

NOTICE OF PRELIMINARY HEARING



City of Austin
Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088
Austin, Texas 78767-1088
(512) 974-2268

July 5, 2023

Via Email:

Scott Cobb

[REDACTED]

[REDACTED] Austin, Texas 78731

[REDACTED]

Re: Notice of Preliminary Hearing before the City of Austin Ethics Review Commission

Preliminary Hearing Date and Time: July 19, 2023 at 6:00 p.m.

Location: Hybrid In-Person and Virtual Meeting via Webex

Austin Permitting & Development Center, PDC Room #1405

6310 Wilhelmina Delco Drive, Austin, Texas 78752

Mr. Cobb:

On July 19, 2023, at the time stated above, the City of Austin Ethics Review Commission (“Commission”) will hold a preliminary hearing pursuant to Section 2-7-44 of the Austin City Code on the complaint filed on June 27, 2023 by Complainant Scott Cobb against Respondent Nina Rinaldi, a Member of the City of Austin’s Parks and Recreation Board.

The issue to be addressed at the preliminary hearing will be whether there are reasonable grounds to believe that a violation of a provision within the jurisdiction of the Commission has occurred. Specifically, the Commission will consider whether reasonable grounds exist to show that Respondent Rinaldi violated Austin City Code Section 2-1-24 (City Boards, Conflict of Interest and Recusal). Complainant Cobb has alleged that Respondent Rinaldi failed to recuse herself from the Parks and Recreation agenda item pertaining to the Zilker Vision Plan despite having conflicts of interest. City Code Section 2-1-24, provides:

§ 2-1-24 CONFLICT OF INTEREST AND RECUSAL.

- (A) This section is cumulative of Chapter 2-7 (Ethics and Financial Disclosure) and Local Government Code Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments). Under this section a board member has a conflict of interest if the City Code or another law prohibits the board member from taking action on a vote or decision before the board.

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- (B) At each meeting, a board member shall sign an attendance sheet and shall indicate:
 - (1) That the board member has no conflict of interest related to any item on the agenda; or
 - (2) The number of an agenda item for which the board member has a conflict of interest.
- (C) At each meeting of a committee to which a board member is appointed, a committee member shall sign in on a sheet provided and shall indicate:
 - (1) That the committee member has no conflict of interest related to any item on the committee meeting agenda; or
 - (2) The number of an agenda item for which the committee member has a conflict of interest.
- (D) For purposes of the requirements of Subsections (B) and (C), a board member who is participating virtually via videoconference may submit a signed and scanned version of the attendance sheet, or other document prescribed for that purpose by the city clerk, via email to the staff liaison and board Chair upon or before virtually joining the meeting; other delivery methods of the form are acceptable as long as the staff liaison has the signed form by the start of the meeting.
- (E) Except as provided by Subsection (D), failure by a member to comply with Subsection (B) will result in that member being counted as absent from the board meeting; such an absence is an unexcused absence. Any vote or votes cast by a member who fails to comply with Subsection (B) or (C) will not be counted at the board or committee meeting at issue.
- (F) Chapter 2-7, Article 3 (Violation: Complaint and Hearing Procedures) applies to this section, and a sworn complaint alleging a violation may be filed under the procedures of that article. If the Ethics Review Commission determines that a violation of this section has occurred, it shall follow the procedure required by Section 2-7-47 (Prosecution).

Attached to this notice are copies of the redacted complaint and Austin City Code Chapter 2-7 (Ethics and Financial Disclosures) and Chapter 2-1 (City Boards), which includes Code Section 2-1-24. The Austin City Code is also available online at: https://library.municode.com/tx/austin/codes/code_of_ordinances. The Commission rules are available on the Commission's webpage at: <https://www.austintexas.gov/content/ethics-review-commission>.

Complainant and Respondent have the right to retain legal counsel to represent them in this matter. The procedures for the Preliminary Hearing are articulated in Austin City Code Section

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2-7-44 and the Hearing Rules. Complainant Cobb is required to attend the preliminary hearing. Respondent Rinaldi has the right to attend the preliminary hearing but is not required to do so.

Please be advised that any statements made by the parties or their counsel at the preliminary hearing shall be under oath, but no cross examination will be allowed. No witnesses, other than the parties or their counsel, are permitted to make statements at the preliminary hearing. The Commissioners may ask questions of the parties, their counsel, and the Commission's counsel.

Although there is no requirement that either party submit evidence or a written statement to the Commission before the hearing, the Commission may consider a sworn statement of either party or submission of other documents at the preliminary hearing. **To give the Commission sufficient time to review such evidence and statements, please submit by 5:00 p.m. July 12, 2023 any documents (other than the complaint) that you wish the Commission to consider by emailing: Lizette.Benitez@austintexas.gov.** The maximum size for receipt of attachments by a single email is 25 megabytes. A party may send documents by more than one email, but please identify the number of emails to be received. Alternatively, a party may hand-deliver paper documents, or hand-deliver electronic documents by thumb drive / travel drive, to the 4th Floor of City Hall, 301 West Second Street, Austin Texas 78701. Please do not submit evidence directly to the Commissioners.

Ex Parte Communications Prohibited: Neither party is allowed to communicate with the Commission or any individual Commissioner prior to the hearing. All communications related to scheduling conflicts, procedural concerns, or otherwise should be made to me or to counsel for the Commission. You may contact counsel for the Commission, Victoria Hayslett, via email victoria.hayslett@austintexas.gov.

Please confirm whether you (the attorneys and each party) are able to attend the hearing at the date and time specified in this notice by contacting me by 5:00 p.m. on July 7, 2023 at Lizette.Benitez@austintexas.gov. In your email, please specify whether attendance will be in person or virtual. If you wish to request a postponement, please provide a written postponement request by email, and include a statement of your reasons for not being able to attend the preliminary hearing in-person or virtually as scheduled.

On behalf of the Commission, thank you for your cooperation in this matter.

Sincerely,
/s/ Lizette Benitez
Lizette Benitez
Staff Liaison
Ethics Review Commission
Law Department, City of Austin

Attachments

cc: Ethics Review Commissioners (by email)
Neal Falgoust, Division Chief, City of Austin Law Department (by email)

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Victoria Hayslett, Assistant City Attorney, City of Austin Law Department (by email)

Wajiha Rizvi, Assistant City Attorney, City of Austin Law Department (by email)