

PANEL OF THE ETHICS REVIEW BOARD

MEETING MINUTES

MONDAY, DECEMBER 13, 2021

A Panel of the Ethics Review Board (ERB) was held on Monday, December 13, 2021 at 6:00 pm in the “B” Room of the Municipal Plaza Building at 114 West Commerce Street, San Antonio, Texas with the following present:

Ethics Members Present: Patrick Lang, Roxana Vargas, Christy Woodward, and Ron Van Kirk

Staff Present: Kevin Barthold, *City Auditor*; Debbie Racca-Sittre, *Interim City Clerk*; Camila Kunau, *Assistant City Attorney*; Maria Perez, *Compliance Auditor*; Rosalinda Diaz, *Management Analyst*; and Melinda L. Uriegas, *Assistant City Clerk*

Also Present: Jeff Harvey, *Petitioner*; Katie Harvey, *KGBTexas*; Baltazar Serna, Jr, *Attorney for Petitioner*; Jessica Serna, *KGBTexas*; and Bert Santibañez, *Campaign Treasurer for Mayor Nirenberg*

CALL TO ORDER

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

ROLL CALL

Ms. Racca-Sittre called the roll noting that a quorum was present.

1. Discussion and possible action regarding a petition for declaratory ruling and waiver filed by Mr. Jeff Harvey.

Kevin Barthold reviewed the following attachments:

- 1) Sworn Request from Mr. Harvey
- 2) City Charter Section 141
- 3) City Ethics Code Section 2-52 Prohibited interests in contracts, Section 2-58 Prohibited interests in discretionary contracts, and Section 2-88 Petition for declaratory ruling and waiver
- 4) Municipal Golf Association San Antonio (MGA-SA) Board Applications
- 5) Financial Disclosure Report excerpts for the periods

Panel Member Woodward asked Mr. Barthold to provide a timeline. Mr. Barthold reported that the conflict was discovered on August 2, 2021 by Maria Perez, Compliance Auditor during the review of the Airport contract solicitation. He stated that discussion between the Purchasing

Department and KGB, Texas resulted in Mr. Harvey's resignation of his City seat on the MGA-SA Board in October 14, 2021. Mr. Barthold explained that the MGA-SA board had 6 seats appointed by City Council and 7 seats were appointed by the MG-SA Board. He stated that on October 22, 2021 the MGA-SA Board Members appointed Mr. Harvey to one of the MGA-SA controlled seats which removed him from being an official Officer of the City.

Baltazar Serna, introduced his client Mr. Harvey who stated that he had been appointed to the board in 2013 and became chairman of the board last year. He explained that his wife informed him that his service on the board would impact her company's (KGB Texas Communication) contracts with the City. Mr. Serna explained that his client has requested that the Ethics Review Board grant a waiver to the requirement for one year.

Panel Member Vargas asked Mr. Harvey if the MGA-SA Board made contracting decisions which Mr. Harvey said they did not.

Katie Harvey explained the various types of work her company performed for the City. She stated that she had City contracts previously during the time her husband was on the MGA-SA Board as well as current City contracts. Panel Member Vargas asked Ms. Harvey the nature of the contracts she had with the City which she replied that the contracts were for marketing services related to homelessness and airport.

Executive Session: Attorney-Client matters may be discussed on any of the items listed above under Section 551.071 (consultation with attorney) pursuant to Texas Government Code Section and Texas Government Code.

Chair Lang recessed the Panel at 6:22 pm to convene in Executive Session, pursuant Texas Government Code Section 551.071 (consultation with attorney) of the Texas Open Meetings Act.

Chair Lang reconvened the Panel at 7:02 pm and announced that no official action was taken during Executive Session.

Ms. Woodward moved that the Panel of the ERB deny the request for waiver of the prohibited interests in contracts with the City for one year after the termination of his service to the City as a Municipal Golf Association-SA Boards City appointee. The recommendation for denial was applicable to any contract sought by Katie Harvey, KGB Texas, or any subsidiary company. Mr. Van Kirk seconded the motion. Motion carried unanimously by those present.

Mr. Van Kirk moved that the Panel of the ERB grant a waiver of the prohibited interest in a contract for previous or current interests in contracts with the City by KGB Texas or any of Mrs. Katie Harvey's companies. Ms. Vargas seconded the motion. Motion carried unanimously by those present.

Chair Lang stated that the recommendations by the Panel of the ERB would be presented to City Council for consideration but could be taken to the City Council Governance Committee upon the Mayor's recommendation.

2. Discussion and possible action regarding an ethics complaint filed by Annette H. Brewster against Ron Nirenberg.

City Auditor Kevin Barthold presented on the following attachments:

- 1) Sworn Complaint by Ms. Annette Brewster
- 2) Municipal Finance Code
 - a. Section 2-302 Limitation of political contributions to candidates or officeholders for Mayor or Council and specific-purpose political action committees.
 - b. Section 2-303 Time Limitation to accept contributions.
 - c. Section 2-307 Electronic filing of Campaign Finance Reports.
- 3) City Ethics Code Section 2-82 Jurisdiction and powers.
- 4) Mayor Nirenberg's Responses received on December 10, 2021 and December 12, 2021.
- 5) Correction/Amendment Affidavits
- 6) Campaign Donation Form
 - a. Mailed Contribution
 - b. Online Contribution
- 7) Contribution Refund Matrix

Executive Session: Attorney-Client matters may be discussed on any of the items listed above under Section 551.071 (consultation with attorney) pursuant to Texas Government Code Section and Texas Government Code.

Chair Lang recessed the Panel at 7:15 pm to convene in Executive Session, pursuant Texas Government Code Section 551.071 (consultation with attorney) of the Texas Open Meetings Act.

Chair Lang reconvened the Panel at 7:43 pm and announced that no official action was taken during Executive Session.

Ms. Vargas moved that the Panel of the ERB find the complaint against Mayor Ron Nirenberg regarding incorrect and prohibited contributions had merit, but that the errors had been mostly corrected and contributions were returned demonstrating a good faith effort to address the issues. Therefore, the Panel shall notify the Mayor that errors were considered unintentional or inadvertent and the Mayor is cautioned to avoid future violations. In addition, the Panel will require the Mayor and his campaign treasurer to attend reporting training by the March 15, 2022 Reporting Deadline. Ms. Woodward seconded the motion. Motion carried unanimously by those present.

Citizens to be Heard.

There were no members of the public registered to speak.

ADJOURNMENT

There being no further discussion, Chair Lang adjourned the meeting at 7:45 pm.

Patrick Lang, Chair

Respectfully Submitted,

Rosalinda G. Diaz, Office of the City Clerk