

1 **Special Called Ethics Review Commission Meeting Transcript, October 20, 2014: Item 2C**

2
3 Roll Call:

4
5 Austin Kaplan

6 Peter Einhorn

7 Dennis Speight

8 Donna Beth McCormick

9 James Ruiz

10 James Sassin (not present)

11 Sylvia Hardman-Dingle (not present)

12 Cynthia Tom

13
14 **Austin Kaplan:** We move on to item 2C. Power, duties and functions of the Commission and
15 the City Auditor, including City Council Resolutions No. 20141016-024 and 20141016-033 and
16 report and possible recommendations from working group Kaplan, Einhorn, Sassin and Staff.
17 These are the – we have – we’ve prepared something. Do you want to do citizen’s
18 communications? I’m going to defer to the Commission. Do y’all want to hear from citizen’s
19 communications before we start this? I see a lot of nodding heads. And just so y’all know as
20 we’re talking about this we’re not agendized for action on this today, but we will of course
21 reconvene on the 28th.

22
23 **Cindy Tom:** So we’re on notice to talk about the powers, duties and functions of the
24 Commission and the powers, duties and functions of the City Auditor including, specifically,
25 those two City Council resolutions that are in your back-up and which passed City Council last
26 week and also the report from the working group related to those same issues. Later, at item
27 five, we have future agenda items which may be relevant to the request by Mr. Whellan.

28
29 **Kaplan:** Thank you, Cindy. Mr. Whellan, do you want to address the Council?

30
31 **Michael Whellan:** Mr. Gregory and I, we’re gonna both, it’ll be quick. A total of four minutes
32 maybe, together rather than a total of six minutes. This is more of a discussion than anything
33 else. I understand there’s no action.

34
35 **Cindy Tom:** When you start to speak just say, “you are...”

36
37 **Michael Whellan:** I’m Michael Whellan on behalf of Texas Disposal Systems. I did send a
38 letter to you which I’ve also given to Council to be part of the record. I sent it to Ms. Tom. She
39 was copied along with everybody else. We are here to talk about the process, the powers, duties
40 and functions of the ERC and the City Auditor combined. It is both of them independently, but
41 also how they relate to one another. In a very quick glance on your working group I noticed you
42 do have a very powerful statement here about how the ERC could run the risk of becoming a
43 body whose opinion is not relevant because it no longer has sufficient jurisdiction to truly act as
44 the independent ethics watchdog it was created to be. And I emphasize the “independent ethics
45 watchdog it was created to be” because what we have here and what the Council has stated in its
46 resolution, which you now have seen, is that the Auditor acted well beyond its jurisdiction and

47 took over your jurisdiction to make decisions about guilt and innocence related to ethics
48 complaints. We know that from the resolution, when the resolution in its “whereas,” and this is
49 attached to your background, indicated that it had – that is you, the Ethics Review Commission –
50 has sole jurisdiction over rulings on sworn complaints. We are asking - the specific ‘ask’ tonight
51 is that you put on your agenda for October 28th action on a resolution, and again this is in my last
52 paragraph in my letter, second page, we’re seeking that there be discussion and adoption of a
53 resolution to invalidate the unauthorized actions that were taken by the City Auditor in this report
54 and to affirm the importance of following the Ethics Review Commission process established in
55 the city code protecting individual rights. We need a resolution on this, Commission. We’ve
56 asked you twice before. We’re here again to ask because it protects all of the members of Boards
57 and Commissions. It protects them all and, frankly, if you read the article that I attached from
58 the Statesman the Auditor doesn’t get it. Despite the fact that a resolution was passed by the
59 Ethics Review Commission, which requires a conspicuous notice on any reference to this report
60 –

61
62 **Bob Gregory:** City Council.

63
64 **Michael Whellan:** Excuse me, City Council. City Council is requiring a conspicuous notice –
65 this is on the last page of the resolution, second to last page of the resolution, that there be –

66
67 **Cindy Tom:** And you guys have the resolution as part of your back-up?

68
69 **Michael Whellan:** There’s a conspicuous resolution that’s supposed to be attached that their
70 report has not been accepted by the Austin City Council on the subject to resolution number
71 20141016-024 passed on October 16, 2014. Instead of complying with this resolution the
72 Auditor’s representative, if you look at page three of the article, last page of the Statesman article
73 from this weekend stated that the Auditors followed standard procedures for the investigation
74 and, this is the quote, “before and after we issued the report we reviewed the evidence collected
75 and determined that it was sufficient to support our conclusions.” Again, “after we issued the
76 report.” There should have been a reference by him that the report was not accepted by the City
77 Council and it had been rebuked. So why do we feel so strongly that it should be invalidated?
78 Obviously we have spent a lot of time and money and attention on this and it’s because of the
79 very reason that you’re working group is identified. So that we have independence and integrity
80 in this system and so that no other member of any Board or Commission is treated the way
81 Daniela was and treated the way Texas Disposal Systems was; so that our businesses and our
82 Commission and Board members are protected the way they should be protected. The other
83 reason is the charter and city code do not allow the Auditor to go beyond their jurisdiction. You
84 are the sole body that has jurisdiction over ethics complaints; sworn complaints. Third, the
85 Auditor did not follow the processes or the procedures that are specifically outlined for the
86 Auditor. It’s frankly outrageous for the Chief of Investigations to say that they followed standard
87 procedures when the day before, if you look at the resolution again, the day before, it’s on page 4
88 or 5 again the Council quote, “objects to the failure to follow the Ethics Review Commission
89 process.” I mean, give me a break. I think what is also important is that you have the
90 jurisdiction to pass a resolution to invalidate a report that has exceeded its authorization and to
91 make a firm statement so that we can end this now and we don’t have to go yet to another
92 jurisdiction to seek clarity on how this failure hurts members of Boards and Commissions. The

93 integrity of the process is critical to our City and service on these Commissions and this
94 Commission should frankly not tolerate somebody who is unwilling to follow the law and
95 continues even after being rebuked by the City Council to publically make statements otherwise.
96 Again, our 'ask' is very specific: on your agenda for October 28th you add an item for discussion
97 and adoption of a resolution to invalidate the unauthorized actions that were taken by the City
98 Auditor in his report and to affirm the importance of following the Ethics Review Commission
99 process established in the city code protecting individual rights. I think that's all I have. Do you
100 want to add anything?

101
102 **Bob Gregory:** I'll just very quickly – first of all, I'm Bob Gregory the president and principal
103 owner of Texas Disposal Systems. I've been before you before talking on this issue. Thank you
104 for the opportunity to come again. As usual Michael did a great job of summarizing our points.
105 I would just encourage you particularly on point with this agenda item today to please note what
106 the City Council said in their resolution last Thursday on Daniela's issue and to encourage you to
107 keep the process crystal clear that the Ethics Review Commission has sole jurisdiction to
108 determine guilt concerning conflict of issue complaints sworn against appointed Boards and
109 Commissions members. I think that's critically important. I believe due process rights are
110 critically important. I think it's a travesty what happened to Daniela and to TDS with the
111 Auditor's report and I would like to make sure, and my job won't be complete until I feel like
112 I've done my part to make sure that doesn't happen to anybody else again. You guys are the
113 Commission with sole jurisdiction. We ask you to keep it and we hope you will put an agenda
114 item next week on your – or on the 28th – so that an issue can be considered so a resolution can be
115 passed. We're not asking a sworn complaint to be considered, but that a resolution be passed so
116 hopefully we can put an end to this as Mike said. Thank you very much for the opportunity. I'm
117 happy to answer any questions that any of you might have.

118
119 **Kaplan:** We don't usually do questions for citizen's communication, so thank you. So let's
120 move on to 2C with the benefit of some of that background information and this additional letter
121 brief and the short, comparatively short - gosh it's heartening to call a three page document short
122 at this point in the evening - draft statement of principles. Thank you, Commissioner Einhorn for
123 taking the lead on drafting this and working the working group. The working group is Vice-
124 Chair Einhorn, myself, and Commissioner Sassin. Commissioner Einhorn, do you want to talk a
125 little bit about this report?

126
127 **Einhorn:** I don't know. I guess the working group kind of was formed after the hearing on
128 Daniela's – Ochoa Gonzalez's...the report. There was not a hearing; it was just an agenda item.
129 Is that correct?

130
131 **Cindy Tom:** Yeah. It was an agenda item on a meeting, but there is no group.

132
133 **Kaplan:** And so we – there were some jurisdictional questions were raised about where, you
134 know, what jurisdiction the Auditor's office has with regards to the code of ethics versus the
135 Ethics Review Commission who can make a determination that a violation has occurred and so
136 the working group did several things. We asked for a legal opinion from the City Attorney and
137 then we got bogged down with preliminary hearings this Fall and this kind of fell off the radar

138 and then it was pushed back to the floor when items came before the Austin City Council. And
139 so we sort of hastily jumped back into the fray. We received the legal opinion three weeks ago?
140

141 **Cindy Tom:** Um...

142
143 **Kaplan:** From the City Attorney?
144

145 **Cindy Tom:** Council got it, I think around the 24th of September and due to my unfortunate car
146 accident after the last Commission meeting you did not get it until the next week.
147

148 **Kaplan:** Okay, alright. So and essentially, you know, the words kind of speak for themselves,
149 but the jurisdiction questions that we kind of raised were, “what is the role of the independent
150 citizen panel?” and the thing that we really grappled with was the due process; the importance of
151 due process. Having somebody who has had a complaint sworn against them, have an
152 opportunity to respond to that. I guess I just don’t know if we want to go through these bullet-
153 point by bullet-point, but I’m certainly happy to answer any questions.
154

155 **Cindy Tom:** Do you want to talk about the resolutions before you go through this or do you
156 want to start with this – you know Council, as I’m sure you know from me telling you, City
157 Council specifically requested that the Commission consider the proposed amendments to
158 chapter 2-3 and chapter 2-7 at tonight’s meeting. I don’t know if this working group draft
159 statement of principles is responding to that resolution at all.
160

161 **Kaplan:** Well, I think putting the item up for discussion on the agenda is responding to that
162 direction and we have representatives from the Auditor’s office here with us. Y’all want come
163 on and join us at the table. Maybe we can kind of begin the discussion. I think the statement
164 from the working group is the idea of the working group as kind of a core of what we want to
165 see, but that obviously isn’t necessarily reflective of the whole Commission. Of course we have
166 five of us, not all seven of us are here today, but enough certainly to get a sense of what the full
167 Commission...
168

169 **Cindy Tom:** So I would, just so everybody is on the same page here with regards to the
170 resolutions and what passed Council last week and what they’re asking as just sort of
171 background for y’all. On the resolution that ends in 024 which starts out with the whereas
172 related to Daniela Ochoa Gonzalez there is a “be it resolved” on the end of page three which says
173 the City Clerk and the City Auditor are directed to coordinate meetings between the Ethics
174 Review Commission working group and the Integrity Unit of the Office of the City Auditor to
175 discuss process clarification and improvement for conflict of interest allegations, which the City
176 Auditor receives against Boards and Commissions members and results should be reported back
177 to Council within 90 days so that’s a direction through the Clerk who formed the Ethics Review
178 Commission working group which consists of Chair Kaplan, Vice-Chair Einhorn and
179 Commission Member Sassin, who is not here tonight, to work on that and come back to Council
180 within 90 days. The other resolution which ends in 033, these are the – let me recognize it as an
181 item from Council Member Spelman and language was added on the Dais last week by Council
182 Member Morrison on page 12 at the top. “Be it further resolved the City Manager shall process
183 the amendments and present them to the Ethics Review Commission at its meeting on October

184 20, 2014, and Council for consideration on or before November 20th, 2014, as City Manager may
185 revise the proposed code language to comply with city charter requirements and other laws.” So
186 there are other mentions of the Ethics Review Commission throughout both resolutions, but I
187 think that those were sort of the most important ones that give direction either for the City
188 Manager to present these to the Commission. I suppose that is why I’m representing the City
189 Manager in this capacity and presenting you with the proposed amendments to those resolutions.
190 And then the other piece is for the working group. Do note that November 20, 2014, date, that is
191 the date that Council has expressed it would like a more final version of the code amendments to
192 come back. And so the Law Department will be working on that in coordination with other
193 folks, but if the Commission would like to make a recommendation to Council relating to the
194 proposed amendments you can do that tonight. You could also talk about it tonight, think about
195 it, maybe have the working group draft something like that if what they already drafted isn’t
196 sufficient and could bring it back on the 28th as well, but it won’t be back before Council, I do
197 not believe, until November 20th. And with that background, feel free, Chair, to take the items
198 up in whatever order you want to discuss.

199
200 **Kaplan:** Mr. Cousar, do you have additional thoughts for us at the moment or should we refer
201 back to you in a little while?

202
203 **James Cousar:** I wanted to be here in part as a resource because in 1985 and 1986 I spent a
204 substantial part of that year as part of the original Blue Ribbon Ethics Review Committee that
205 drafted what is basically the current ordinance. Now it’s been tinkered with over the last 29, 28
206 years and there was a very, what was widely charitably called a toothless Ethics Ordinance in
207 place prior to ’86, but what you’re working with today really is the work of the Blue Ribbon
208 Commission in 85, 86. Each Council Member appointed a member – there was Monsignor
209 Reyes, the Bishop of the Catholic Diocese here and pastor of the Baptist Church downtown. We
210 had people with experience in state government and people with experience in municipal
211 government who then had a common cause. I was a very young lawyer at the time, but the point
212 I was going to make in this process is that it shouldn’t – I really wouldn’t like the Commission to
213 lose sight of the fact that the ordinance was drafted to create conflict of interest standards and
214 procedures for elected officials in the City of Austin, Board and Commission members, and city
215 officials who were not elected and city employees. The standards are standards that were drafted
216 to apply to all four of those categories: elected officials, non-elected officials, city employees and
217 Board and Commission members and it’s my understanding that there’s some sentiment on the
218 Council to say take elected officials and city employees outside the purview of the Ethics
219 Commission and I think that would basically undercut half or more of what the original
220 ordinance was intended to do. And there was no thought time in 1985 for setting up a separate
221 investigative procedure as opposed to a citizen review procedure with due process or elected
222 officials and city employees. So, again, I wasn’t party to the discussion at the Council the other
223 day. I was startled to hear that it was even being considered to take city employees and elected
224 officials outside of this Commission’s jurisdiction.

225
226 **Kaplan:** Amen.

227
228 **Cindy Tom:** So what Mr. Cousar is referring to is page 11 of the ripped out resolution that ends
229 in 033. You’ll see there’s only one section of proposed code amendments as it was passed.

230 That's not to say that a more complete ordinance might not need some other amendments to
231 other sections in chapter 2-7, but as the resolution was passed section 2-7, 2-6 functions at the
232 bottom of page 11 of the resolution you'll see the underlined new language that makes the
233 change or would propose to make the change that Mr. Cousar is referring to. So previously the
234 section said the Ethics Review Commission has jurisdiction over this chapter. This chapter being
235 2-7 which includes Article One, which is general provisions, Article Two which is specific to the
236 Ethics Review Commission, Article Three which is specific to your Ethics Review Commission
237 complaint hearing procedures, Article Four which is the code of ethics which includes the
238 conflict of interest sections and some others. Article Five, which is financial disclosure of
239 statements of financial information, and Article Six which is the anti-lobby which you currently
240 do not actually have jurisdiction over set forth in six. So previously, or currently, you have
241 jurisdiction over all of chapter 2-7. Under the proposed amendments you can see it says the
242 Ethics Review Commission has jurisdiction over this chapter – chapter 2-7 – except that the
243 Commission only has jurisdiction over Article Four, code of ethics of this chapter as it applies to
244 non-salaried city officials. So the difference would be that Article Four currently applies to all
245 city officials as that's defined in Article One. Salaried, compensated or not, and also applies to
246 city employees. So what you would be giving up would be jurisdiction to hear complaints
247 alleging violations of the code of ethics by employees and by salaries city officials. You would
248 retain jurisdiction to hear complaints alleging code of ethics violations over non-salaried city
249 officials, which would at the very least include Board and Commission members. We're still
250 working out the details as to whether folks like City Council members are considered salaried or
251 not, but you might be also be losing jurisdiction over City Council when it comes to the code of
252 ethics as written in the proposed resolution. You would retain your current and full jurisdiction
253 over Article Five of chapter 2-7 which is the statements of financial information; it would just be
254 the Article Four where you would lose some of that jurisdiction. And then there's language at the
255 end about referring complaints to the auditor after consultation with the city attorney, the city
256 clerk shall forward to the city auditor any complaint alleging violation of Article Four of this
257 chapter by a salaried city official or city employee. The clerk is here today. I don't know that
258 she has any thoughts on that section she wants to share today, but –

259
260 **James Cousar:** Mr. Chair, before we move on, there's just one more thing. The impetus for this
261 ordinance in 1985 was because there was a then mayor in the city of Austin, it was widely
262 believed, to have a financial interest in property that was coming before the city for zoning and
263 entitlement votes and when reviewed by city legal at the time it became apparent that there
264 wasn't in city law any mechanism to deal with that and that was the opinion of the city attorney
265 and that led to the appointment of a seven member commission to come up with conflict of
266 interest standards that would address, in that case, an elected official. And so again, I don't think
267 it was ever intended that this was primarily for non-salaried and appointed city officials.

268
269 **McCormick:** My question is, yes, the City Council is paid, but they're not elected, too, so here
270 you've got two entities really. Do they fit under just paid? Do they fit under elected? Or do we
271 have to have something that includes elected? Paid?

272
273 **James Cousar:** I guess my response to that was I don't see any reason to change the current
274 jurisdiction which does apply to –

275

276 **McCormick:** No, but with all the discussion that's gone on...
277
278 **Cindy Tom:** Current definition of city official is pretty specific. It would include the mayor,
279 council; it would also include other folks – department heads, city manager, judges. It's a fairly
280 expansive definition. It could also theoretically – I mean it does include people who receive a
281 salary and might also be thought of in a different context of an employee, but there is that
282 definition of city official as set out in Article One and it would include both city council, folks
283 like department heads and folks who aren't compensated like Board and Commission members.
284 It's a fairly encompassing definition as it's currently written.
285
286 **McCormick:** Cause, see, we're appointed –
287
288 **Cindy Tom:** Elected or not, it wouldn't matter.
289
290 **McCormick:** Elected and salaried; we're appointed but not salaried.
291
292 **Cindy Tom:** Right.
293
294 **Kaplan:** Commissioner Einhorn?
295
296 **Einhorn:** I'm having a hard time squaring in my head how the same city council passed both
297 these resolutions on the same day. It seems pretty ridiculous to me actually. They complain
298 about the Auditor's process and then they strip the Ethics Review Commission of its jurisdiction
299 and give it to the Auditor's office so that makes no sense to me whatsoever. It also seems
300 ridiculous to me that we have a citizen panel and that citizen panel would not have jurisdiction to
301 hear complaints against the Mayor and the City Council and high-ranking city officials. So, to
302 me, that's completely unacceptable.
303
304 **Corrie Stokes:** If I may?
305
306 **Kaplan:** Sure and why don't we do this. Noting the head nodding and sighing happening on the
307 Ethics Commission side of the table. Y'all here from the Auditor's office, will you introduce
308 yourself?
309
310 **Stokes:** Certainly. I'm Corrie Stokes. I'm the Deputy City Auditor.
311
312 **Hadavi:** Jason Hadavi, I'm the Chief of Investigations.
313
314 **Kaplan:** Hi, Jason. Nice to meet you, Corrie.
315
316 **Stokes:** A couple of clarifications. One, I guess, just starting with language. I heard from our
317 City Attorney's office and I think this has been something we've been talking about for a while,
318 but I heard the language "lose jurisdiction" and I don't think this is about losing jurisdiction or
319 gaining jurisdiction. I think it's about clarifying jurisdiction. So what's happened obviously is
320 we had a situation where we had some overlap in jurisdiction. 1985 – it sounds like 1985 or
321 1986 is when this code of ethics or the ethics sections of our city code came into being.

322 **Cindy Tom:** 1976.

323

324 **Cousar:** Well, it was strengthened in 1976.

325

326 **Stokes:** Right. Strengthened. But in 1990 an independent City Auditor was created. Those
327 charter amendments in '90 to '92 were created to set up our function and shortly thereafter the
328 fraud, waste and abuse hotline started so you have kind of subsequent to that, we have a hotline
329 where anyone can call it and leave us an anonymous – or they can also be associated with their
330 allegation. It doesn't have to be anonymous, but they can give us a tip. Essentially it's a whistle
331 blower hotline so we've operated that hotline now for over, well, since at least 1995, maybe a
332 little bit longer. And I think what happened here is where we got into the overlap. We have
333 previously had allegations against city officials under that definition. This was the first one
334 where we had a substantiated allegation against a volunteer Commissioner and obviously where
335 we ended up was not where anybody wanted us to end up in terms of process and so we are here
336 trying to figure out what these distinctions should be. But the version adopted, or the resolution
337 passed by Council is a starting place. There's a reason we're here. We've been sitting down
338 with the City Attorney, we've made some minor revisions based on our discussions with them to
339 clarify different sections of this resolution or of the code language contained in this resolution,
340 but I think the Council Members made it pretty clear last week that this is not a "take this and go
341 forth." This is "a discussion needs to happen." And so related to jurisdiction related to sections
342 about Council – what we're trying to do is, previously having had allegations against Council
343 Members, against the City Auditor, against other high-ranking city officials. We've had to
344 navigate that on a case by case basis working with Mayor and Council to figure out how to
345 proceed and I think what we'd like to do is get past that; have it codified, have a clear process so
346 we don't end up here again.

347

348 **Einhorn:** My understanding of the roles as outlined in the City Attorney's opinion to us is that
349 there isn't an overlap of jurisdiction - it's that you guys have investigative authority and we have
350 the authority to determine if a violation of the code of ethics has occurred. The real snafu we ran
351 into in the case we heard with Daniela Ochoa Gonzalez is that we had no provision for you guys
352 to talk to us about the nature of your investigations so we couldn't do anything with it. We get
353 this investigation, you know, it says we found this, but you can't go into sort of substantiating
354 that finding which is what we do when we go through the preliminary and final hearing process.
355 We hear evidence. And I certainly understand that there's a reason for you guys to protect your
356 investigative process and I do think it's important that we have an anonymous complaint process
357 as we have outlined in our statement from the working group, but you know, to me it's not an
358 overlap of jurisdiction. To me, the Ethics Review Commission is the determining entity with
359 regards to violations of the code of ethics. Now if there's a criminal violation I think that there's
360 probably a process, you know, whether you go through APD or you go to the prosecuting entity
361 to do an investigation, but you know, for civil violations there's an investigative process and then
362 there is a due process.

363

364 **Kaplan:** Further discussion from Commissioners?

365

366 **Ruiz:** One issue that I had, that gave me the most concern, simply even touching on what
367 Commissioner Einhorn said. I think criminal prosecution – it would then become public as to

368 what the evidence was. To this day we have no idea. You again used the word “substantiated.”
369 I’ve never seen any substantiation and when the issue was raised it was privileged; it not even
370 subject to disclosure under a Public Information Act request and that, to me, is something that
371 needs to be clarified because otherwise you can have the Auditor’s Office make a statement like,
372 “there was a violation” and never have to disclose why; what evidence did it have, which was the
373 issue with this case. No transparency. How can one defend themselves when they’re accused of
374 a violation when they weren’t told the evidence that substantiated it? And to this day it’s never
375 been disclosed. And that, to me, is why it’s good to have the investigation. You can have
376 confidential informants, but if you’re going to get to the point of making a finding at some point
377 in time, the evidence has to come to light and the process that, I think, if you’re saying the norm
378 was fine, that’s flawed because no evidence ever came to light and I think that has to be
379 addressed.

380
381 **McCormick:** There seems to be no procedure like when she appeared before us and it’s exactly
382 like Commissioner Ruiz said, that it was ‘I just kind of heard about this and I don’t know exactly
383 why’ there’s not a 1-2-3 that when this happens, you do this and you do this. The other thing that
384 distressed us is the day we had the Commission meeting, she was coming to the Commission
385 meeting, it was on the front page of the paper and nobody showed up from the Auditor’s office.
386 With no information. And as you can tell, I’m still upset about that. I think that whenever you
387 knew it was on the front page of the paper you needed to be there.

388
389 **Kaplan:** Um, so, I just wanted to address one of the things I saw in one of the resolutions. It’s
390 the 24 resolution, “be it further resolved City Auditor is not prohibited from filing sworn
391 complaints with the Office of the City Clerk to file on the Ethics Review Commission process
392 that outlines city code for alleging violations of city codes conflict of interest provisions.” It
393 looks like Council has weighed in to our debate as to how the Auditor brings stuff to us for
394 resolution, but my preliminary question – and I think I know the answer to this – is do we need
395 to provide some kind of a code amendment that allows this to happen; more than just this
396 resolution or basically should our code amendment adopt this resolution or does it? I apologize
397 if it already does or if a proposed amendment already does.

398
399 **Cindy Tom:** The Spelman Resolution – the 033 – there is nothing in there that would set up that
400 process that I know of, although I’m happy to meet with the auditors. I think how it handles this
401 situation is I believe there’s language in there, I believe, and again just correct me if this is not
402 right – the auditor staff language is – I think it’s in the powers and duties – oh yes. Okay, so look
403 at page 8 near the top and I know you have a couple; you have that one that has some more
404 recent changes, but look at page 8 of the one that on the first page of the resolution number 2014
405 blah, blah, blah 033 – look at Section M. It’s a new section that says “the City Auditor shall refer
406 any complainant who alleges that a non-salaried city official has violated Article Four, Code of
407 Ethics, or Article Five, financial disclosure of chapter 2-7 to the Ethics Review Commission
408 complaint and hearing procedures that was set out in chapter 2-7. So as I understand it the
409 resolution with the proposed language would do a couple of things. One, to Section M, looks to
410 me although again I would defer to Auditor staff as to whether this is the correct understanding,
411 that the Auditor instead of investigating Boards and Commission members, non-salaried officials
412 at least with regard to Article Four, Code of Ethics, or Article Five, Financial Disclosure, that
413 they would no longer investigate. I think that’s the intent and that instead they would just refer

414 the complainant or possible even refer anonymously received allegations, like anonymous
415 voicemails or anonymous emails to the Ethics Review Commission without any investigation so
416 the situation relating to Daniela Ochoa Gonzalez where they did an investigation of a Board and
417 Commission member related to Article Four and the gave the report to the Commission might
418 not occur anymore under these provisions by the mere fact that they would not to an
419 investigation anymore of Boards and Commission members with regards to Article Four. Then,
420 so that's part of how it would work. Now pointing you again towards the end of the ERC's
421 jurisdiction, you know I will respectfully disagree and say it is a lawsuit jurisdiction with regard
422 to the code of ethics that the Commission had had since 1977 when it first got jurisdiction over
423 the code of ethics. So with regard to Board and Commission members my understanding is that
424 the Auditor would no longer investigate that so the ERC would not receive reports of
425 investigations. They would receive maybe complainants would decide to swear a complaint,
426 maybe they would get anonymous allegations, but there would be no need for a process to refer
427 reports of investigation to the Commission because there would not be any anymore. With
428 regard to city employees or salaried city officials, people who aren't Board and Commission
429 members who are subject to Article Four, the Commission would no longer have jurisdiction to
430 hear complaints over those people. The Auditor would investigate that and present those results
431 to who they consider the appropriate authority, but the ERC would never see them. So again,
432 with regard to Article Four, folks who aren't Board and Commission members, there would be
433 reports by the Auditor, but the ERC would no longer have jurisdiction to hear complaints. So the
434 ERC would no longer get those so again there would be no need to come up with a way for the
435 reports to get to the Commission. Commission doesn't have jurisdiction over those anymore.
436 There could be other overlap. I don't know if the Auditor would continue to do investigations of
437 city staff when it comes to Article Five, Financial Disclosure, but the other articles over which
438 the Commission has jurisdiction in the other chapters normally wouldn't involve city staff or city
439 officials other than maybe campaign finance that could be a sitting council member, but other
440 than Article Four and Article Five of chapter 2-7 you're not gonna have that much of a situation
441 of overlap come up. I don't know, though. I don't know if the Auditor investigates possible
442 lobbying violations. That's your jurisdiction as well; also the campaign finance stuff. So I don't
443 see a process for the Auditor to share a report with the Commission in these proposed
444 amendments, but there is a process set up for the Auditor to refer complainants and possibly - so
445 the people themselves who might call and complain to the Auditor about a Board and
446 Commission member violating Article Four. I think how it would work, but you guys definitely
447 fill me in, is the Auditor would not investigate that. The Auditor would tell the complainant
448 "here's the process to file a complaint on that. You have to go to the ERC."

449
450 **Hadavi:** There's a lot to comment on there so forgive me if I don't address everything. The part
451 that Cindy mentioned about the Boards and Commission members was absolutely accurate; that
452 we would be referring all of that to you without investigation. That we would say this is the
453 ERC's jurisdiction, we don't have any jurisdiction to investigate this. Historically what's
454 happened – most often we receive anonymous complaints. We get a voicemail or we get an
455 anonymous email. There's no one to tell. They often don't even leave an email address, they
456 don't leave a phone number; they don't leave any identifying information so there's no way to
457 get back to these people. Sometimes when we do hear from someone directly we're able to
458 discuss issues with them and there have been multiple instances where it's been about a conflict
459 of interest issue related to a Board or Commission and in those situations we've always referred

460 them to the ERC and to the process notifying them that they can fill out their sworn complaint
461 with the City Clerk. It has been my personal experience, as well as the experience of some of
462 my investigators, that people have apprehension about that and do not feel comfortable swearing
463 to a complaint because they don't want to publicize their name and whatever their background is,
464 which we respect so we've always received their complaint in absence of that. What we're
465 saying here, we will just provide you the information whether it's anonymous or not and if there
466 is a complainant on that phone that we will refer them to the process. Regarding the other part of
467 city officials, salaried city officials, as it's currently drafted and, again, I want to stress what
468 Corrie said early that this is just a starting point. We've looked at this as something to be a
469 catalyst for discussion going forward. It was our perspective as I think some of y'all might share
470 that the volume of standards of conduct complaints against city employees may be significant
471 given how frequently y'all meet and the resources you have available. I can't produce a
472 population of those complaints because there is no central repository. That's something we're
473 trying to address here. This is something I've kind of harped on for a long time that the city does
474 not have a central repository for ethical issues. At any given point in time for any period of time
475 the city cannot tell you how many misuse of city resources complaints have been investigated,
476 how many sexual harassment complaints have been addressed, how many theft of city resources
477 - so on and so forth. And that's something that I think is a real disadvantage to the city. I don't
478 have authority over the personnel items, unfair hiring discrimination, retaliation; we've always
479 sent those to HR, but we're trying to establish a central repository at least for the fraud, waste
480 and abuse issues which we think includes theft and misuse of city resources. But to give you an
481 idea of what kind of amount we're talking about, we receive between 150 and 200 complaints a
482 year. Not all of those are fraud, waste and abuse, but a good portion of them are. I would
483 estimate - without being able to look at my database right now - I would estimate that over half
484 of those could constitute some type of standard of conduct violation for city code or would be in
485 that arena. I shouldn't say constitute an actual violation, but would be alleged violations of
486 standard of conduct.

487
488 **Cindy Tom:** Standards of conduct just, I don't know, they've gotten any complaints on that just
489 for them for everybody to realize Article Four of the code of ethics; it's separate from the conflict
490 of interest section, but it also -

491
492 **Hadavi:** It is immediately preceding it.

493
494 **Cindy Tom:** Exactly. It's 2-7-62.

495
496 **Hadavi:** Right. And so we receive dozens of these per year, some of which we investigate.
497 Most of which we look at, as you guys mentioned, with the last item in a di minimis nature and
498 we refer to management to handle operationally and ask for dispositions back on that. In 2010,
499 this is based on old data, there was an ethics related survey that was done and it asked employees
500 a myriad of questions including whether they had witnessed wrongdoing in the last year or two
501 years and if they had reported it and so on and so forth. And it was estimated based on that data
502 that 2% of the wrongdoing identified by employees was reported to our office. So the couple of
503 hundred allegations that we're getting is a very small percentage. I don't know how much of it is
504 going on out there, but I do know that Human Resources, departmental HR departments and
505 other internal audit shops do investigations of theft, misuse of city resources and conflict of

506 interest that takes place out there and we have – I personally have no record of that. So what we
507 were trying to address from the salaried city officials and employees, part of these code
508 provisions was to congregate all that information so the city has a central repository for that
509 information and can identify trends on an ongoing basis and then conduct proactive activities
510 related to training and awareness for city employees in certain departments related to certain
511 types of issues in certain divisions – so on and so forth. So I don't know if that helps capture
512 what we were trying to accomplish with some of what's in here.

513
514 **Cindy Tom:** With regards to the original question which I don't know if I did a good job
515 answering or not – is there something in these proposed amendments that were part of Spelman's
516 Resolution that would facilitate a process for the Auditor to give information to the ERC? I think
517 probably that section that I read about referring complainants and what you said about referring
518 them on as allegations would be the closest thing that would speak to that right?

519
520 **Hadavi:** Correct.

521
522 **Hadavi:** No, but you just reminded me of something else that I wanted to address. There are
523 some draft edits in here related to high-level city officials, Mayor and Council, and the City
524 Auditor and some provisions about how allegations involving those individuals would be
525 handled. And I bring this up because I know in your draft statement of principles you talked
526 about looking at peer cities. Well, the language that we included there was based on a peer
527 research project that we conducted in the City Auditors Integrity Unit over I don't know how
528 many months. It was brought up that we had no documented procedures related to allegations
529 against Council Members, the Mayor or against the City Auditor as we said well we need to look
530 at how other cities do this. We did a project that surveyed, I want to say roughly a dozen cities
531 across the US that we knew had audit shops that had investigative responsibilities.
532 Unfortunately the majority of them were in the same boat as us. They could articulate what they
533 would do, but they didn't have any documented procedures. There was nothing in their charter,
534 their code or even their policies.

535
536 **Cindy Tom:** I think we're on page 8, Section O. If the City Auditor receives an allegation
537 against the mayor –

538
539 **Hadavi:** It's O, P and Q technically. Q is kind of a cover statement.

540
541 **Cindy Tom:** It's on page 8 and you've got a, just to let you know what they've got, Jason,
542 they've got essentially past Council and that's the page I was referring to. And then they have I
543 think a slightly revised version that contains more changes from what was passed at Council
544 based on conversations with that department so they do have both. I don't know if those sections
545 are any different –

546
547 **Kaplan:** Those sections are actually the same.

548
549 **Cindy Tom:** Okay, great.

550 **Stokes:** I think that there's one change in O, but it's minor. It's working with the city attorney to
551 engage outside counsel versus just engaging outside counsel.

552
553 **Cindy Tom:** Okay, so if you look at the one that says ‘draft for discussion purposes only’ then
554 we’re talking about page six.

555
556 **Ruiz:** I guess, Mr. Hadavi and I had a conversation last week as the working group kind of
557 began to ramp up again on this topic and we talked about the Ethics Review Commission’s role
558 with regards to sort of high-level city officials, the Mayor and the Council, Auditor, you know,
559 and we kind of played with how to set that because technically, we legally have the jurisdiction
560 to hear code of ethics complaints against rank and file employees sort of further down the org
561 chart –

562
563 **Cindy Tom:** ...allegation of a violation of chapter 2-7, Article Four, by anyone who is currently
564 subject to it and that would include all city employees from folks who are higher up and folks
565 who are down low and city officials –

566
567 **Ruiz:** So, you know, I think there can be a distinction because I think that certain levels of
568 employees are protected. They have civil service protections, they have a due process through
569 that and so one of the things we talked about was, you know, the ERC retaining jurisdiction for
570 any city official that doesn’t have civil service protection of one form or another. We kind of
571 talked about the new municipal civil service and I think the police, fire and EMS also have some
572 civil service protection.

573
574 **Hadavi:** How far does that go down? I mean, if Cindy wants to take it, she can.

575
576 **Cindy Tom:** I had sent you that email earlier in this week that kind of excerpted a charter
577 provision for municipal civil service. I don’t have that charter provision in front of me right now,
578 but it, for example, I’m an assistant city attorney and I’m not covered by municipal civil service.

579
580 **Kaplan:** I didn’t think anyone in the law department was. Right?

581
582 **Hadavi:** Any of the attorney’s. I think the administrative/clerical staff are covered.

583
584 **Cindy Tom:** City attorneys aren’t covered. It doesn’t apply to fire, police, EMS, but they have
585 their own kind of separate civil service; it doesn’t apply to department heads.

586
587 **Hadavi:** It doesn’t apply to executives so different departments have - executive class
588 employees are –

589
590 **Cindy Tom:** There’s a list in the charter.

591
592 **Hadavi:** Yeah, there’s a list. In the Auditor’s office, everybody except for the City Auditor, the
593 Deputy City Auditor and myself are covered and then we’re considered executive. Most
594 departments, it’s the department head and an assistant director. In the larger departments it
595 includes multiple assistant directors so it varies. It’s kind of difficult –

596 **Ruiz:** That seems like a good distinction to me and the thing I liked about it was that, you know,
597 folks below that level they do have a due process through the civil service process –

598

599 **Cindy Tom:** If it reaches a point of discipline, there's a process for them to appeal and be
600 represented by counsel and know what they're being accused of.

601

602 **Hadavi:** If I could just make one comment on that. Commissioner Einhorn and myself did
603 discuss that and it was – it's something I think is a very plausible idea, very feasible, it makes
604 sense rather than selecting specific titles. It's kind of a clean break in responsibility. There's one
605 unintended consequence that I encourage the Commission to consider is the – when you're
606 talking about Board Members and Commissioners there's generally not a fear of retaliation from
607 an employee submitting an allegation and their name being out there, but when you're talking
608 about executives, when you're talking about department heads, I'm not saying that employees
609 have a reason to fear retaliation, but it is understandable that employees reporting a violation up
610 their chain of command to someone that they eventually report to might fear retaliation,
611 warranted or not. I'm not saying the City commits retaliation. It's just something to consider.

612

613 **Ruiz:** One of the things we talked about was the number of complaints that are filed against the
614 Mayor and Council Members that really are frivolous, for lack of a better word, and so there
615 should be a process for those to be investigated. The question then becomes making a
616 determination. At what point, you know, if the Auditor is doing an investigation and they find
617 that there is reasonable grounds to believe some sort of code of ethics violation has occurred,
618 what happens next? If it's a criminal violation there's a process that should be outlined, but if it's
619 a civil process it seems to me at some point the Auditor's office should – you guys are great at
620 doing investigations, but the question is do you guys have enough transparency and
621 accountability to be the entity that ends up making the final determination and I don't have a
622 high level of comfort with that at this point.

623

624 **Cindy Tom:** Under current code, the Auditor has the ability to investigate anyone that they think
625 may have violated Article Four, code of ethics. And the ERC has jurisdiction to hear a complaint
626 against anyone if a person is willing to swear a complaint and allege they have violated the code
627 of ethics. That's current code. Under the proposed changes, the jurisdiction really wouldn't be
628 concurrent anymore. If those were altered, if the proposed changes were to be altered to say, to
629 allow the ERC to retain jurisdiction over some of those city official type folks who you
630 mentioned as being exempt for municipal civil service and the Auditor were to also investigate
631 those folks then that would be a place for discussion about how would the Auditor share the
632 results of those investigations with the Commission and how could the Commission use those
633 results potentially to decide whether to initiate a complaint on its own or something like that.
634 Under current code that's a relevant conversation to have because the Auditor does have the
635 authority to investigate. The ERC currently does still have the authority to hear complaints.
636 Under the proposed revisions, as they were passed in the resolution, that wouldn't even be a
637 question because there would no longer be that concurrent authority, but if they were to be
638 changed then that's an important thing to think about.

639 **Ruiz:** It's not my goal at all to reduce the Auditor's authority to do investigations. To me that's
640 not really germane to what our responsibility is, speaking just individually I would love to be the
641 beneficiary to you guys' investigations when we're hearing things, but I don't see a reason to
642 reduce your authority to investigate. The question really comes down to making the
643 determination and I think that has to be a process that has some transparency. Of course,

644 protecting people who make some anonymous complaints. Now I don't think that everybody
645 who makes an anonymous complaint fear retaliation. I think a lot of people do it just to hide.

646
647 **Kaplan:** I think what I'm hearing from this side of the table was that the Ethics Review
648 Commission is very interested in retaining its jurisdiction to determine violations over the folks
649 that it historically had jurisdiction over and we're all trying to craft a solution that will allow the
650 Auditor to do what it does, but not divest the Ethics Commission jurisdiction and also as part of
651 that, some sort of a process for the Auditor to bring things to the Ethics Commission if it needs to
652 determine if a violation needs to be determined. Does that sound about right or am I in the
653 wrong ballpark?

654
655 **Ruiz:** Sounds about right to me. One of the things we had talked about was, you know, your
656 reticence to swear complaints. We've been trying to kick around ideas for a way for you guys to
657 refer stuff to us without actually swearing a complaint. It hasn't, you know –

658
659 **Stokes:** I would say – the sworn complaint is not...we have some concerns about that, certainly.
660 I think it's more the responsibility – it puts us in the position of prosecutor and essentially
661 presenting the case to you which is a little bit different than just saying we received a complaint,
662 here's what it. It's the way that the process is set up and it makes sense that the process is set up
663 that way, but it doesn't quite work for us to present the case.

664
665 **Kaplan:** We have the same concern on our side. We don't have the resources y'all do to
666 investigate and we certainly are not very capable given our powers as an investigatory body; we
667 don't have subpoena power, for example. We kind of rely on what the complainants bring before
668 us so if we have nothing and if y'all can't even really tell us more than just the bare allegations
669 and we ask the respondent to do it, they're always going to say no. I mean, it seems to me.

670
671 **Hadavi:** I don't have the whole code in front of me. I think it's 2-7-31, if somebody has that in
672 front of them, that requires either the city manager or the – there it is right there – the Ethics
673 Review Commission shall be assigned staff by the City Attorney to assist in its duties and so if
674 we were envisioning this process –

675
676 **Cindy Tom:** I have to come to all these meetings...

677
678 **Kaplan:** Hey, look, I'll take a standing army if that's what you guys have in mind. You can see
679 there is some use for it.

680
681 **Hadavi:** I feel very comfortable dedicating the City Attorney's budget to this process (laughter),
682 but I was just trying to point out that there is a mechanism by which you can get resources. I
683 don't know – I can't speculate on the feasibility and how that all operates.

684
685 **Kaplan:** It's a little bit different scope. We don't have subpoena power.

686
687 **Hadavi:** We don't either.

688

689 **McCormick:** I have just one word: cooperation. Between Auditor's office and Ethics
690 Commission and I don't think we've had that.

691
692 **Kaplan:** I'm trying to think about a constructive way to move forward especially while I have
693 so many smart folks her in the room kind working and wrestling on this issue. We haven't heard
694 from the Clerk yet; Janette might have some thoughts for us as well. I think, you know, we have
695 the working group constituted and that will continue and I think that it probably makes sense for
696 us between now and the 28th to come up with the working group in conjunction with Law and the
697 Auditor's office to come up with a plan for what we would propose. Based on what we're
698 hearing the Commission say and see if we can't make words that make that happen. I think
699 that's more difficult than it sounds, but I think it's possible.

700
701 **Hadavi:** Can I just? One other thing that I think you guys did a great job of in your draft
702 statement of principles; there's a portion where you mention our responsibility as well as the
703 Human Resources department. Currently the fraud, waste and abuse admin bulletin, which is
704 City Manager's policy, authorizes and requires an investigation of wrongdoing and places that
705 responsibility in every single department so as a result investigations into matters that could be
706 affected by the standards of conduct in city code. What we're talking about here are conducted
707 by a number of different parties throughout the city and so what I would hope is that, you know, I
708 do think that we need to clarify how we're going to work together and how these matters are
709 going to be addressed, but I don't want to exclude how these matters are handled across the
710 board. My expectation is that at some point we arrive at an equity and consistency for city
711 employees across the entire city – for city officials across the entire city. Right now an employee
712 in one department will undergo very different investigative treatment than another department
713 simply because they have different people that are conducting those investigations. There's no
714 standardized training, there's no standardized preparation for any of that and there's various
715 investigative practices throughout the city and that's something I'd like to address through all
716 this so that an employee, no matter what department they're in, can have a reasonable
717 expectation of 'this is how these issues are handled, I know how I'm going to be treated and
718 what my rights are in meeting with investigators or auditors or human resource professionals or
719 whoever it might be –

720
721 **Einhorn:** Well certainly if this Commission is going to relinquish its jurisdiction over those
722 employees I would want to make sure that there was a consistent process; one process that
723 everyone has to follow so that those employees have some protection as well. Yes, they have
724 civil service protection, but if the investigation procedure is different in every department, that
725 doesn't work for me.

726
727 **Cindy Tom:** I don't know that necessarily – I think that with regard to some subject matters it
728 looks like the proposed – like the fraud, waste, abuse defined and maybe code of ethics in 2-7 it's
729 saying the auditor has a responsibility to investigate those, right?

730 **Hadavi:** Uh, no. It says that we run the hotline. It says that we do investigations of fraud,
731 waste and abuse, but it doesn't prevent other departments or HR from doing those investigations
732 also. So as a result, and I could think of half a dozen examples very easily in recent times where
733 other departments have conducted investigations of the same exact things that we're looking at.

734

735 **Cindy Tom:** But are the proposed amendments intended to change that or –

736

737 **Hadavi:** Yes, the proposed amendments. That's where we included the definitions of fraud,
738 waste and abuse and we've tried to at least make them notify us of that and if it is di minimis
739 then they can handle it operationally. If somebody is leaving 15 minutes early I don't think
740 there's a need to go through a big formal process. I think that's something a manager could
741 handle –

742

743 **Kaplan:** But who's determining that?

744

745 **Hadavi:** Well, so, we've asked them to notify us so it's a discussion between us and that
746 department. We've tried to – unfortunately you can't, believe me, we've tried to define what is di
747 minimis and what is not di minimis and it's a judgment call. Every situation is different.

748

749 **Kaplan:** Let me address that and I hope it's not us. Let me take the temperature of the
750 Commission. If we're dealing with 150 complaints about people leaving early and that being
751 theft of time – please no. Does anybody think otherwise? We simply don't have the time and
752 resources and it's not –

753

754 **Cindy Tom:** There have not historically been a lot of those complaints. That's not to say that
755 the future could not be different.

756

757 **Kaplan:** Realize throughout this process ultimately, you guys, we make that determination if
758 that is a violation of Article Four and so although we haven't fielded any of those, guess what?
759 That's the jurisdiction that we're fighting for in part so we need to be careful and I think the
760 working group needs to take the head shaking and figure out how to craft a solution.

761

762 **Cindy Tom:** There are probably personnel policies one could rely upon to enforce that rather
763 than that having to go to a code violation.

764

765 **Hadavi:** And so that brings up some of the issues. The standards of conduct talk about the
766 proper use of city resources and not using it for private purposes, yet our policies actually still
767 prohibit an employee sending an email of anything not work related because our policy was
768 drafted before every city employee had a computer. It authorizes employees to make a personal
769 phone call, but not to send an email. That's not the day or age that we're in.

770

771 **Cindy Tom:** That's what your smart phone is for on your lunch break.

772

773 **Kaplan:** There are some employees who are complying.

774

775 **Cousar:** This would narrow it down. It's currently A through N which I think comes out to
776 about 13 or 14. It could have been a whole lot more, but when the blue ribbon commission was
777 working on this in the 80's the goal was, what are the standards that we think really deals
778 specifically with your duty to your employer and to the public to avoid self-dealing, double
779 dealing, double dipping, anything adverse to the city. We stayed away from anything that would
780 amount to criminality because there's a proper place to prosecute genuine criminal wrongdoing

781 and most of this really had to do with what could be categorized as the ethical duties of an
782 employee to the public so that's why it's not a really extensive list about everything. It didn't
783 have anything in there about goofing off. It didn't have anything about arriving late or leaving
784 early. It's a narrower list than that and, again, it's been reworked a little bit. The revolving door,
785 for example. The problem with revolving door is are you really providing your first loyalty to
786 the city if you know you've got a lucrative job waiting for you afterwards so that's why it went
787 into standards of conduct rather than someplace else. Again, keep in mind standards of conduct
788 is not a list of all the bad things somebody could do; it's a list of things that really relate to ethics
789 and duty and loyalty to the city and putting your duty first.

790
791 **Hadavi:** I'm not trying to debate with Mr. Cousar because he wrote this so I can't. I wasn't
792 involved in ethics in 1985 in the city of Austin. I would just like to point out that while it's not
793 an exhaustive list as he mentioned it is more expansive than the policies that we have so we're
794 often looking to that as being a resource that is more detailed than what we have in personnel
795 policies or admin bulletins. It more clearly delineates what is appropriate and what's not
796 appropriate than any other resource that we have in my opinion.

797
798 **Cindy Tom:** Personnel policies are adopted by Council. They're also the municipal service
799 rules which I'm told by someone who knows a lot more about employment law at the city than I
800 do that those new municipal civil service rules actually trump and may one day supersede the
801 personnel policies, but they're currently in existence. They're available. I can send them to you
802 if someone wants to look at them. The admin bulletins that Jason's talking about – those are not
803 part of the personnel policies, which again have to be adopted by Council, they're kind of
804 elaborations upon personnel policies that are kind of filled out and elaborated on by the City
805 Manager and so I don't think I provided any of you, even the the working group, with a copy. If
806 anyone would like to see a copy of the fraud, waste and abuse admin bulletin that the Auditor
807 staff references earlier I can share that with you. There are multiple admin bulletins about
808 multiple topics that have been issued by various city managers throughout several years and they
809 apply mostly to the folks who are subject – who are on the city manager side of city government,
810 so there are folks who are appointed by Council and there are folks who answer to the City
811 Manager and he's the one who can fire and hire them and usually those apply to the people on
812 the City Managers side, but that fraud, waste and abuse bulletin does also discuss functions, I
813 guess, of the City Manager. We'd like to see the Auditor fulfill obviously on the City Council
814 side of the council manager, but does anyone want to see fraud, waste and abuse bulletins?

815
816 **Kaplan:** For the working group, probably could use a copy.

817
818 **Cindy Tom:** So working group would like to see the fraud, waste and abuse –

819
820 **Kaplan:** Why not?

821 **Cindy Tom:** There aren't. There's a new one on gifts and I don't know if you want to see but I
822 can definitely send it.

823
824 **Kaplan:** Let's get at least a sample of it and see if we need to see some more and that will give
825 us some direction as to where to go forward. So do we have enough information now from kind

826 of taking the temperature of the Commission? I'd like to hear more from other Commission
827 members. Direct us, please

828
829 **McCormick:** I have speaketh enough.

830
831 **Einhorn:** To be perfectly honest I don't have anything else really to add.

832
833 **Ruiz:** I've already outlined my issues as well.

834
835 **Kaplan:** Okay, so it's all on us to sort of figure out a solution. We'll try to do that before the
836 next meeting. Anything further than y'all want to share?

837
838 **Hadavi:** Please let us know how we can be of service and when we can meet to discuss this
839 further. We're anxious to move forward.

840
841 **Kaplan:** Let's schedule something. Is there anything from the Clerk's office with respect to this
842 issue?

843
844 **Janette Goodall:** No, I just want to know how you want us to handle all the complaints that get
845 filed with us.

846
847 **Kaplan:** We will let know once we know. Thank you everyone. Thank you, Mr. Cousar, for
848 your thoughts. We appreciate it. And thank you Jason and Corrie. Nothing further on 2C we'll
849 move along to 2D.

###