

Austin Ethics Review Commission dismisses complaint against board member

By: Roo Moody

Austin's Ethics Review Commission discussed a complaint on Sept. 27 that Parks and Recreation Board Member Nina Rinaldi violated the city's code on conflict of interest and recusal.

The primary issue at the preliminary hearing is whether the commissioners find reasonable grounds that a violation of Austin City Code occurred. If the commission finds that a violation has occurred, a final hearing is scheduled. If they decide no violation has occurred, the complaint is dismissed.

"It's important for the commission to have a really robust conversation and for everyone to have the opportunity to ask whatever questions they want to ask and to share their thoughts," Commissioner Chair Luis Soberon said.

Scott Cobb, a lifeguard at Barton Springs, filed the complaint against Rinaldi for sending a letter to the other members on Austin's Parks and Recreation Board urging them to vote in favor of the Zilker Park Vision Plan and for failing to recuse herself from a vote due to a conflict of interest.

At the time, Rinaldi worked as the projects and policy manager for Shoal Creek Conservancy and served as a board member for Austin Outside, a nonprofit organization dedicated to making the outdoors more accessible to public places.

Cobb quoted a section of city code to the commissioners that states a conflict of interest does not have to be proven for it to be a violation. The mere appearance of a conflict of interest is enough to be considered a violation.

In his complaint, Cobb says Rinaldi's involvement with these two organizations is enough to reasonably expect a conflict of interest to occur, and therefore, Rinaldi should have recused herself from voting on the Zilker Park Vision Plan, which was a \$200 million development of Zilker Park, including a 5,000 seat amphitheater and three parking garages.

During the hearing, Rinaldi said the state law concerning conflict of interest and recusal does not apply because the Parks and Recreation Board is an advisory board. Rinaldi also said she did not have any substantial interest described in the city code because Austin Outside is a nonprofit entity and the board member position is unpaid. Regarding her employment at Shoal Creek Conservancy, Rinaldi said Zilker Park is not inside of the conservancy's radius of work.

In response to Cobb's accusation that she wrote and sent a letter to the rest of Parks and Recreation board members encouraging the Zilker Park Vision Plan, Rinaldi said another board member altered the letter without her consent.

"It wasn't until I was preparing a response to this complaint at the end of July that I discovered that this change had been made to the original version," Rinaldi said.

Cobb and Rinaldi each had 10 minutes to present their complaint and defense before the commissioners were allowed to ask questions clarifying the material discussed.

“I don’t want any lingering, unanswered questions about what we’re doing because what we’re doing is important,” Soberon said.

The Ethics Review Commission voted 5-4 to dismiss the complaint, one vote short of what is needed to end the matter.

Commissioner Edward Espinoza made a motion for a final hearing that was seconded by Vice-Chair Mary Kahle but did not receive enough votes to pass. Because the motion for a final hearing did not get enough votes, the counter of that motion, which is dismissing the complaint, occurred.

At the beginning of the meeting, Austinites invested in the hearing had the opportunity to speak during a public communication session. All three speakers raised ethical questions concerning Rinaldi and vocalized their displeasure with her actions.

“Ethics matter in the Boards and Commissions,” Tanya Payne, an advocate for Zilker Park protection organization Rewild Zilker, said. “It’s part of how we trust our government. How we communicate with our representatives is through these boards and commissions. And I can tell you that when you are not represented in a fair and ethical way, it’s really devastating.”

Another speaker during the public communication session, Dorothy Lopez-Barnett, recalled her experience attending the Parks and Recreation Commission where the issues about Rinaldi’s participation were revealed.

The meeting was “really confusing and everything seemed to be in disarray” and there was a lot of arguing back and forth between the board members about Rinaldi not recusing herself, Barnett said.

Barnett also said there was an appearance of impropriety, and she thinks it should be illegal for a board member to vote on whether they should keep their position.

“Government really only works when the citizens have a basic faith and trust that it is doing its job as best it can,” Soberon said. “That it’s doing its job fairly and equitably.

Ethics and rules are fundamental to a normal functioning democratic government, Soberon said.

“If we do not have a way to bring out problems and resolve complaints, that people aren’t holding up these basic standards of integrity that we have in our code, then things don’t work,” Soberon said.