



May 17, 2023

City of Austin Ethics Review Commission  
c/o City of Austin Law Department  
301 W. 2<sup>nd</sup> Street  
Austin, TX 78767  
Via Email: [Meredith.mooney@austintexas.gov](mailto:Meredith.mooney@austintexas.gov)

Re: Response to Complaint  
Complainant: Teri Adams  
Respondent: Hanna M. Cofer

To whom it may concern:

I represent Hanna M. Cofer ("Respondent"), a member of the City of Austin Environmental Commission. Please allow this letter to serve as her response to the above-referenced ethics complaint ("the Complaint").

### **I. Allegation**

The Complaint alleges that Respondent violated Section 2-1-24 by failing to disclose conflicts of interest prior to voting on the Zilker Park Vision Plan ("the Vision Plan"). The complaint offers no evidence of a conflict of interest, merely a recitation of community involvement by Respondent, her husband, and her father. The Complaint specifically complains that Respondent should not have voted on an amendment to remove one discrete component – an amphitheater - from the draft Vision Plan.

### **II. Response**

City Code provides that "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."<sup>1</sup> A "conflict of interest" is a defined term, both in city ordinance and state law.

#### **a. Local Standard: Respondent's Interest**

Austin's ordinance ties the term "conflict of interest" to the term "substantial interest." A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a

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<sup>1</sup> Section 2-1-24(A)

City of Austin Ethics Review Commission  
May 17, 2023  
Page 2 of 4

substantial interest.<sup>2</sup> The Code makes an exception for situations where a city official has a remote or incidental interest in the subject matter of a vote.<sup>3</sup>

City ordinance defines a “substantial interest” as:

- Ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000 or more of the equity or market value of the entity;
- Funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$20,000 in payment for goods, products or nonprofessional services, or 10 percent of the person's gross income during that period, whichever is less;
- The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the city council;
- The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000 or more; or
- An interest in real property which is an equitable or legal ownership with a market value of \$5,000 or more.

Of the myriad organizations mentioned in the complaint, Respondent’s only “substantial interest” is in her employer, The Trail Conservancy. However, the Complaint does not indicate how voting on the Vision Plan would “affect” The Trail Conservancy. City code defines “affect” as “reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question.”<sup>4</sup> The Complaint does not offer any assertion that The Trail Conservancy would suffer or enjoy any direct economic effect of the Vision Plan. Nor does the Complaint allege how inclusion of an amphitheater in the draft Vision Plan would “affect” The Trail Conservancy.

In fact, Respondent asserts that The Trail Conservancy will not feel any direct economic impact by the implementation, defeat, or modification of the Vision Plan. Respondent’s vote against removing the amphitheater stemmed from her position that piecemeal modifications undermined the cohesiveness of the draft proposal.

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<sup>2</sup> Section 2-7-63(A) (Prohibition on Conflict of Interest)

<sup>3</sup> Section 2-7-63(C) reads “Where the interest of a City official or employee in the subject matter of a vote or decision is remote or incidental, the City official or employee may participate in the vote or decision and need not disclose the interest.”

<sup>4</sup> Section 2-7-2(1).

City of Austin Ethics Review Commission  
May 17, 2023  
Page 3 of 4

### **b. Local Standard: Relative's Interest**

The Complaint asserts that Respondent's husband "is a representative in the Zilker Collective Impact Group for three organizations." This does not allege, nor provide evidence, that Respondent's spouse has a substantial interest in any named organization. Additionally, the Complaint does not allege that votes made regarding the Vision Plan – or the inclusion of an amphitheater - would "affect" any named organization.

The Complaint asserts that Respondent's father "is a representative in the Zilker Collective Impact Group for Hill Country Conservancy." This does not allege, nor provide evidence, that Respondent's father has a substantial interest (as applied to non-spouse relatives in Section 2-7-65) in any named organization. Additionally, the Complaint does not allege that votes made regarding the Vision Plan "affect" the Zilker Collective Impact Group or Hill Country Conservancy. Finally, the Complaint does not allege that Hill Country Conservancy would be affected by the inclusion of an amphitheater in the draft Vision Plan.

### **c. State Standard**

Texas Local Government Code Chapter 171 also ties "conflict of interest" to a "substantial interest." The statute defines a substantial interest as when a person:

- Owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
- Funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

When a public official has a substantial interest in an entity, she must recuse herself from a vote if it would have a special economic effect on the entity that is distinguishable from the effect on the public. As noted above, the Vision Plan does not have a special economic effect on The Trail Conservancy (or any entities with which Respondent, her spouse, or her parent may be affiliated). Likewise, whether the Vision Plan includes an amphitheater would not affect The Trail Conservancy.

### **d. Factual Errors in the Complaint**


Among the Complaint's murky, conspiratorial, and unfounded allegations are multiple factual errors. For example, there is the false allegation that "The Trail Conservancy is a founding member of the prospective unified non-profit, Zilker351 (sic)." This is inaccurate for multiple reasons. First, The Trail Conservancy is not a founding member of Zilker 351. Second, Zilker 351 is not the "unified non-profit" identified as a recommendation in the Zilker Park Vision Plan.

City of Austin Ethics Review Commission  
May 17, 2023  
Page 4 of 4

### III. Dismissal Requested

The Complaint utterly fails to allege a violation of any applicable standard of conduct, instead relying on innuendo, factual misstatements, and conspiracy theorizing. It is clear that the Complainant doesn't like the Zilker Park Vision Plan, and is grasping at straws in an effort to undermine it. In the process, she makes baseless accusations against dedicated community volunteers. Pursuant to Section II(D) of the ERC's rules, Respondent respectfully requests that Ethics Review Commission find that there are no reasonable grounds to believe that a violation has occurred and dismiss the Complaint.

Sincerely,

DocuSigned by:  
  
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