



City of San Marcos
Special Meeting Agenda
Ethics Review Commission

Wednesday, January 27, 2021

5:30 PM

Virtual Meeting

Due to COVID-19, this will be a virtual meeting.

**To view the meeting, please go to <https://us02web.zoom.us/j/89554674873>
or dial in at 888 788 0099 (toll free) or 877 853 5247 (toll free) **Webinar ID:** 895 5467 4873
or **One-Tap Mobile** +13462487799,,89554674873# or +16699006833,,89554674873#**

I. Call To Order

II. Roll Call

1. Consider approval, by motion, of the January 12, 2021 special meeting minutes.
2. Discuss and take action, as appropriate, on the status of draft Resolutions sent to City Council.
3. Discuss and take actions deemed necessary to prepare for the hearing on Complaint No. 2020-8 including, but not limited to, notification of witnesses and requesting production of relevant documents.

EXECUTIVE SESSION

NOTE: The Ethics Review Commission may adjourn into Executive Session to consider any item listed on this agenda, if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Ethics Review Commission may also publicly discuss any item listed on the agenda for Executive Session.

III. Discussion and Recommendations for Future Agenda Items

Board Members may provide requests for discussion items for future agenda in accordance with the board's approved bylaws. No further discussion will be held related to topics proposed until they are posted on a future agenda in accordance with the Texas Open Meetings Act.

IV. Adjournment

Notice of Assistance at the Public Meetings

The City of San Marcos is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855.461.6674 or sent by e-mail to ADArequest@sanmarcostx.gov.

For more information on the Ethics Review Commission, please contact Tina Moreno at 512.393.8151 or tmoreno@sanmarcostx.gov.



City of San Marcos

Meeting Minutes Ethics Review Commission

Tuesday, January 12, 2021

5:30 PM

Virtual Meeting

I. Call To Order

With a quorum present, the special meeting of the Ethics Review Commission was called to order by Chair Garcia at 5:31 p.m. on Tuesday, January 12, 2021.

II. Roll Call

Present: 6 - Chair Garcia, Commissioner Lollar, Commissioner Rice, Commissioner Taylor, and Commissioner Teehan. Commissioner Walden arrived at 5:33 p.m.

Absent: 0

Others Present: Lisa Marie Coppoletta, Jody Barr, KXAN, Loy Locke, Jordan Buckley, Stephanie Gates, and Terra Rivers

1. Executive Session under the authority of Section 2.444 of the San Marcos City Code to review Complaint 2020-8.

A motion was made by Commissioner Lollar, seconded by Commissioner Teehan, to enter into Executive Session at 5:38 p.m. to review Complaint 2020-8. The motion carried by the following vote:

For: 6 - Chair Garcia, Commissioner Lollar, Commissioner Rice, Commissioner Taylor, Commissioner Teehan, and Commissioner Walden

Against: 0

The Commission returned from Executive Session at 6:30 p.m.

A motion was made by Commissioner Lollar, seconded by Commissioner Taylor, to have a brief recess to allow attendees to establish reconnection to the virtual meeting. The motion carried by the following vote:

For: 6 - Chair Garcia, Commissioner Lollar, Commissioner Rice, Commissioner Taylor, Commissioner Teehan, and Commissioner Walden

Against: 0

The Commission reconvened into Open Session at 6:47 p.m.

2. Action, as appropriate, on Complaint 2020-8.

A motion was made by Commissioner Lollar, seconded by Commissioner Taylor, this Commission determines Complaint 2020-8 is found in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of this article or a state conflict of interest law and that we schedule a hearing on the complaint for February 11, 2021 at 5:30 p.m. The motion carried by the following vote:

For: 6 - Chair Garcia, Commissioner Lollar, Commissioner Rice, Commissioner Taylor, Commissioner Teehan, and Commissioner Walden

Against: 0

3. Consider approval, by motion, of the November 10, 2020 regular meeting minutes.

A motion was made by Commissioner Teehan, seconded by Commissioner Taylor, to approve the minutes. The motion carried by the following vote:

For: 6 - Chair Garcia, Commissioner Lollar, Commissioner Rice, Commissioner Taylor, Commissioner Teehan, and Commissioner Walden

Against: 0

4. Discuss and take action, as appropriate, on Citizen Comments submitted to ERC, including crafting procedures for responding to citizen correspondence.

This item was discussed and no action taken.

5. Discuss Citizen Comments submitted to ERC on August 12, 2020 by Lisa Marie Coppoletta and consider action as deemed appropriate by the Commission.

A motion was made by Commissioner Lollar, seconded by Commissioner Walden, to approve the response letter crafted this evening by the ERC and send it to Ms. Coppoletta. The motion carried by the following vote:

For: 6 - Chair Garcia, Commissioner Lollar, Commissioner Rice, Commissioner Taylor, Commissioner Teehan, and Commissioner Walden

Against: 0

6. Discuss and take action, as appropriate, on the status of draft Resolutions sent to City Council.

This item was discussed and no action taken.

III. Discussion and Recommendations for Future Agenda Items

ERC special meeting on January 28, 2021:

- discuss and take action, as appropriate, on the status of draft Resolutions sent to Council
- discuss and take action, as appropriate, on preparations for the impending hearing on February 11, 2021

ERC regular meeting on March 9, 2021:

- discuss and take action, as appropriate, on the status of draft Resolutions sent to Council
- discuss and take action, as appropriate, on creating an informational video for the ethics violation complaint form, to be placed on the City's website

IV. Adjournment

The Special Meeting of the Ethics Review Commission meeting was unanimously adjourned at 8:03 p.m.

Michael Cosentino, Staff Liaison

Lee Garcia, Chair

CITY OF SAN MARCOS ETHICS REVIEW COMMISSION RULES OF PROCEDURE FOR HEARINGS

HEARING

In accordance with Section 2-444 of the City Code of Ordinances, if the Commission determines that the complaint is in proper form and alleges sufficient facts to constitute a prima facie violation of a provision of the Ethics Code or a state conflict of interest law, the Commission shall schedule a hearing on the complaint. The following rules of procedures will be used to govern a hearing on a complaint. The rules will allow for the presentation of evidence by the complainant and the person accused, and cross examination of witnesses. The hearing shall be held in accordance with the Open Meetings Act.

EVIDENCE AND WITNESSES

Physical evidence (documents, photographs, exhibits, etc.) must be submitted at least **21 days** before the hearing to all parties and the Ethics Review Commission.

The Ethics Review Commission may call city employees as witnesses. The complainant and the person accused may also call any witnesses with relevant knowledge of the matter before the Commission. The witnesses must have personal knowledge of the circumstances of the charges. Character witnesses or witnesses without personal knowledge are not acceptable and will not be permitted to testify. The Chair, or the Recording Secretary, will administer oaths to persons who testify at the hearing.

If the Commission decides to call City witnesses, it must notify them at least **ten (10) working days** before the hearing. Recording Secretary shall notify such witnesses. If complainant or the person accused wish to call City witnesses, they must provide the names to the Recording Secretary **ten (10) working days** before the hearing so that she will have sufficient time to notify the city witnesses. Witness identity submitted to the Recording Secretary must include the following information:

1. Name of Witness
2. Telephone Number of Witness
3. Department and Supervisor of Witness

PLACING WITNESSES UNDER THE RULE

Upon request by either party or the Chair of the Commission, the witnesses on both sides shall be sworn and removed from the hearing room so they cannot hear the testimony as delivered by any other witness in the case. Both the complainant and the person accused may stay in the hearing room, regardless if they are later called to testify.

Witnesses under the rule shall be instructed that they are not to converse with each other or with any other person about the case, other than the attorneys or representatives in the case.

REPRESENTATION

The person accused of a violation, and the person or persons alleging the violation, may be represented at the hearing by any person of their choice, including an attorney. Only one person will act on behalf of each side in the presentation of the case before the Commission.

HEARING PROCEDURES

The format for hearings on alleged violations of the Code of Ethics will be as follows:

- (1) Introduction of hearing by Chair and having all parties introduce themselves for the record. Attorney representing the Commission shall outline the nature of allegation, ordinance provisions involved, and issues to be determined by the Commission.
- (2) Presentation of evidence by complainant of violation (including testimony, witnesses, documents, tangible items). Witnesses may be cross-examined by accused person or representative and members of the Commission.
- (3) Presentation of evidence by accused person (including testimony, witnesses, documents, tangible items). Witnesses may be cross-examined by complainant or representative and members of the Commission.
- (4) Commission may request the testimony of any witness or evidence they deem relevant to the hearing.
- (5) Rebuttal presentation of evidence by complainant.
- (6) Rebuttal presentation of evidence by accused person.
- (7) Summation remarks by person alleging violation or representative.
- (8) Summation remarks by accused person or representative.

SUMMATION

The complainant and the person accused or their representatives will have a maximum of **ten (10) minutes** to summarize.

DELIBERATIONS

The Commission may recess into Executive Session to determine, by a preponderance of the evidence, whether any of the alleged Code of Ethics rule violations were committed. Once the Commission has adequately discussed the matter in Executive Session, the Commission must then reconvene the hearing into Open Session and render the determination in Open Session. If the commission determines at the conclusion of a hearing that a violation has occurred, it may impose or recommend any of the sanctions authorized by Section 2-444 (e) of the City Code of Ordinances. If the Commission determines that a good cause for continuance exists, the hearing may be continued to a future date.

DECORUM

Both the complainant and the person accused and representatives must be respectful to Commissioners, witnesses and each other. No person present shall be permitted to indulge in personalities, use language personally offensive, and question motives of the Commissioners or charge deliberate misrepresentation. IT IS IMPERATIVE THAT THE CHAIRPERSON MAINTAIN ORDER AT ALL TIMES. THE CHAIRPERSON MUST NOT PERMIT DEBATE OR COMMENTS

FROM ANY PERSON WHO HAS NOT BEEN RECOGNIZED. INTERRUPTIONS MUST BE SILENCED BY VOICE, USE OF THE GAVEL OR OTHER MEANS, AND, IN THE EVENT OF ANY PERSON'S FAILURE TO HEED THE DIRECTIONS OF THE CHAIRPERSON, THE OFFICER MAY HAVE THAT INDIVIDUAL REMOVED FROM THE ROOM.

All cell phones must be either turned off or on the vibrate mode and there will be no loud talking while witnesses are testifying.