

# **ETHICS REVIEW BOARD MEETING MINUTES WEDNESDAY, JANUARY 25, 2017**

A meeting of the Ethics Review Board (ERB) was held on Wednesday, January 25, 2017 at 6:00 pm in the Media Briefing Room of the City Hall Building, 100 Military Plaza, San Antonio, Texas with the following present:

**Ethics Members Present:** Melanie Castillo, Ruben De Leon, Adriana Garcia, Magdalena Alvarado, Linda Jackson, Victoria Moreno-Herrera, Sam Millsap, Marc Whyte, and Paula McGee

**Ethics Members Absent:** Courtney Hilliard

**Staff Present:** Sheryl Sculley, *City Manager*; Andy Segovia, *City Attorney*; Kevin Barthold, *City Auditor*; Leticia Saenz, *Deputy City Clerk*; Melinda Uriegas, *Assistant City Clerk*; Tina Flores, *Compliance Auditor*; Camila Kunau, *Assistant City Attorney*; and Rosalinda Diaz, *Sr. Administrative Assistant*

**Others Present:** Roberto Treviño, *Councilmember, District 1*; Rey Saldaña, *Councilmember, District 4*; Ron Nirenberg, *Councilmember, District 8*; Jim Greenwood, *Mayor's Office*; Jed Mabiús, *District 1*; Iris Dimmick, *Rivard Report*; Josh Baugh, *Express News*; Kin M. Hui, *Express News*

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## **CALL TO ORDER**

Chairman Millsap called the meeting to order at 6:05 pm.

## **ROLL CALL**

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

- 1. Swearing in and Administration of Oath of Office for Board Members Victoria Moreno-Herrera (District 8) and Paula McGee (Mayoral).**

Ms. Leticia Saenz, Deputy City Clerk, administered the Oath of Office and Statement of Officer to Victoria Moreno-Herrera and Paula McGee.

Items 2 and 3 were discussed jointly.

- 2. Discussion and possible action of potential revisions to the Ethics Code. May include presentation by city staff and/or elected officials.**
- 3. Discussion and possible action of potential revision to the Municipal Campaign Finance Code. May include presentation by city staff and/or elected officials.**

Chairman Millsap reported that the focus of the meeting was to discuss changes to the Ethics and Campaign Finance Codes as well as the election of a Chair and Vice-Chair of the board. He announced that this would be his last meeting as Chairman of the board.

At the request of Chairman Millsap, Councilmember Nirenberg spoke on the Council Consideration Request (CCR) that he and Councilmember Saldaña submitted proposing changes to the Ethics Code. Councilmember Nirenberg stated that the intent of the CCR was to implement procedures that would give the public confidence in the Ethics Code. He noted that one way of achieving said goal was to give the ERB authority to govern all aspects of the Ethics Code. Councilmember Nirenberg detailed the reason for the submission of the CCR and spoke of the importance of closing loopholes which allow for members of the Council to immunize themselves from Ethics Code violations. He noted that he and Councilmember Saldaña discussed with Councilmember Treviño additional Ethics Code changes to include the independence of the Ethics Review Board and role of the Compliance Auditor. Lastly, Councilmember Nirenberg stated that his goal was to have all members of Council governed by one single set of principles.

Chairman Millsap reiterated that the CCR submitted by Councilmembers Nirenberg and Saldaña addressed waivers to the Ethics Code and detailed specific complaints and topics that would be reviewed solely by the ERB. He reported that said recommendations would prohibit members of Council from absolving themselves from alleged Ethics Code violations.

At the request of Chairman Millsap, Councilmember Nirenberg reported that the short term goal was to get the CCR recommendations approved by ordinance while the long term goal was to have the Ethics Code amended to incorporate said recommendations. He noted that the overall intent was to increase the public's trust in government and opinion that members of Council were above reproach. He stated that this could be achieved by increasing the role of the ERB while also allowing the board to reprimand officials upon the determination that an Ethics Code violation occurred.

Mr. De Leon noted that the current powers of the board to penalize individuals were limited and asked for clarification on how the recommendations would increase the board's authority. Councilmember Nirenberg explained that the recommendations would give citizens additional methods for addressing Ethics Code violations and the board had the power to penalize officials for alleged violations of misconduct. He stated that said actions would subsequently increase the public's perception in local government.

Councilmember Treviño spoke in support of comments made by Councilmember Nirenberg and noted how both CCRs work together to increase the role of the ERB. He read from a prepared statement which detailed recommendations for strengthening the Ethics Code which would result in increased transparency, fairness, and independence of the ERB and Compliance Auditor. Councilmember Treviño reported that one recommendation outlined in his CCR was to charge the ERB with hiring the Compliance Auditor rather than making a recommendation as is current practice. He provided an overview of desired qualifications and duties of the Compliance Auditor and spoke of the importance of allowing the city's Compliance Auditor and ERB to implement and enforce the Ethics Code.

Councilmember Treviño spoke on the recommendation to amend the City Charter allowing for community institutions to appoint ERB members. He highlighted the ethics review process

enacted by the City of Atlanta in 2002 which allows for their Ethics Board to hire the Ethics Officer and citizen groups to appoint boardmembers. Responsibilities of the Ethics Officer and Atlanta's Ethics Board were outlined. Councilmember Treviño noted that he had received letters of support from COPS/Metro, the League of Women Voters, and MALDEF. Lastly, Councilmember Treviño reiterated his recommendation to strengthen the ethics process by ensuring that ERB members and the Compliance Auditor act independently of city officials and staff in appearance and practice. He spoke of the importance of maintaining the public's trust.

Dr. Garcia spoke on the level of education that one would need to have in order to be appointed to a University board and voiced concern with the recommendation of having community institutions selecting Ethics Review boardmembers. Councilmember Treviño explained that his recommendation was just one example of how cities make ERB appointments. He noted that the intent was to have an appointment process that was open and fair and ensured that the board was comprised of diverse individuals.

Mr. De Leon highlighted the selection process that was used to appoint him as an ERB Member and voiced concern with the possibility of submitting multiple applications throughout the city as was being proposed in the CCR. Councilmember Treviño clarified that the selection process to be administered would be centralized preventing such occurrence.

Chairman Millsap reported that he was initially concerned with the appointment process currently utilized by the city. However, he has concluded that the process encourages inclusivity and diversity.

Mr. Whyte highlighted previous ERB discussions regarding the appointment process and noted that the current process did not need to be changed. He added that the current appointment process was supported by Councilmember Gallagher and reported that the board could make improvements in other areas. Councilmember Treviño explained that the appointment process was just one recommendation to strengthen the Ethics Code.

Councilmember Nirenberg clarified that the intent of the recommendation made by Councilmember Treviño was to ensure that appointees were independent and not beholden to officials making the board appointments.

Mr. Andy Segovia reported that Ethics and Municipal Campaign Finance code changes were identified based on issues that transpired over the last year. Mr. Kevin Barthold provided an overview of administrative and substantive changes to be made to the Ethics Code and provided justification for each change.

Mr. Segovia and Mrs. Sculley spoke in support of the changes and noted how they would positively impact vendors, especially those bidding on high profile contracts.

Ms. Linda Jackson voiced concern with the ERB providing a requestor with an advisory opinion in accordance with Section 2-89 of the Ethics Code when a response was needed immediately. Mr. Barthold explained that the requestor had some responsibility for knowing the frequency of ERB meetings and highlighted efforts made by staff to ensure that sensitive requests were processed timely.

Mr. Segovia explained that the intent of the changes was to clarify procedures and requirements.

Dr. Garcia asked for clarification on the process for making panel appointments as noted in Section 2-89(b). Chairman Millsap noted that the Chair made said appointments. Mr. Barthold expanded on panel composition and meeting frequency.

Mr. Barthold highlighted proposed substantive Municipal Campaign Finance Code changes and justification for each change. He spoke of next steps to include having the ERB discuss the proposed revisions at another meeting, presenting the proposed changes to the Governance Committee, and having the full city council approve the recommendations.

At this time, Chairman Millsap entered into the record the letter from Mayor Taylor, as well as, the letters supporting changes proposed by Councilmember Treviño.

No action was required.

#### **4. Discussion and possible action regarding the election of a chair and vice-chair of the Ethics Review Board.**

Mr. Millsap noted that his last day on the board would be April 17, 2017.

Mr. Whyte thanked Chairman Millsap for his service and noted that no one worked harder or was more dedicated to the mission of the ERB. He spoke in support of Chairman Millsap leading the effort to amend the Ethics Code.

Ms. Linda Jackson highlighted Chairman Millsap's dedication and assistance with passage of the recommendations.

Ms. Castillo thanked Chairman Millsap for directing and guiding board members. She stated that she appreciated his openness and desire to challenge board members on issues.

Ms. Alvarado stated that she admired Chairman Millsap's honesty and passion for educating board members.

Chairman Millsap spoke of the importance of getting recommendations approved by the full council and noted that he would continue to assist as much as possible in achieving said goal. He noted that Councilmember Krier was in the process of selecting his replacement.

Chairman Millsap opened the floor for nominations for the position of Chair. Ms. Jackson nominated Mr. Whyte. Mr. De Leon seconded the motion to nominate Mr. Whyte.

Mr. Whyte nominated Dr. Garcia for the position of Chair. Ms. Castillo seconded the motion to nominate Dr. Garcia.

The motion to nominate Mr. Whyte as Chair of the ERB failed by acclamation vote.

The motion to nominate Dr. Garcia as Chair of the ERB passed by acclamation vote.

At this time, Chairman Garcia presided over the meeting and opened the floor for nominations for Vice Chair. Ms. Jackson moved to nominate Mr. Whyte as Vice Chair. Ms. Moreno-Herrera seconded the motion. Mr. Whyte was elected Vice Chair of the ERB by acclamation vote.

### **Continuation of Item 3**

At this time, Mr. Millsap introduced Councilmember Saldaña and asked that he speak on the CCR that he submitted regarding Ethics Code revisions. Councilmember Saldaña spoke in support of comments made by Councilmembers Treviño and Nirenberg regarding their desire to close gaps in the Ethics Code. He voiced concern with the public perception that members of Council were privileged as they could clear themselves of alleged violations.

### **5. Approval of the minutes of the Ethics Review Board Meetings held on July 14, 2016 (Committee) and August 17, 2016 (Board).**

Mr. Whyte moved to approve the Minutes of the Ethics Review Board Meetings held on July 14, 2016 (Committee) and August 17, 2016 (Board). Mr. De Leon seconded the motion.

The motion prevailed by the following vote: **AYES:** Castillo, De Leon, Garcia, Alvarado, Jackson, Moreno-Herrera, Millsap, Whyte, and McGee. **NAY:** None. **ABSENT:** Hilliard.

### **6. Citizens to be Heard**

There were no Citizens to be Heard.

### **ADJOURNMENT**

Mr. Millsap moved to adjourn the meeting. Ms. Jackson seconded the motion.

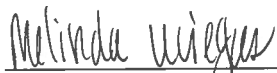
The motion prevailed by the following vote: **AYES:** Castillo, De Leon, Garcia, Alvarado, Jackson, Moreno-Herrera, Millsap, Whyte, and McGee. **NAY:** None. **ABSENT:** Hilliard.

There being no further discussion, Chairman Garcia adjourned the meeting at 7:07 pm.

APPROVED: \_\_\_\_\_

ADRIANA GARCIA, CHAIR

Respectfully Submitted,



Melinda Uriegas, Assistant City Clerk  
Office of the City Clerk