee Members had already voiced their opinions regarding Proposed Changes to the Ethics Code.

Chairman Millsap requested that the Mayor, Members of Council, Members of the Executive Leadership Team, and Department Directors be invited to the next ERB Committee Meeting to be held in 2-3 weeks. He noted that a subsequent Committee Meeting would be held to gather input from the Public and Community Leaders.

Chairman Millsap spoke of the importance of presenting the Mayor and Council with a product that incorporated input from the Public to include Neighborhood Associations and Community Organizations and was supported by Civic Leaders. He reported on the Plan to present the Mayor and Council with Final Recommendations in December 2016 or January 2017.

Dr. Garcia spoke of the possibility of conducting a survey as a means of gathering Public Input. Mrs. Uriegas reported that the City conducted a Bi-Annual Survey regarding the Delivery of Services. She stated that said Survey was conducted by the Government and Public Affairs Office and would obtain questions asked about Ethics.

Ms. Castillo highlighted a course she took as part of her Graduate Studies at Our Lady of the Lake University which required Students to assist in the administration of Public Surveys on behalf of organizations. She stated that she would be willing to speak to Professors about conducting a Survey for the ERB.

Chairman Millsap asked Ms. Castillo and Dr. Garcia to develop a process for implementing a Survey. He noted that he would ask for assistance from the Community such as Chambers of Commerce, Neighborhood Associations, and Educational Institutions.

Chairman Millsap spoke of the possibility of having multiple Public Meetings at various locations throughout the City. Mrs. Uriegas highlighted the process utilized by the Charter Review Committee to gather Public Input on Charter Amendments that appeared on the May 2015 Ballot. She reported on the various methods utilized by the Government and Public Affairs Office to inform the Public of the 2 Hearings and noted that the Hearings were held after the Committee finalized Ballot Language.

The consensus of the Committee was to finalize Code Changes prior to gathering input from the Public and Community Leaders.

Discussion ensued regarding the time frame for conducting Charter Amendment Elections as allowed by the Texas Constitution and the Texas Election Code. Mr. Guzman clarified that the

City of San Antonio could not conduct a Charter Amendment Election sooner than November 2017 and reported that the Charter Review Committee was scheduled to begin meeting again to identify future Amendments.

Chairman Millsap stated that the goal was to invite Dr. Robert F. Wechsler when making the Final Presentation to the Mayor and Council Members as this would add credibility to the proposed Code Changes. He noted that he would contact Dr. Wechsler to verify his availability.

Mr. Barthold suggested attendance at quarterly Roundtable Discussions held at St. Mary's University. He reported that said meetings were coordinated by Ernie Broughton and discussed compliance related issues.

Funding of Dr. Wechsler's travel was discussed and it was recommended that the ERB teleconference Dr. Wechsler's presentation or solicit funding from outside sources.

Chairman Millsap reiterated his intent for the Committee to establish Changes to the Ethics and Municipal Campaign Finance Codes with Final Presentation to the entire ERB. He requested that the next Meeting be held in 2-3 weeks and that the Mayor and Council Members be invited to said Meeting.

### **3. Discussion and possible action of potential revisions to the Municipal Campaign Finance Code.**

Item 3 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.**


The Executive Session was not held.

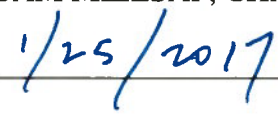
## ADJOURNMENT


Mr. Whyte moved to adjourn the meeting. Mrs. Castillo seconded the motion.

The motion prevailed by the following vote: **AYES:** Castillo, Garcia, Millsap, and Whyte.  
**ABSENT:** Hilliard.

There being no further discussion, Chairman Millsap adjourned the meeting at 7:14 pm.

APPROVED:   
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SAM MILLSAP, CHAIR

DATE:   
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ATTEST:   
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MELINDA L. URIEGAS, TRMC  
OFFICE OF THE CITY CLERK