



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

**Kiva Conference Room at City Hall
3939 N. Drinkwater Blvd.
Scottsdale AZ 85251**

Thursday, May 8, 2025

PRESENT: The Honorable Lawrence Fleischman (retired), Chair
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 Norton, Complainant

CALL TO ORDER

Outside Independent Legal Counsel Frank Cassidy called the meeting to order at 8:30 a.m.

REGULAR AGENDA

1. Approval of April 18, 2025, Independent Ethics Review Panel Special Meeting Minutes

CHAIR HON. FLEISCHMAN MOTIONED TO APPROVE THE INDEPENDENT ETHICS REVIEW PANEL MEETING MINUTES FROM APRIL 18, 2025, AS PRESENTED. HON. THOMASON SECONDED THE MOTION, WHICH CARRIED THREE (3) TO ZERO (0) WITH CHAIR HON. FLEISCHMAN, HON. THOMASON, AND HON. MANGUM VOTING IN THE AFFIRMATIVE. THERE WERE NO DISSIDENTING VOTES.

2. Laura Norton Ethics Complaint Against Councilmember Graham

Chair Hon. Fleischman noted the applicable standard for the Motion to Dismiss is, if the panel were to assume everything in the complaint is true, to determine whether a claim is stated. This is not the same standard applied during a hearing.

- a. Receipt and discussion of report on independent investigation by Frank Cassidy, outside independent legal counsel to the Panel
 - No Discussion.
- b. Discussion of Respondent's Motion to Dismiss

Chair Hon. Fleischman reviewed his analysis of the testimony:

- There were four participants at the February meeting.
- There were three separate stories of what happened.
- Councilman Barry Graham states he meets with Sonia Andrews, City Treasurer / Chief Financial Officer, on February 7th and asked about the status of projects. It was made clear he did not like the 68th Street project and had an issue with the parking garage as well. Chair Hon. Fleischman had no issues with this.
- Ms. Andrews states she lacks technical information but explains Senior Budget Analyst Linna Zhou and Budget/Research Administrator Ana Lia Johnson are together, and they can provide the needed information, so they go to see him.
- There was some testimony from Mark Melnychenko, Transportation and Streets Director, about a secret meeting. Chair Hon. Fleischman found no basis for that.
- Councilman Graham states he said nothing substantive other than exchanging pleasantries with the employees, and that Ms. Andrews asked for the material, never stated why it was needed, and was adamant that nobody had made a request for a budget change.
- Ms. Andrews states she and Councilman Graham had the meeting and everything was fine until they went down to the office. She states Councilman Graham spoke substantively to the two employees. He did not say he wanted the material or that he wanted them to do anything.
- The two employees' stories are very different. Ms. Johnson states Councilman Graham, not Ms. Andrews, was the speaker. Ms. Zhou states that Councilman Graham explained he wanted the project "paused to... get it out" and that he did not want the project to continue, so he says pause the budget and move the funding to future years.
- Chair Hon. Fleischman's conclusion: Councilman Graham insists he said nothing substantive. Ms. Andrews says what he said was fine, that he just responded. The employees say something very different. It could be they are saying the reason the City Manager asked to file an amendment to the Capital Improvement Plan (CIP) was because of the statements Councilman Graham made to them.

Chair Hon. Fleischman asked Councilman Barry Graham's attorney, Tim La Sota, why there was any activity regarding an amendment at all if those statements were not made. In response, Attorney La Sota expressed concern with the Panel getting off topic. He discussed the City Charter's wording, noting the differentiation between "orders to" and "request of" and that Councilman Graham can make any request of staff, and it does not violate the code.

Attorney La Sota continued by pointing out the wording discrepancies within the complaint, such as it alleges Councilman Graham "requested" employees to pause work and delay funding and that he directed an "office" which is not an individual who reports

to a Charter Officer. He noted that focusing on someone having a slightly different story misses the point. Councilman Graham is free to request whatever he wants and free to tell a Charter Officer whatever he wants, even if it is an order. There has been no ethics violation.

Chair Hon. Fleischman inquired if Attorney La Sota felt the employee statements should be ignored and the Panel should only base their decision on the complaint. In response, Attorney La Sota stated this should have occurred at the last hearing. Now there is a report that has Councilman Graham making a request to subordinates, and someone sent an email that says we need to change this.

Chair Hon. Fleischman inquired if Attorney La Sota agreed with his recital of testimony and the fact that there was a request from the City Manager to amend the CIP and bump the 68th Street from the 5-year plan. In response, Attorney La Sota stated he does not know what happened with the CIP. The question is what did Councilman Graham order, and the answer is he did not order anyone to do anything because that is not what Councilmembers do. He did not order subordinates of Ms. Andrews to do anything. Two words are used, "requests" and "directed". Ms. Andrews took Councilman Graham into a room with other people in response to his inquiry and whatever he said to Ms. Andrews was also heard by anyone in that room.

Hon. Thomason reviewed his analysis of the testimony, noting he read the statements and watched the interviews:

- Ms. Johnson and Ms. Zhou believed they were being ordered to do something.
- In fact, they did it. They sent emails. They confirmed what they felt they were ordered to do.
- It stopped and did not come to fruition, but they clearly believed they were being ordered to do something.
- This created a conflict in the testimony.
- He did not believe they would be able to dismiss the complaint at this time given that conflict.

Hon. Mangum reviewed his analysis of the testimony:

- Councilman Graham did not order it, but the employees took it as a direction.
- Is Councilman Graham to be blamed for not being clear about what he was asking?
- Councilman Graham meets with the City Treasurer to obtain information, and she takes him to the people who can get the information.
- Hon. Magnum was unsure how far Councilman Graham's actions with the employees can be taken when he is looking for information.
- Councilman Graham could not order the Treasurer to do anything. He could express his single-party vote and ideas, but he does not have the authority to direct anybody.

Discussion among the Panel ensued regarding Ms. Johnson and Ms. Zhou and the possibility they may have misunderstood Councilman Graham's comments and authority. Questions were posed about a "no harm, no foul" defense applying to an ethics inquiry and, if so, whether it applied to the weight of the matter or whether the statute was violated. The evidence contradicts Councilman Graham's position that he did not say anything other than,

“Hi, how are you”.

Councilman Graham provided a statement in response to the Panel’s discussion that Ms. Andrews brought him into the office of her own free will and that he was “along for the ride”. Ms. Andrews directed staff to pause the projects so the new council would have a chance to review them. He stated he expressed preference for various projects by stating “yes and no, I like this, and I don’t like that”. He continued stating he was smiling, making pleasantries and some jokes as well as small talk, but did not direct anyone. He states he was surprised by the way he was being led around because he did not request to speak with staff.

Councilman Graham indicated it was a normal budget meeting, which the Charter requires, and residents expect him to sit with Charter Officers. No requests were made of staff because he is familiar with the process of amending projects and budgets as well as the City’s Ethics Code. He argued it was not a violation. He hoped this re-explanation was consistent with his previous testimony, written remarks, and perceptions from staff about what he meant or his presence in their office.

Ms. Norton provided a statement in response to the Panel’s discussion. She stated Councilman Graham did provide direction, which is supported by staff testimony and is a violation of the Code of Ethical Behavior. She felt it is important to interview the City Manager and build a timeline for the CIP changes. She noted there is a footnote on the February 21st Capital Management Review Committee Agenda that states for “the 68th Street Sidewalk and Storm Drains, the project was requested to be moved out to the future by the Vice Mayor.” Councilman Graham was then Vice Mayor.

Councilman Graham responded to Ms. Norton’s statement and pointed out the word “requests” was used and that he requests things all the time because voters elected him to do that. He reiterated that he was pulled into the office, and the extent of the conversation was him smiling, and saying, “Hey, how are you doing,” and, “yeah”. He did not direct anybody below the Charter level to do anything. He remarked that Ms. Andrews asked the employees to pause the project or see if they can pause it after they discussed the requested information.

Attorney La Sota provided closing statements on the Motion to Dismiss, stating this is a political hit intended to send a message that Councilmembers must be extraordinarily careful if they want to have conversations with anyone who works for the City of Scottsdale. He noted this started with an email alleging that Councilman Graham directed “our office” to do something, but there is no real evidence he directed anything. This needs to end right now, he said, adding that Councilman Graham is allowed to direct a Charter Officer and to request of anyone anything he wants. Attorney Cassidy’s report stated he did not violate the Charter. He reiterated the Councilman is allowed to make any request. He felt this discussion has moved away from what the City Charter prohibits and is now focused on eviscerating an elected representative. He requested that the Motion to Dismiss be granted.

Ruling on the Motion to Dismiss:

- Hon. Thomason voted to deny the Motion to Dismiss considering what was previously stated, seeing a clear conflict in the testimony presented, and the two witnesses believing they were ordered to do something.
- Hon. Mangum voted to grant the Motion to Dismiss because it appears the two

- employees misunderstood what was going on, and their misperception and eagerness to comply should not be the basis for an ethical violation.
- Chair Hon. Fleischman voted to deny the Motion to Dismiss based on the two witnesses' statements that diametrically opposed Councilman Graham's statements. All three witnesses state Councilman Graham was an active participant. Attorney Cassidy's report states, "Staff members are not accustomed to receiving directions directly from Councilmembers". Based on the standard, all evidence must be heard to determine exactly what happened.

THE PANEL MEMBERS DENIED THE MOTION TO DISMISS COMPLAINT AGAINST COUNCILMEMBER GRAHAM IN A TWO (2) TO ONE (1) DECISION PENDING FURTHER SWORN TESTIMONY FROM RELEVANT WITNESSES. NO MOTION WAS MADE.

- c. Any Other Discussion and Action Permitted Under Scottsdale Revised Code Section 2-57(c) and the *Code of Ethical Behavior Rules of Procedure*.

The Panel agreed to reconvene on Thursday, June 5, 2025, at 8:00 a.m. for further action. A discussion ensued regarding how to set up the hearing. It was determined that Attorney Cassidy will arrange for the employees to be present for the hearing and to possibly give sworn testimony. Ms. Norton will be responsible to produce additional witnesses, such as City Manager Greg Caton, outside of Councilman Graham, Sonia Andrews, Ana Lia Johnson, and Linna Zhou. Attorney Cassidy may assist Ms. Norton with issuing subpoenas if necessary. It was noted that Ms. Norton will have the burden of proof,

3. Executive Session (if needed)

The Independent Ethics Review Panel did not go into an Executive Session.

4. Further Actions Related to the Finalization of this Independent Ethics Review Panel (if needed)

No further action taken.

Adjournment

With no further business before the Panel, Chair Hon. Fleishman adjourned the meeting at 9:07 a.m.

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