



CITY OF SAN ANTONIO

JALEN MCKEE-RODRIGUEZ
OFFICE OF CITY COUNCILMAN, DISTRICT 2

COSA - CITY CLERK
2024 NOV 25 PM 01:19:04

November 25, 2024

Debbie Racca-Sitre
City Clerk
City of San Antonio
P.O. Box 839966
San Antonio, TX 78283-3966

RE: Sworn Complaint Alleging Violations of the City's Ethics Code

Ms. Racca-Sittre,

I acknowledge receipt of your correspondence dated November 18, 2024, which included a copy of the complaint filed by Mr. Oscar A. Zepeda, also known professionally and personally as Alex Zepeda, on November 5, 2024. Your letter indicates that Independent Counsel, Ms. Nadeen Abou-Hossa, has determined that, based solely on a review of Mr. Zepeda's complaint, this matter qualifies to proceed to the Ethics Review Board (ERB) for a determination of whether my conduct during the time in question violated specific provisions of the City's Code of Ethics.

Since the filing of the initial ethics complaint, the annexation and zoning request filed by Doggett Freightliners has been resolved. In light of this update, in addition to the following response, I respectfully request that this matter be dismissed without delay.

Summary of Response

The complainant asserts that my initial statement to the applicant—that I intended to continue the case—followed by my subsequent motion to approve the requested annexation and zoning designation without previously agreed upon conditions, constitutes a violation of Section 2-44 of the Code of Ethics. I strongly disagree with this characterization and believe my actions were within the ethical and discretionary bounds of my role as a City Councilmember.

1. No Violation of Sec. 2-44

The Code of Ethics prohibits using one's position to unfairly impede or advance private interests or to grant special treatment or consideration. My actions do not meet this standard of unfairness:

- **Intent Was Lawful and Transparent:** While I did initially indicate to the applicant that I intended to continue the case, I made a discretionary decision during the public meeting to move forward with a motion that addressed community concerns. I made a game-time decision weighed against a number of options I had explored since the original filing of the case in 2023. This shift in approach is not a violation of the Code of Ethics; rather it was informed by consultation with the City's Planning Department and the City Attorney's Office, prioritizing the public interest over private gain.
- **Consideration of Conditions Is Standard Practice:** The action taken to approve the zoning while removing conditions that would have allowed Doggett to operate an 18-wheeler dealership abutting the property lines of over fifty households was consistent with standard legislative practices. This approach aimed to balance the applicant's zoning request with the legitimate concerns of nearby residents, ensuring that the zoning approval addressed potential impacts on the surrounding community without unfairly impeding the applicant's broader use of the property.

2. Discretion to Change Course

It is important to note that Councilmembers have the discretion to adjust their positions or actions based on evolving circumstances, new information, constituent feedback, or deliberations during public meetings. This flexibility is fundamental to our legislative process.

- **Public Process Allowed Changes:** My initial statement regarding a continuance was not a binding commitment. Deliberation is dynamic, and Councilmembers are expected to adjust their approach as discussions evolve. Councilmembers are not bound by preliminary discussions or informal assurances. My motion to approve with conditions was made publicly, subject to full Council deliberation. Alternatively, in the event that I made a motion to continue the item, any one of my colleagues would have been within their right to make a motion that did not reflect the applicant's wishes.
- **Applicant Retained Rights:** Contrary to the claim, Doggett Freightliners retained the right to withdraw their application at any point during the deliberations before a final vote. My motion did not strip them of this ability.

3. Ethical Considerations in Representing Constituents

My role as a City Councilmember requires me to represent my constituents' interests while balancing those of applicants.

- **Constituent Advocacy:** My motion was aimed at preventing the applicant's proposed uses that raised valid concerns among constituents, including potential impacts on the community. Similarly, any zoning application before City Council can be denied or amended from the dais. This is not considered an impediment of private interests. Such advocacy is not only ethical but expected.
- **No Special Treatment or Harm:** Key elements of special treatment include: deviation from established laws, rules and procedures; favoritism or bias often based on personal relationships, affiliations, or other subjective factors rather than objective criteria; the offering of resources, access, or opportunities not equitably available to all; and decision-making influenced by personal or private interests rather than public good or professional responsibilities. None of this criteria applies to this particular situation. The removal of conditions imposed did not confer special treatment or unfairly disadvantage the applicant beyond the bounds of standard legislative practice aimed at addressing legitimate community

concerns. My decision-making had nothing to do with the applicant, but everything to do with the merits and specific impacts of their proposal balanced with overwhelming community concerns.

4. Context and Transparency

The complainant's claim misrepresents the context of my actions and omits key details that demonstrate my transparency and due diligence:

- **Meetings with City Staff:** Before the October 17, 2024 meeting, I held meetings with city staff on October 14 and October 15 to discuss the future of the case and seek guidance on potential outcomes. I explored the option of a motion to approve the annexation and zoning without conditions and sought legal and procedural advice to ensure my actions would be lawful in the event that it would be the route that would best serve my constituents.
- **Continuance Was Considered:** My initial statement regarding continuing the case reflected a potential approach but was not a binding commitment. Up until the moment the meeting started, I was internally debating a continuance versus the alternative motion to approve the items with no conditions. My motion to proceed was made publicly, with full transparency, and subject to Council deliberation and action.
- **Notification to the Applicant:** at the October 17, 2024 meeting, I notified the applicant of my intention to move forward with a motion to approve without conditions well ahead of the item's consideration. This gave the applicant sufficient time to contact their lobbyist, who subsequently reached out to Councilmembers urging a continuance. This demonstrates that I acted with transparency and provided the applicant an opportunity to respond.
- **Outcome Was Balanced:** The final decision, reached after additional continuances and public deliberation on November 21, 2024, approved the zoning with conditions, demonstrating a balanced resolution that neither unfairly advanced nor impeded the applicant's interests.

5. No Harm to Doggett or the Public

The complainant's assertion that my actions caused harm to Doggett Freightliners and the public is unfounded and inconsistent with the principles outlined in Section 2-44 of the Code of Ethics, which prohibits unfair advancement or impediment of private interests.

- **Doggett Freightliners' Case Was Resolved:** Doggett Freightliners chose to continue pursuing their application following the October 17, 2024 meeting, ultimately achieving a resolution on November 21, 2024. This decision reflects their trust in the City's process and confidence in the fairness of my actions. Had there been a genuine concern about bias, misconduct, or unfair impediment, Doggett could have withdrawn their case after the October 17 meeting. Their decision to proceed demonstrates that they recognized the deliberative nature of the process and my adherence to ethical standards.
- **No Unfair Impediment or Treatment:** Section 2-44 does not prohibit Councilmembers from making decisions that balance competing interests; it prohibits decisions that unfairly impede or advance one interest over another. My actions reflected a lawful and ethical effort to address constituent concerns, not an unfair impediment to Doggett's operations. The applicant was given ample opportunity to participate in the process, and they maintained the right to withdraw or negotiate their application throughout the deliberations.
- **No Harm to the Public Interest:** My motion to approve the zoning without conditions reflected a thoughtful approach, ensuring that constituent concerns were addressed while preserving Doggett's ability to use the property commercially. This approach strengthened trust among my constituents, as it demonstrated my commitment to advocating for their interests. As a result, my constituents trusted me to negotiate even stronger terms on their behalf.

Conclusion

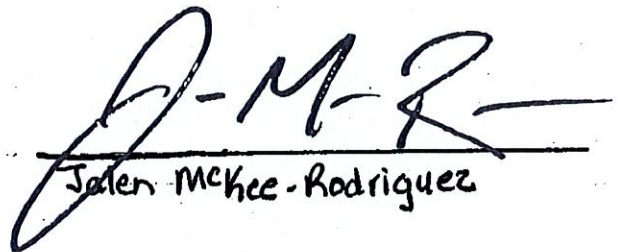
The complainant's claim fundamentally misunderstands the discretionary nature of my role as a City Councilmember and the ethical obligations I upheld throughout this process. My actions, including consulting with City staff, notifying the applicant ahead of the item's presentation, and ensuring public deliberation, were lawful, ethical, and in the public interest. They did not constitute an unfair impediment to the applicant under Sec. 2-44 of the Ethics Code.

The results of this complaint could set a dangerous precedent that impedes City Councilmembers from changing their mind after stating a position and intent ahead of a Council meeting where deliberation and final action should be taking place. This may prevent Councilmembers from being as communicative with applicants ahead of votes for zoning, annexation, contracts, incentives, and more.

Councilmembers must continue to have the discretion to make decisions to best represent their constituents. There will always be decisions developers and other private interests don't like. This was one that was complicated where there were a lot of moving parts right up to the end.

Finally, the request for zoning and annexation of the property has been resolved with a just conclusion.

Thank you for your consideration of this Response. I respectfully request, for all of the reasons noted above, that the Complaint filed by Mr. Oscar A. Zepeda be dismissed in its entirety.


Jalen McKee-Rodriguez

Sworn to and subscribed before me by Jalen McKee-Rodriguez
On this 25th day of November, 2024 to certify which, witness my hand and seal.

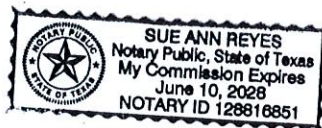




EXHIBIT A

¹ It is important to note that from August 5, 2021, to the present, Alex Zepeda has made campaign contributions totaling at least \$750 to Councilman Manny Pelaez. Additionally, Councilman Jalen McKee-Rodriguez and Councilman Manny Pelaez have a publicly strained relationship, characterized by frequent public disagreements, including insults and accusations of wrongdoing. Councilman McKee-Rodriguez has publicly stated his intent to campaign against Councilman Pelaez in his run for Mayor. This context may inform the motivations behind the complaint and the complainant's interpretation of events.

AFFIDAVIT

I am over 18 years of age and have never been convicted of a crime. I am competent to make this affidavit, and everything stated herein is true and correct.

I represented Doggett Freightliners' application for the annexation and zoning of property referenced in the ethics complaint filed against Councilman Jalen McKee-Rodriguez.

First and foremost, Councilman Jalen McKee-Rodriguez is not a liar. I have respect for Councilman McKee-Rodriguez's honesty, integrity, and willingness to go to bat for his constituents, even when it challenges the norms and practices of City Hall.

While I may have preferred more advanced notice of the Councilmember's intention to annex and zone the property at the City Council meeting on October 17, 2024, I respect that at the start of the Council meeting, he got off the dais, walked directly to me, looked me in my eyes, and told me his plans. He apologized for the short notice and respected that I would do everything in my power to be granted a continuance. This notice gave me ample time to strategize with my team. Had Councilman McKee-Rodriguez not notified us of his plans, we would not have succeeded in our pursuit of a continuance. I believe he acted in good faith, in the best interest of his constituents, and with respect to our rights as an applicant.

My frustration was largely in the confusion that prevented me from speaking on the item until Councilman Marc Whyte invited me to speak.

Councilman McKee-Rodriguez never once pretended to be satisfied with the request for annexation or zoning. He made it very clear that if he had his way the property would be annexed and sold for a retail or other commercial use. Though we had not agreed to that, it was not a blindside that the case was not in a satisfactory place on October 17, 2024.

I believe that Councilman McKee-Rodriguez made a decision that built trust with his constituents and brought them back to the table as, to this point, neighborhood residents were completely unwilling to discuss a path forward.

Had my client and I not trusted him, we would have withdrawn the items and we would not have allowed them to be heard at the November 7 or November 21 meetings they were considered.

The case has since been resolved and Doggett Freightliners' has experienced no harm or loss. Councilman McKee-Rodriguez did not impede on our private interests. As the named party referenced within this complaint, I believe this complaint should be dismissed.



Kenneth W. Brown

AFFIDAVIT

State of Texas §

County of Bexar §

Before me, the undersigned authority, a notary public for the State of Texas, on this day personally appeared Kenneth W. Braun, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal office, this the 25 day of November, 2024.



Venessa Rodriguez
Notary Public-State of Texas