



**City of Scottsdale  
Independent Ethics Review Panel  
Special Meeting Minutes  
Held Via Zoom**

**Available Physical Meeting Location:  
City Hall Kiva Conference Room  
3939 N. Drinkwater Boulevard  
Scottsdale, AZ 85251**

**Friday, April 18, 2025**

**PRESENT:** The Honorable Lawrence Fleischman (retired)  
The Honorable J. Kenneth Mangum (retired)  
The Honorable Timothy Thomason (retired)

**OUTSIDE INDEPENDENT  
LEGAL COUNSEL:** Frank Cassidy, Attorney

**PARTICIPANTS:** Councilman Barry Graham  
Tim La Sota, Attorney for Councilman Graham  
Laura Schwartz, Complainant

**CALL TO ORDER**

Outside Independent Legal Counsel Frank Cassidy called the meeting to order at 9:00 a.m.

**REGULAR AGENDA**

**1. Selection of Chairperson**

The Honorable Lawrence Fleischman assumed the role of chairperson by acclamation.

**2. Open meeting law and public records overview**

Attorney Cassidy stated that since the Independent Ethics Review Panel was established by a City Ordinance, it is subject to public records laws and the Open Meeting Law. To ensure a complete record is kept, the City Clerk's Office will be copied on all submitted emails. All hearings will be recorded, and those recordings will be accessible through the City Clerk's Office and on the City's website. Meetings will be fully noticed and all deliberations regarding this matter must take place

during a public meeting that has been noticed.

### **3. Laura Norton Ethics Complaint Against Councilmember Graham**

Chair Fleischman asked if the Panel had the ability to convene executive sessions to discuss matters. Attorney Cassidy clarified the Panel is unable go into an executive session unless it is to seek legal advice. For this matter, the Panel's role is to act like a Board of Adjustment and deliberate on the record.

Chair Fleischman opened the floor for discussion on Councilman Graham's dispositive Motion to Dismiss.

Attorney for Councilman Graham, Tim La Sota argued the complaint lacks substance and originates from someone uninvolved in the conversations and the complaint is based only on emails. He emphasized that Councilman Graham acted within his rights by discussing one or more capital projects with a Charter Officer, City Treasurer Sonia Andrews, who then sought assistance from her staff. Attorney La Sota stated that even if Councilman Graham directed City Treasurer Andrews, it is permissible as she is not restricted by the City's Ethics Code or the City Charter from receiving direction from City Councilmembers.

Attorney La Sota explained that Council decisions guide the Charter Officers, as highlighted by City Treasurer Andrews' affidavit. The affidavit stated that Councilmembers express their views, but direction comes from the City Manager, guided by the Council majority in public meetings. Attorney La Sota saw the complaint as politically motivated and urged the Panel to dismiss it.

Chair Fleischman inquired about the February 19, 2025 email (provided by Complainant Laura Schwartz) from Public Works Director Dan Worth to City Engineer Alison Tymkiw, as well as the status of the 68<sup>th</sup> Street sidewalk project. Chair Fleischman also asked if a Councilmember can unilaterally decide whether a project can move forward. In response, Attorney La Sota confirmed an individual Councilmember is unable to decide what projects move forward, but did not know the status of the sidewalk project. Attorney Cassidy provided a general overview of the annual budget process, noting that budgets are not finalized until May or June.

Councilman Graham stated he is unaware of the exact status of the sidewalk project. He explained the event in question was a routine budget meeting with a Charter Officer, City Treasurer Andrews. He noted that during the February 7, 2025 meeting, he expressed opinions and preferences on various projects that were part of upcoming budget considerations for the next fiscal year. While the sidewalk project is part of the upcoming capital improvement project budget, it would require at least four Councilmember to vote for approval or disapproval. He stated he did not provide direction to staff and was sharing preferences with a Charter Officer.

Councilman Graham explained that City Treasurer Andrews took him to the employees' offices, where he only exchanged greetings and pleasantries with staff. The purpose of these visits was to obtain status updates on various projects during an information gathering process. He noted that with a \$2 billion budget, it is important to be able to make well-informed decisions during the Council's public budget discussions.

Chair Fleischman questioned Councilman Graham about an email from February 7, 2025 that suggested Councilman Graham went beyond acquiring information and decided that the sidewalk project should not move forward. Chair Fleischman asked where Councilman Graham

was when this happened on February 7<sup>th</sup>. In response, Councilman Graham advised he was sitting with City Treasurer Andrews reviewing the capital budget as he expressed preferences for projects.

Chair Fleischman confirmed no request was made to adjust the timeline and move the project into the future. In response, Councilman Graham stated this was correct and reiterated that only preferences were expressed to City Treasurer Andrews.

Chair Fleischman sought feedback regarding Laura Schwartz's supplemental complaint indicating City Treasurer Andrews' affidavit was solicited prior to the start of the investigation. Attorney La Sota outlined the process to obtain City Treasurer Andrews' affidavit, noting the affidavit was obtained after the matter was referred to the three-member Panel by the Independent Ethics Officer, the Honorable Ken Fields.

Panel Member, the Honorable J. Kenneth Mangum inquired about the email correspondence on February 10, 2025 from Budget/Research Administrator Ana Lia Johnson to City Treasurer Andrews that stated, "*Mark wants Greg's direction to stop work on a project that Barry Graham asked us to pause...*". Councilman Graham responded none of the words in this are from him. He further explained that when he met with City Treasurer Andrews, he asked about the status of various projects and had questions about them. In that meeting, City Treasurer Andrews, the Charter Officer, led him into the offices of Budget/Research Administrator Johnson and Senior Budget Analyst Linna Zhou and asked about project statuses. Councilman Graham explained that as the City Treasurer, she made an inquiry about the project statuses, which was within her authority. Councilman Graham stated he did not instruct anyone to pause or stop any projects and only expressed preferences about the projects with the Charter Officer, City Treasurer Andrews.

Attorney La Sota discussed the City Charter language indicating Councilman Graham did precisely what the Charter allows him to do. He noted that an inquiry is not an order. He opined on what he believes to be Laura Schwartz's limited evidence, opinions, and political grievances. He requested the Panel act on the Motion to Dismiss.

Laura Schwartz, complainant, noted the agenda for this meeting only addresses consideration of the dismissal. Complainant Schwartz requested a further hearing, if an investigation is conducted, where witnesses can be called. She asked the Panel to consider the information contained in the complaint, the follow-up letters, and the fact there are more individuals to interview.

Attorney La Sota responded that the complainant wanted to prolong this process unnecessarily. He added the complainant could have contacted individuals as he did. He noted the Ethics Code prescribes a swift procedure to avoid misuse and requested the ethics inquiry conclude today by granting the Motion to Dismiss.

In response to Panel Member, the Honorable Timothy Thomason's queries, Attorney Cassidy reviewed the appropriate standards to follow when considering the Motion to Dismiss. Mr. Cassidy explained it was akin to a Motion to Dismiss in a court proceeding. The Panel must determine if there is an ethics violation based on the record presented and accepting the complaint and all the allegations as true. However, the Panel can make an independent determination if unresolved dispositive facts are found.

Panel Member Thomason noted the Panel is determining whether the complaint states a claim upon which relief can be granted. The Panel should not be assessing credibility and related

matters at this time. Attorney Cassidy confirmed this approach and noted that under Rule 3.4 of the Rules governing this Panel, there are four directions or combination of directions the Panel can take:

1. Grant the Motion to Dismiss, thereby ending the case.
2. Direct an investigation be conducted by Attorney Cassidy with a report provided to the Panel.
3. The Panel holds an evidentiary hearing (mini trial) after providing a 20-day notice.
4. Revise the Rules if there is another preferred direction.

Panel Member Thomason asked if the Panel could choose Options Two and Three. Attorney Cassidy confirmed that would be an option.

The Panel began their discussion:

- Panel Member Thomason opined with all inferences in favor of the complainant there does seem to be a claim and dismissal at this point is premature.
- All Panelists agreed that the City Charter does not prohibit an elected official from talking to a Charter Officer, such as City Treasurer Andrews.
- Chair Fleischman did not find any evidence that Councilman Graham stated to stop the project or delay funding for the project. He indicated he was leaning towards dismissal but suggested an investigation by Attorney Cassidy.
- Panel Member Thomason agreed with the investigation as there could be a reasonable inference that one of the employees (who reports to a Charter Officer) was given a directive.
- Chair Fleischman explained that he worried about a chilling effect on contact between an elected official and city employees related to straightforward requests, such as an elected official asking an employee for a copy of a document.

In response to Panel Member Mangum's inquiry about the investigation process, Attorney Cassidy outlined the process for conducting ethics interviews, which are typically done via Zoom, noting that any of the parties would be able to view the interviews and that he would provide a report to the Panel and the parties. He explained that based on the investigation results, the Panel could decide to hold a separate evidentiary hearing after providing the required 20-day notice. He added that Councilmembers interacting with and obtaining information from line-level employees are not ethical violations per the City Charter.

A discussion ensued among the Panelists regarding conducting the investigation prior to proceeding forward.

Chair Fleischman stated the opinion of the Panel is to deny the Motion to Dismiss and to move forward with an investigation process where Attorney Cassidy will conduct an interview process and report his findings to the Panel and parties.

A discussion ensued among the Panel members and Attorney Cassidy regarding how soon the interviews, which would be a public record, could be completed and when to schedule the next meeting of the Panel.

Complainant Schwartz noted she wanted the ability to prepare and consult with counsel like Councilman Graham did for today's meeting.

In conclusion, the interview report will be completed by 5:00 p.m. on April 25, 2025 and distributed to the Panel members and parties. An evidentiary hearing is scheduled for May 8, 2025, via Zoom, to start at 8:30 a.m. The topics to be addressed at this hearing are a resumption of the Motion to Dismiss and Evidentiary Hearing, if needed. Attorney Cassidy will post the 20-day notification of the Evidentiary Hearing at the conclusion of this meeting.

### **Adjournment**

With no further business before the Panel, Chair Fleischman adjourned the meeting at 9:55 a.m.

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