

Memorandum

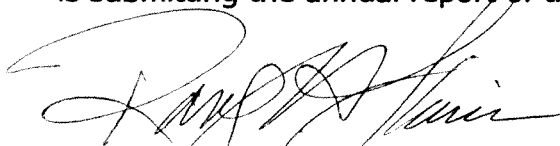


DATE February 1, 2010

TO Honorable Mayor and
Members of the City Council

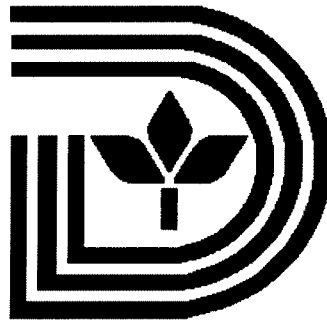
SUBJECT **ETHICS ADVISORY COMMISSION 2008 ANNUAL REPORT**

In accordance with Chapter 8, Section 8-1.1, the Ethics Advisory Commission is submitting the annual report of the Commission's activities for your review.



Randy H. Skinner, Chairman
Ethics Advisory Commission

C: Mary K. Suhm, City Manager
Deborah A. Watkins, City Secretary



CITY OF DALLAS

ETHICS ADVISORY COMMISSION

2009

ANNUAL REPORT

FEBRUARY 1, 2010

ETHICS ADVISORY COMMISSION

2009 ANNUAL REPORT

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TAB 1

ETHICS ADVISORY COMMISSION MEMBERS

The Ethics Advisory Commission is composed of seven (7) members. The full City Council appoints members to this commission.

1. Randy H. Skinner, Chairman
2. Calvin C. Bluiett, Vice-Chairman
3. Rodolfo Rodriguez, Commissioner, Resigned 08/26/09
4. Gloria M. Tarpley, Commissioner, Resigned 11/10/09*
5. Rebecca Baird Bergstresser, Commissioner
6. James Adams, Commissioner
7. Roger Wedell, Commissioner

(*Commissioner Tarpley was in holdover status and had served for four full terms. She resigned to accept an appointment to another board.)

TAB 2

MISSION STATEMENT

The Ethics Advisory Commission is an advisory body having the jurisdiction to review and make findings concerning any alleged violation of the City of Dallas' Code of Ethics. It can make findings concerning any persons subject to the provisions of the Code, including but not limited to current city officials and employees, former city officials and employees and persons doing business with the city. Complaints must be filed within one year after the date of the alleged violation. The Commission may not consider any alleged violation occurring before January 1, 2001 or more than one year before the date of the filing of a complaint.

The Ethics Advisory Commission has the power to:

- 1) Establish, amend and rescind rules and procedures governing its own internal organization and operations in a manner and form consistent with the Code of Ethics.
- 2) Meet as often as necessary to fulfill its responsibilities.
- 3) Review, index, maintain on file and dispose of sworn complaints.
- 4) Make findings of fact as necessary for the disposition of a complaint.
- 5) Make notifications, extend deadlines and conduct investigations.
- 6) Exert any other powers as are specifically granted in the Code of Ethics.

TAB 3

SUMMARY OF ACTIVITIES

- Four (4) EAC meetings were held in 2009:

- January 16, 2009
- February 20, 2009
- March 27, 2009
- April 17, 2009

- Six (6) ethics complaints were filed in 2009:

Date Submitted	Complainant	Respondent	Withdrawn Before Hearing	Preliminary Panel Hearing	Evidentiary Hearing
04/13/09	Brian Howard Wesley	David A. Neumann	No	Yes	No
08/07/09	Avi S. Adelman	Alex Salinas	No	Yes	No
08/14/09	Bruton Stephens	Sloan Anderson	No	Yes	No
09/02/09 amended 09/14/09	Staci Williams	Randall Scott	No	Yes	No
10/19/09	Sandra Crenshaw	Tennell Atkins	No	Yes	No
10/19/09	Sandra Crenshaw	Tom Perkins	No	Yes	No

- Three (3) letters of complaint that did not meet the minimum requirements for an ethics complaint were received by the city secretary's office in 2009:

Date Submitted	Complainant	Respondent
05/04/09	Scott Newland	SEIU Local 5
05/14/09	Jill C. Jones	Antron D. Jones
10/14/09	Jurline Gates Hollins	Tom Leppert Dwayne Caraway

Complaint log for 2009 and more detailed information is included in this report behind Tab 4

- Three EAC Rules of Procedure forms were added/adopted by the EAC:
 - EAC Evidentiary Hearings, Section 5 – added 2/20/09
 - Petition for Declaratory Ruling, Section 6 – added 3/27/09
 - Declaratory Ruling Written Decision Form - adopted 04/17/09

- The EAC Rules of Procedure were presented to the Mayor and City Council on September 16, 2009
 - The EAC Rules of Procedure, as amended are included behind Tab 7.
- On March 25, 2009, the City Council passed an ordinance amending Chapter 12A of the Dallas City Code regarding TIF board members upon recommendation by the EAC in 2008.
- On January 15, 2009, the Mayor's Ethics Task Force completed its work. The Task Force was appointed by Mayor Leppert in November 2008 and included Deputy Mayor Pro Tem Pauline Medrano, Councilmember Mitchell Rasansky, Councilmember Carolyn R. Davis, EAC Chairman Randy Skinner and EAC Vice Chairman Calvin Bluiett.

The recommendations of the Task Force (Tab 8) were compiled and forwarded to the Task Force Chair, Deputy Mayor Pro Tem Pauline Medrano.

TAB 4



Ethics Advisory Commission Index of Complaints

Complaint #	File Number	Date Received	Complainant	Respondent	Disposition
38	09-5135	02/05/09	Jane Anne Bryant	Various City Departments	Invalid—Complaint failed to name respondent. Withdrawn.
39	09-5175	05/04/09	Scott Newland	SEIU Local 5	Invalid—Complaint failed to name respondent and was not submitted on EAC notarized form. Forms, EAC Rules and instructions sent to complainant and letter with attachments forwarded to City Attorney.
40	09-5176	05/14/09	Jill C. Jones	Antron D. Jones	Invalid—Complaint unclear and not submitted on EAC notarized form. Forms, EAC Rules and instructions sent to complainant and information forwarded to Fire Chief for review and follow-up.
41	09-5140	04/13/09	Brian Howard Wesley	David A. Neumann	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
42	09-5189	08/07/09	Avi S. Adelman	Alex Salinas	Dismissed by Preliminary Panel. . Based upon the evidence submitted the complaint was not supported by “just cause” .
43	09-5193	08/14/09	Bruton Stephens	Sloan Anderson	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
44	09-5205	09/02/09 amended 09/14/09	Staci Williams	Randall Scott	Amended complaint filed 09/14/09 Dismissed by Preliminary Panel. . Based upon the evidence submitted the complaint was not supported by just cause and failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
45	09-5360	10/14/09	Jurline Hollins	Tom Leppert Dwayne Caraway	Invalid—Ethics complaint was unclear and not submitted on EAC notarized form. Forms, EAC Rules and instructions sent to complainant.
46	09-5247	10/19/09	Sandra Crenshaw	Tennell Atkins	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint was not supported by “just cause” and failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
47	09-5248	10/19/09	Sandra Crenshaw	Tom Perkins	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint was not supported by “just cause” and failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)

TAB 5

**2009 ATTENDANCE RECORD
ETHICS ADVISORY COMMISSION**

MEETING DATES	1/16/09	2/20/09	3/27/09	4/17/09
Randy H. Skinner	P	P	A	P
Calvin C. Bluiett	P	P	P	P
Rodolfo Rodriguez	P	P	P	A
Gloria M. Tarpley	P	A	P	P
Rebecca Baird Bergstresser	P	P	P	P
James F. Adams	A	P	P	P
Roger Wedell	P	A	P	P
LEGEND:				
A=ABSENT				
N/A=NOT YET APPOINTED				
NM=NO MEETING				
P=PRESENT				
V=VACANT				

TAB 6

**ETHICS ADVISORY COMMISSION
RULES OF PROCEDURE**

**EVIDENTIARY HEARING
SECTION 5**

Section 5 EVIDENTIARY HEARING

5.1 Scheduling Evidentiary Hearing. Within three days after the preliminary panel issues a decision to forward a complaint to the full EAC for an evidentiary hearing, the city secretary's office, in consultation with the chair and after polling members of the EAC, shall select the date for the evidentiary hearing.

5.2 Notice of Hearing Date. At least 14 days prior to the hearing, written notice of the hearing will be sent to the complainant, the person charged in the complaint, the EAC, and the city attorney's office by certified mail or personal service. Courier service may be used to provide notice by personal service.

[See Dallas City Code, Section 12A-27(a)]

5.3 Responses. The person charged in the complaint shall have the opportunity to submit a sworn statement, together with such other information he/she feels is relevant, in response to the charges to be considered at the evidentiary hearing. Responses should be received in the city secretary's office at least four days before the date of the evidentiary hearing so that the EAC may have sufficient time to review the responses.

Failure to file a response in a timely manner may result in the continuance or reset of the evidentiary hearing. If a response is not received by the city secretary's office before the four-day deadline, the EAC, at its discretion, may waive the requirement and the response may be considered at the hearing.

5.4 Procedural Requests. All procedural motions that the complainant or person charged in the complaint wishes the EAC to consider at the evidentiary hearing must be filed with the city secretary's office at least four days prior to the evidentiary hearing.

Within one business day after receipt, the city secretary's office will promptly forward the procedural motions to the EAC, the city attorney's office, the complainant, and the person charged in the complaint.

In addition to other procedural motions, the EAC may consider a request for a reset or continuance of a hearing. The EAC may also, on its own motion, reset or continue a hearing.

At the beginning of the hearing, the EAC will consider and rule upon procedural motions.

5.5 Open Meetings Act Requirement. Public notice of an evidentiary hearing shall be posted at least 72 hours prior to the hearing in accordance with the Texas Open Meetings Act [Government Code, Chapter 551].

5.6 Quorum Requirement. A quorum of at least four commissioners must be present for an evidentiary hearing. If no quorum is present within 30 minutes after the posted start time, the city secretary shall reschedule the hearing date and provide all parties with written notice by certified mail or personal service at least 10 days prior to the new hearing date.

[See Dallas City Code, Section 12A-28(c)]

5.7 Executive Session. The EAC may go into executive session and shall publicly announce the purpose of such a session and the provision under the Texas Open Meetings Act that permits such session. All executive sessions of the EAC shall be recorded as required by Section 8-6 of the Dallas City Code.

5.8 Hearing Procedures. Evidentiary hearings shall be conducted in accordance with this section.

The chair shall call the hearing to order, announce the time the hearing is called to order, and state whether a quorum of the EAC is present.

The chair shall identify the complaint being considered by the EAC.

Each of the following persons attending the hearing shall state his/her name and title for the record:

- EAC members.
- City Secretary's Office staff.
- City Attorney's Office staff.
- Complainant and legal counsel.
- Person charged in the complaint and legal counsel.

The city secretary's office shall administer an oath to everyone who is to provide testimony during the hearing.

The chair shall provide an overview of the complaint by summarizing the complaint/amended complaint form submitted by the complainant.

The EAC will then consider procedural motions by the complainant and/or person charged in the complaint. Each procedural motion will be decided by a majority vote of the EAC members present.

The complainant or his/her legal counsel may, at the discretion of the EAC, be given an opportunity to present a case, which may include:

- Presenting evidence.
- Calling and questioning witnesses.
- Playing audio or video recordings.
- Giving direct testimony.

The person charged in the complaint, or his/her legal counsel, shall then be given an opportunity to present a case, which may include:

- Presenting evidence.

- Calling and questioning witnesses.
- Playing audio or video recordings.
- Giving direct testimony.

EAC members may ask questions of the complainant and/or person charged in the complaint at any time during the hearing, unless otherwise directed by the chair.

If the complainant is not present, the person charged in the complaint will still be given an opportunity to present his/her case. Likewise, if the person charged in the complaint is not present, the complainant may, at the discretion of the EAC, still be given an opportunity to present his/her case.

Once both the complainant and person charged in the complaint have presented their cases, the EAC will discuss the evidence presented and make a determination on the complaint.

After a written decision is issued in accordance with Section 5.9 of these rules, the chair shall announce the hearing is adjourned and state the time of adjournment.

5.9 Written Decision. At the conclusion of the hearing, the EAC shall issue a written decision on the evidentiary hearing decision form (See Exhibit G). A decision to find an ethics violation must be by an affirmative vote of at least 3/5 of the commission members present and voting.

[See Dallas City Code, Section 12A-28(b)]

At the termination of the hearing, each EAC member participating in the hearing shall sign the evidentiary hearing decision form.

5.10 Notification. Within ten days after a written decision is issued, the city secretary's office, on behalf of the EAC, shall forward copies of the findings and decision to the complainant, the person charged in the complaint, the city attorney's office, the city council, any EAC member not participating in the decision and any person or body to whom a complaint is being referred for sanctions under Section 12A-30(a).

The city secretary shall make the findings and decision available to the public as authorized by law.

5.11 Sanctions. When the EAC refers a matter to the city council as prescribed in Section 12A-30(a)(3) and (4) of the code of ethics, the city secretary's office shall prepare a resolution that states the findings of the EAC and any recommended sanctions. The city secretary's office shall place the resolution for council action on the first available city council voting agenda meeting occurring after the date of the EAC decision.

The city secretary's office shall give written notice to the complainant, the person charged in the complaint, and the EAC of the date and time the city council will consider the findings and recommended sanctions of the EAC.

Within three days after the city council takes action on the resolution, the city secretary's office shall send a letter to the complainant, the person charged in the complaint, and the EAC announcing the decision of the city council. The letter shall include a copy of any resolution adopted by the city council.

[See Dallas City Code, Section 12A-30(b)(1)(2)(3)(4)(5)]

**ETHICS ADVISORY COMMISSION
RULES OF PROCEDURE**

**PETITIONS FOR
DECLARATORY RULING
SECTION 6**

Section 6 PETITIONS FOR DECLARATORY RULING

6.1 Declaratory Ruling. Any city official or employee against whom public allegations of ethics violations have been made in the media or elsewhere may file a petition for a declaratory ruling with the city secretary's office in order to obtain from the EAC a determination of the compliance or lack of compliance of the petitioner's action(s) with the City Code of Ethics.

[See Dallas City Code, Section 12A-31]

The city official or employee petitioning for a declaratory ruling should request the EAC to review the public allegations of ethics violations made against the city official or employee and make known its findings. The request shall include the city official's or employee's sworn statement affirming his/her innocence.

The petition for a declaratory ruling shall:

- (1) state the specific provision or provisions of the ethics code that the city official or employee has publicly been accused of violating;
- (2) present evidence that such allegations have been made public; and
- (3) provide sources of evidence that the city official or employee believes should be considered by the EAC in order to make a determination on the petition.

6.2 Withdrawal of Request for Declaratory Ruling. After being filed with the city secretary's office, a request for declaratory ruling may be withdrawn by written request of the petitioner. The written request must be received by the city secretary's office no later than 9:00 A.M. of the last business day before the date scheduled for the hearing on the request for declaratory ruling.

6.3 Scheduling Hearing for Declaratory Ruling. Within five business days after a petition for a declaratory ruling is received, the city secretary's office, in consultation with the chair and after polling members of the EAC, shall select the date for the hearing to consider the petition.

6.4 Notice of Hearing Date. At least 10 days prior to the hearing, written notice of the hearing will be sent to the person requesting a declaratory ruling, the EAC, and the city attorney's office by certified mail or personal service. Courier service may be used to provide notice by personal service.

6.5 Open Meetings Act Requirements. Public notice of a hearing on a petition for a declaratory ruling shall be posted at least 72 hours prior to the hearing in accordance with the Texas Open Meetings Act [Government Code, Chapter 551].

6.6 Quorum Requirement. A quorum of at least four commissioners must be present for a hearing to consider a petition for a declaratory ruling. If no quorum is present within 30

minutes after the posted start time, the city secretary shall reschedule the hearing date and provide all parties with written notice by certified mail or personal service at least 10 days prior to the new hearing date.

6.7 Executive Session. The EAC may go into executive session and shall publicly announce the purpose of such a session and the provision under the Texas Open Meetings Act that permits such session. All executive sessions of the EAC shall be recorded as required by Section 8-6 of the Dallas City Code.

6.8 Hearing Procedures. Hearings on petitions for declaratory rulings shall be conducted in accordance with this section.

The chair shall call the hearing to order, announce the time the hearing is called to order, and state whether a quorum of the EAC is present.

The chair shall identify the petition being considered by the EAC.

Each of the following persons attending the hearing shall state his/her name and title for the record:

- EAC members.
- City Secretary's Office staff.
- City Attorney's Office staff.
- Petitioner and legal counsel.

The city secretary's office shall administer an oath to everyone who is to provide testimony during the hearing.

The chair shall provide an overview of the petition to be considered by summarizing the materials submitted by the petitioner.

The petitioner, or his/her legal counsel, shall then be given an opportunity to present a case, which may include:

- Presenting evidence.
- Calling and questioning witnesses.
- Playing audio or video recordings.
- Giving direct testimony.

The EAC members may ask the petitioner questions at any time during the hearing, unless otherwise directed by the chair.

After the petitioner has presented his/her case, the EAC will discuss the evidence presented and make a determination on the petition for a declaratory ruling.

After a written decision is issued in accordance with Section 6.10 of these rules, the chair shall announce the hearing is adjourned and state the time of adjournment.

6.9 Continuance for Additional Information. The EAC may, in the course of deliberations, decide additional information is needed to make a finding. The EAC may, on its own motion, continue the hearing in order to receive and review information from sources not available during the hearing.

The EAC may request the petitioner to provide additional information to support his/her request for declaratory ruling. Information requested must be submitted to the city secretary's office no later than three days prior to the date the hearing is to reconvene.

The EAC may request the city secretary's office to obtain additional information contained in city records maintained by the city secretary's office that the EAC deems necessary to making a finding, subject to any restrictions set forth in the Texas Public Information Act. No later than three days before the hearing is to reconvene, the city secretary's office shall provide the EAC with the requested information or advise the EAC that the information is not available.

6.10 Written decision. At the conclusion of a hearing to consider a petition for a declaratory ruling, the EAC shall issue a written decision. A decision on a petition for a declaratory ruling must be by a majority vote of the commission members present and voting.

6.11 Notification. Within 10 days after a written decision is issued, the city secretary's office, on behalf of the EAC, shall forward copies of the written decision to the petitioner, the city attorney's office, the city council, and any EAC member not participating in the decision.

The city secretary shall make the findings and decision of the EAC available to the public as authorized by law.

[See Dallas City Code, Section 12A-31]

**ETHICS ADVISORY COMMISSION
RULES OF PROCEDURE**

**DECLARATORY RULING
WRITTEN DECISION FORM**



ETHICS ADVISORY COMMISSION
Declaratory Ruling Written Decision Form

(FILE NUMBER)

Petitioner: _____

Date petition filed: _____

PETITION FILED WITH ETHICS ADVISORY COMMISSION

Section 12A-31 of the Dallas City Code states: "Any city official or employee against whom public allegations of ethics violations have been made in the media or elsewhere has the right to file a sworn statement with the city secretary affirming his or her innocence, and to request the ethics advisory commission to review the allegations and make known its findings."

On ____ / ____ / _____, _____
(DATE PETITION FILED) (NAME OF PETITIONER)

pursuant to Section 12A-31 of the Dallas City Code, filed a sworn request for a declaratory ruling because of public allegations of ethics violations made in the media or elsewhere against the petitioner.

The allegations are as follows:

On ____ / ____ / _____, a written notice stating the date, time, and place of the declaratory ruling hearing was sent to the Petitioner.
(DATE)

On / / , a declaratory ruling hearing was convened at: _____
(DATE) (LOCATION)

The hearing was called to order at _____ AM/PM.

Commission members present were:

- _____, Chair
- _____, Vice-Chair
- _____, Commission Member
- _____, Commission Member
- _____, Commission Member
- _____, Commission Member
- _____, Commission Member

City staff present were:

- _____
- _____
- _____
- _____

Witnesses sworn to provide testimony were:

- _____
- _____
- _____
- _____

Petitioner was / was not present at the hearing, and was / was not represented by counsel or other advisors.

Names of Petitioner's legal counsel or other advisors:

- _____
- _____

DECLARATORY RULING HEARING DECISION

On ____ / ____ / ____, the ethics advisory commission reviewed the evidence presented at the
(DATE OF HEARING)

hearing on the declaratory ruling request filed by _____
(NAME OF PETITIONER)

Evidence considered at the hearing:

Motion

Motion by _____, seconded by _____,
(COMMISSION MEMBER) (COMMISSION MEMBER)

that the Ethics Advisory Commission makes the following finding, based upon the evidence presented at this hearing, regarding the public allegations of ethics violations made in the media or elsewhere against the petitioner listed herein:

EXHIBIT I

Motion passed / failed with the following Commission Members voting for / against the motion:

- _____ For / _____ Against _____, Chair
- _____ For / _____ Against _____, Vice-Chair
- _____ For / _____ Against _____, Commission Member
- _____ For / _____ Against _____, Commission Member
- _____ For / _____ Against _____, Commission Member
- _____ For / _____ Against _____, Commission Member
- _____ For / _____ Against _____, Commission Member

Date signed: _____ / _____ / _____

Motion to adjourn made by _____ and seconded by
(COMMISSION MEMBER)

_____. The meeting was adjourned at _____ AM/PM.
(COMMISSION MEMBER)

TAB 7



ETHICS ADVISORY COMMISSION

RULES OF PROCEDURE

CITY OF DALLAS, TX

Adopted:	10/27/06
Amended:	03/30/07
	04/13/07
	08/28/08
	02/20/09
	03/27/09
	04/17/09

TAB 8

MAYOR'S ETHICS TASK FORCE

- DISCUSSION NOTES
- RECOMMENDATIONS PRESENTED TO TASK FORCE CHAIR, DEPUTY MAYOR PRO TEM PAULINE MEDRANO, FOR FURTHER ACTION

ETHICS ADVISORY COMMISSION ISSUES FOR ACTION

- City Council resolution authorizing the Ethics Advisory Commission to:
 - Review and recommend amendments to Chapter 15A of the Dallas City Code (with exception to contribution amounts)
 - Review and recommend amendments to Chapter 12A of the Dallas City Code to include the time frame during which Councilmembers are restricted from accepting campaign contributions prior to or after consideration of an item on the City Council agenda (TAB 1)
- Amend Chapter 12A of the Dallas City Code so that a complaint must be sworn under penalty of perjury and state that the complainant has information and belief, based on credible evidence that a violation of Chapter 12A has occurred. The Code currently reads as follows:
 - "Filing. Any resident of the city or any person doing business or attempting to do business with the city (other than an ethics advisory commission member) who believes there has been a violation of this chapter may file a sworn complaint, under penalty of perjury, with the city secretary."

If amended, this section of the Code would then read:

- "Filing. Any resident of the city or any person doing business or attempting to do business with the city (other than an ethics advisory commission member) who believes there has been a violation of this chapter may file a ~~sworn~~ complaint with the city secretary. The complaint must be based on the complainant's information and belief, based on credible evidence, that a violation of this chapter has occurred. The complaint must be sworn under penalty of perjury." (This is amended wording adopted by the EAC on October 17, 2008 and changes the recommendation sent to the City Council on February 23, 2007.) (TAB2)

- On June 25, 2008, the City Council considered a recommended change to Chapter 12A of the Dallas City Code “allowing TIF Board members to acquire property within the investment zones they represent, but prohibiting them from participating and voting in matters that directly affect their acquired property in the investment zone.” The Council decided to refer the proposed amendment to the Ethics Advisory Commission and the City Council’s Economic Development Committee (EDC) for their review and comments to be reported back to the City Council.

On August 28, 2009, Karl Zavitkovsky, Director of the Office of Economic Development, along with the City Attorney’s Office, presented to the EAC the recommended ordinances dated:

- May 16, 2008 (Draft reviewed only by City Council’s EDC)
- June 18, 2008 (Draft presented to City Council on June 25, 2008 and referred to EAC and EDC)

Both draft versions of the ordinances would amend Chapter 12A of the Dallas City Code. After considering both draft ordinances, the EAC adopted the following recommendation:

- “Therefore, the EAC recommends Chapter 12A of the Dallas City Code be modified to incorporate the changes noted on the draft ordinance dated May 16, 2008 as presented at the June 10, 2008 Economic Development Council Committee meeting. As noted above, the EAC recommends that the Council review the structure of TIF Boards to reduce the inherent conflict of interest caused by the current structure.”
(TAB 3)

TAB 1

WHEREAS, on June 14 and 18, 2008, the City Council interviewed individuals for appointment and reappointment to serve as members of the Ethics Advisory Commission (EAC) for the term 2007-2009; and

WHEREAS, during the interviews, the City Council identified some concerns they wanted the Ethics Advisory Commission to include as a part of their work plan; and

WHEREAS, on September 26, 2008, the EAC sent a letter to the City Council requesting formal direction and/or consensus of the City Council in order to begin work on the these and other issues outside the EAC's purview as currently stated in Chapter 12A of the Dallas City Code; and

WHEREAS, in response to the EAC's September 26, 2008 letter, the Mayor appointed a Task Force comprised of Councilmembers Pauline Medrano, Mitchell Rasansky and Carolyn Davis to review and recommend the scope of the work plan;

WHEREAS, the Task Force members met with the EAC Chairman and Vice Chairman to discuss a work plan for addressing specific concerns of the City Council.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. The Dallas City Council authorizes the Ethics Advisory Commission to review and recommend amendments to Chapter 15A of the Dallas City Code to clarify the phrase "per city election" for the purposes of collecting campaign.

SECTION 2. The Dallas City Council authorizes the EAC to review and recommend amendments to Chapter 12A-5 of the Dallas City Code to address the time frame during which Councilmembers are restricted from accepting campaign contributions prior to or after consideration of an item on the City Council agenda.

SECTION 3. The Chair of the EAC will present the recommendations at a briefing to the City Council not later than the end of the term of the EAC (September 30, 2009).



September 26, 2008

Honorable Mayor and
Members of the Dallas City Council
Dallas City Hall
1500 Marilla - 5FN
Dallas, TX 75201

Dear Mayor and Members of the Dallas City Council:

On June 4 and 18, 2008, the City Council interviewed individuals for appointment and reappointment to serve as members of the Ethics Advisory Commissions (EAC) for the term 2007-2009.

During the interview discussion, City Councilmembers expressed interest in the EAC reviewing specific issues and concerns. On June 11, 2008, some of the issues were resolved by amending Chapter 12A of the Dallas City Code. The following issues are pending resolution:

- gifts and contributions to Councilmembers from zoning applicants
- clarification of the definition of "per city election" period for purposes of collecting campaign contributions defined Chapter 15A of the Dallas City Code

After discussion on September 19, 2008 regarding how to address the issues expressed by the City Council as a part of our work plan, the EAC members request formal direction and/or consensus of the City Council in order to begin work on the specific issues identified. At present, the issues are not considered a part of the commission's purview as currently stated in Chapter 12A of the Dallas City Code.

Once we receive formal consensus or vote of the City Council, the EAC will include the specific issues as a part of our work plan.

If you need clarification or have questions regarding the issues stated above, please contact me at skinner.randy@gmail.com or call me at (214) 316-1356.

Sincerely,

A handwritten signature in black ink that reads 'Randy Skinner'.

Randy Skinner
Chairman, Ethics Advisory Commissions

- C: Members, Ethics Advisory Commissions
- Deborah Watkins, City Secretary
 - Mary K. Suhm, City Manager
 - Thomas P. Perkins, Jr., City Attorney
 - Rosa A. Rios, Assistant City Secretary
 - Jesus Toscano, Executive Assistant City Attorney
 - Gwen Satterthwaite, Executive Assistant City Attorney
 - Lisa Christopherson, Assistant City Attorney
 - Daniel Soliz, Manager of Boards and Commissions, City Secretary Office

TAB 2



City of Dallas

February 23, 2007

Honorable Mayor and
Members of the Dallas City Council
Dallas City Hall
1500 Marilla
Dallas, TX 75201

MAYOR AND MEMBERS OF THE DALLAS CITY COUNCIL:

On behalf of the members of the Dallas Ethics Advisory Commission, I am submitting for your consideration a draft amendment to Section 12A-26(a) of the Dallas City Code that would clarify the degree of knowledge required to file an ethics complaint.

Serving on the commission the past few years and hearing allegations against employees and city officials has provided all of the commission members with enhanced insight and firsthand knowledge on the process for filing and hearing complaints. The commission members became concerned about requiring a complainant to have personal knowledge of an ethics violation in order to file an ethics complaint and met on October 27, 2006, February 2, 2007, and February 16, 2007 to discuss amending Chapter 12A, "Code of Ethics," of the Dallas City Code to allow a complainant to file an ethics complaint if he or she has information and belief, based on credible evidence, that a violation of the ethics code has occurred. The complaint would still be required to be sworn under penalty of perjury.

Based upon these discussions, the commission requested the city attorney's office to draft the attached proposed ordinance, which the commission has voted unanimously to recommend to the city council for adoption. The commission members welcome the opportunity to meet with the city council as a whole, during a committee meeting, or with individual members about the proposed ordinance.

For your convenience, I have attached a current list of the commission members with telephone numbers for contact purposes, or you may convey your wishes to the city secretary regarding how you wish to proceed with our recommendation.

**Honorable Mayor and
Members of the Dallas City Council
February 23, 2007
Page 2**

It has been a pleasure serving as a member and vice-chair of the commission, and I look forward to hearing from you.

Sincerely,

Calvin Bluiett

Calvin Bluiett
Vice-Chair, Ethics Advisory Commission

C: Ethics Advisory Commission Members
Deborah Watkins, City Secretary
Mary K. Suhm, City Manager
Thomas P. Perkins, Jr., City Attorney

DRAFT

2/16/07

ORDINANCE NO. _____

An ordinance amending Section 12A-26 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; clarifying the degree of knowledge required to file an ethics complaint with the ethics advisory commission; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 12A-26, "Complaints," of Article VII, "Ethics Advisory Commission," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 12A-26. COMPLAINTS.

(a) Filing. Any resident of the city or any person doing business or attempting to do business with the city (other than an ethics advisory commission member) who believes there has been a violation of this chapter may file a [sworn] complaint [~~, under the penalty of perjury,~~] with the city secretary. The complaint must be sworn under penalty of perjury and state that the complainant has information and belief, based on credible evidence, that a violation of this chapter has occurred. The complaint must:

- (1) identify the person or persons who allegedly committed the violation;
- (2) provide a statement of the facts on which the complaint is based;
- (3) to the extent possible, identify the ethics provision or provisions allegedly violated; and
- (4) identify sources of credible evidence, if any, that the complainant recommends should be considered by the ethics advisory commission.

(b) Confidentiality. No city official or employee shall reveal information relating to the filing or processing of a complaint, except as required for the performance of official duties or as required by law. *Ex parte* communications by or to members of the ethics advisory commission are prohibited by Section 12A-27(c) of this chapter. All papers and communications relating to a complaint must be treated as confidential unless required to be made public under the Public Information Act (Chapter 552, Texas Government Code) or other applicable law.

(c) Notification. The city secretary shall promptly forward a copy of a complaint to the chair of the ethics advisory commission and to the person charged in the complaint. The person charged in the complaint shall have the opportunity to submit a sworn statement, together with such other information he or she feels is relevant. Copies of all information provided to the ethics advisory commission by the complainant and the person charged in the complaint must be distributed to all parties to the complaint within 10 days after the ethics advisory commission receives the information.

(d) False accusations and responses. The city secretary shall, in writing, advise the person filing the complaint that falsely accusing someone of a violation of this chapter may result in criminal prosecution of anyone who knowingly makes a false accusation. The city secretary shall, in writing, advise the person charged in the complaint that falsely responding to a complaint may result in criminal prosecution of anyone who knowingly makes a false response.

(e) Summary dismissal.

(1) Within 21 days after receipt of a complaint, either the chair or vice chair, selected on a rotational basis, and two commission members, selected by lot by the city secretary, shall make a preliminary finding as to whether or not the complaint states a claim under this chapter and is supported by just cause. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this chapter.

(2) If the preliminary finding is that the complaint does not state a claim under this chapter or does not have just cause, based upon the statements and evidence submitted, the complaint must be dismissed. A determination that a complaint be dismissed can only be made upon the affirmative vote of at least two of the three preliminary panel members. Written notice of the dismissal must be sent to both the person who made the complaint and the person about whom the complaint was made, identifying the reason or reasons for dismissal.

(3) The chair is recused from serving on a preliminary panel for any complaint filed against the mayor, except that the chair may participate in discussions and voting on a complaint against the mayor when it is being considered by the commission as a whole. If the chair, the vice chair, or both are unable to serve on a preliminary panel, the appropriate number of ethics commission members shall be selected by lot by the city secretary as substitutes on the panel. The preliminary panel must always have three members."

SECTION 2. That CHAPTER 12A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

LC/DCC/00405A

**ETHICS ADVISORY COMMISSION
MEETING MINUTES
October 17, 2008
9:00 A.M.**

Members Present: Randy H. Skinner, Chairman
Calvin C. Bluiett, Vice Chairman
James F. Adams
Roger W. Wedell
Gloria M. Tarpley

Members Absent: Rebecca B. Bergstresser
Rodolfo "Rudy" Rodriguez

Staff Present: Deborah A. Watkins, City Secretary
Jesus Toscano, Executive Assistant City Attorney
Gwen Satterthwaite, Executive Assistant City Attorney
Peter Haskel, Assistant, City Attorney
Daniel Soliz, Boards and Commissions Manager, CSO
Sandra E. Du Bose, Commission Coordinator, CSO

Agenda Item I – Call to Order

Chairman Skinner called the meeting of the Ethics Advisory Commission (EAC) to order at 9:10 a.m.

Agenda Item II – Approval of Minutes for September 19, 2008

Vice Chairman Bluiett moved to approve the minutes of the September 19, 2008 meeting of the Ethics Advisory Commission.

Motion seconded by Commissioner Tarpley and unanimously adopted. (Bergstresser, Rodriguez absent)

Agenda Item III – Authorize an extension of the 21 day deadline to issue a preliminary finding and the 45 day deadline to issue a written decision on the complaint filed by Elroy A. Williams against former city employee Tommy Tine

Vice Chairman Bluiett moved that the Preliminary Panel, which was convened to consider the complaint filed by Elroy A. Williams against Tommy Tine, be granted an extension of no later than November 14, 2008 to issue a preliminary finding, and that the deadline for an Evidentiary Hearing (if held) to render a decision be extended until no later than November 26, 2008.

Motion seconded by Commissioner Tarpley and unanimously adopted. (Bergstresser, Rodriguez absent)

Closed Session

At 9:23 a.m., Chairman Skinner announced a closed session of the EAC meeting authorized by Chapter 551 of the Texas Open Meetings Act to receive legal advice from the City Attorney's Office relating to the definition of "doing business with the city" and "attempting to do business with the city" in Section 12A-26(a) of the Dallas City Code (Code of Ethics).

Chairman Skinner reconvened the EAC meeting after the closed session at 10:29 a.m. No other matters were discussed during the closed session.

Agenda Item IV – Definition of "doing business with the city" and "attempting to do business with the city" in Section 12A-26(a) of the Dallas City Code (Code of Ethics)

The City Attorney's Office briefed the EAC on possible definitions of what constitutes "doing business with the city" and recommended the following definition for consideration:

"Engaging in any activity for the purpose of realizing pecuniary benefit or economic gain, whether professional, industrial or commercial, including having an employment or volunteer relationship with the city."

Vice Chairman Bluiett moved the EAC adopt the City Attorney's Office suggested definition of "doing business with the city."

Motion seconded by Commissioner Adams and unanimously adopted. (Bergstresser, Rodriguez absent)

Agenda Item V – Discussion of the "Personal Knowledge" standard

The EAC reviewed the February 23, 2007 letter sent to the City Council recommending an amendment to Chapter 12A of the Dallas City Code (Code of Ethics). The EAC also considered specifically the "personal knowledge" standard required currently in the ordinance and the recommended changes. The recommended changes sent to the City Council states:

"Filing. Any resident of the city or any person doing business or attempting to do business with the city (other than an ethics advisory commission member) who believes there has been a violation of this chapter may file a [~~sworn~~] complaint [, under the penalty of perjury,] with the city secretary. The complaint must be sworn under penalty of perjury and state that the complainant has information and belief, based on credible evidence, that a violation of this chapter had occurred."

Vice Chairman Bluiett moved that the reworded Ordinance change to Section 12A-26(a) be revised as follows:

"Filing. Any resident of the city or any person doing business or attempting to do business with the city (other than an ethics advisory commission member) who believes there has been a violation of this chapter may file a [~~sworn~~] complaint with the city secretary. The complaint must be based on the complainant's information and belief, based on credible evidence, that a violation of this chapter has occurred. The complaint must be sworn under penalty of perjury."

Motion seconded by Commissioner Adams and unanimously adopted. (Bergstresser, Rodriguez absent)

Agenda Item VI – Calendar

The EAC reviewed the dates of future meetings.

Adjournment

Commissioner Wedell motioned to adjourn the meeting.

Motion seconded by Commissioner Tarpley and unanimously adopted. (Bergstresser, Rodriguez absent)

The meeting adjourned at 10:55 a.m.

Randy H. Skinner, Chairman

TAB 3

CITY OF DALLAS
ETHICS ADVISORY COMMISSION

STATEMENT & RECOMMENDATION
PROPOSED AMENDMENTS TO CHAPTER 12A, DALLAS CITY CODE
AUGUST 28, 2008

The Ethics Advisory Commission (EAC) met on August 28, 2008 to discuss and make recommendations at the request of the Dallas City Council on a proposed ordinance amending Chapter 12A of the Dallas City Code to allow Tax Increment Financing Reinvestment Zone Board members to acquire property within the reinvestment zones they represent, but prohibiting them from participating and voting in matters that directly affect their acquired or existing property in the reinvestment zone.

The following Commission members were present at the meeting: Randy Skinner, Chairman, Calvin Bluiett, Vice-Chairman, and Commissioners Rodolfo Rodriguez, Gloria Tarpley, Rebecca Bergstresser, James Adams and Roger Wedell.

The following observations and recommendations were made to forward to the City Council:

1. The statutory composition of the Tax Increment Financing Reinvestment Zone (TIF) Boards of Directors is burdened by an inherent conflict of interest within the Dallas City Code that creates a special circumstance for some citizens and creates different rules for TIF Board members not applicable to all other board members, which poses a problem. The EAC recommends this problem be mitigated by looking at a different structure for TIF Boards.
2. The proposed revisions listed and presented in the ordinance draft presented at the June 10, 2008 Economic Development Council Committee addresses, to some extent, the problem inherent in the Dallas City Code with regard to the TIF Boards. (See Attachment)
 - setting clearer rules;
 - clarifying situations which are clear conflicts of interest; and
 - creating transparency in the operations of the TIF Boards.

Therefore, the EAC recommends Chapter 12A of the Dallas City Code be modified to incorporate the changes noted on the draft ordinance dated May 16, 2008 as presented at the June 10, 2008 Economic Development Council Committee meeting. As noted above, the EAC recommends that the Council review the structure of TIF Boards to reduce the inherent conflict of interest caused by the current structure.

ORDINANCE NO. _____

An ordinance amending Sections 12A-3, 12A-4, and 12A-12 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; allowing TIF board members to acquire property within the reinvestment zones they represent, but prohibiting them from participating and voting in matters that directly affect their acquired or existing property in the reinvestment zones; prohibiting TIF board members from having direct or indirect financial interests in city contracts involving the use of TIF funds; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 12A-3 "Improper Economic Benefit," of Article II, "Present City Officials and Employees," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 12A-3. IMPROPER ECONOMIC BENEFIT.

(a) Economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the economic interests of:

- (1) the official or employee;
- (2) the official's or employee's outside client;
- (3) the official's or employee's outside employer;
- (4) a business entity in which the official or employee knows that he or she holds an economic interest;
- (5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which he or she holds an economic interest;

(6) a business entity for which the city official or employee serves as an officer or director or in any other policymaking position; or

(7) a person or business entity:

(A) from whom, within the past 12 months, the official or employee, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official or employee, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(b) Substantial economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the substantial economic interests of:

(1) the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity;

(2) the official's or employee's domestic partner;

(3) an outside employer of the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or domestic partner, but only if the official or employee knows the family member or domestic partner has a substantial economic interest in the outside employer;

(4) a business entity in which the official or employee knows that a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner; or

(6) a person or business entity:

(A) from whom, within the past 12 months, the official's or employee's spouse or domestic partner, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official's or employee's spouse or domestic partner, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(c) Recusal and disclosure. A city official or employee whose conduct or action on a matter would violate Subsection (a) or (b) must recuse himself or herself. From the time that the conflict is recognized, the city official or employee shall:

(1) immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and

(2) promptly file with the city secretary a written statement disclosing the conflict on a form provided by the city secretary.

(d) Additional recusal and disclosure requirements. In addition to the requirements of Subsection (c):

(1) a supervised employee shall promptly bring his or her conflict to the attention of a supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person;

(2) the park and recreation director shall promptly bring his or her conflict to the attention of the park and recreation board;

(3) the civil service director shall promptly bring his or her conflict to the attention of the civil service board;

(4) the employees' retirement fund administrator shall promptly bring his or her conflict to the attention of the board of trustees of the employees' retirement fund;

(5) a municipal judge shall promptly bring his or her conflict to the attention of the administrative municipal judge;

(6) the city manager, city attorney, city secretary, city auditor, and administrative municipal judge shall promptly bring his or her conflict to the attention of the city council;

(7) a board or commission member shall promptly disclose his or her conflict to the board or commission of which he or she is a member and shall not be present during any discussion or voting on the matter; and

(8) a city council member shall promptly disclose his or her conflict to the city council and shall not be present during any discussion or voting on the matter.

(e) Disclosure requirements relating to offers of employment. Whenever a city employee who is a department director or of higher rank receives an offer of employment from any person or business entity that the employee knows had an economic interest in any discretionary contract with the city in which the employee personally participated within the preceding 12 months, the employee shall, immediately upon receiving the offer, disclose the offer, whether rejected or not, to the appropriate supervisory person or body designated under Subsection (d). Unless recusal is required under Subsection (c), the employee may continue to personally participate, on the behalf of the city, in contracts and other matters in which the person or entity making the employment offer has an economic interest.

(f) Board of directors of a reinvestment zone.

(1) Notwithstanding any other provision of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) ~~(1)~~ own property within that reinvestment zone; and

(B) ~~(2)~~ participate in discussions and voting on matters before the board of directors that may ~~directly or~~ indirectly affect the member's property within the reinvestment zone, but must adhere to the recusal and disclosure requirements in Subsections (c) and (d) of this section on matters before the board of directors that may directly affect the member's property.

(2) For purposes of this subsection, a matter directly affects a member's property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the member's property.

(g) City officials and employees serving in policymaking positions for business entities at the direction of the city. The restrictions and requirements of Subsections (a)(6), (c), and (d) of this section do not apply to an official or employee of the city serving as an officer or director or in any other policymaking position for a business entity when taking official action on behalf of the city on matters concerning that business entity, if the official or employee:

(1) was appointed by the mayor, city council, or city manager to represent the city as an officer or director or in any other policymaking position for the business entity; and

(2) has no economic interest in the business entity or in the matter on which the action is being taken.”

SECTION 2. That Section 12A-4, “Unfair Advancement of Private Interests,” of Article II, “Present City Officials and Employees,” of CHAPTER 12A, “CODE OF ETHICS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 12A-4. UNFAIR ADVANCEMENT OF PRIVATE INTERESTS.

(a) General rule. A city official or employee may not use his or her official position to unfairly advance or impede personal interests by granting or securing, or by attempting to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to every other person or organization.

(b) Special rules. The following special rules apply in addition to the general rule set forth in Subsection (a):

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any matter if the official or employee knows that the interest will be affected by impending official action of the city.

(2) Acquisition of interest in decided matter. A city official or employee shall not acquire an interest in any matter affected by an official action of the city for a period of one year after the date of the official action.

(3) Reciprocal favors. A city official or employee may not enter into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by the other person.

(4) Appointment or employment of relatives.

(A) A city official or employee shall not appoint, or take any action to influence the appointment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city official or employee who was either a domestic partner or a relative within the first degree of consanguinity or affinity may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by the domestic partner or relative until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(B) A city council member shall not appoint any fellow city council member's domestic partner or relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city council member and who was either a domestic partner or relative within the first degree of consanguinity or affinity of another city council member may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by any city council member until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(C) A city official or employee shall not appoint or employ, or take any action to influence the appointment or employment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to any position of employment within the city. Nothing in this subparagraph prohibits any person who, before June 28, 2000, was lawfully appointed to or employed in any position of employment with the city from continuing to serve in that position of employment.

(5) Supervision of relatives. In addition to the nepotism restrictions of Section 34-5(e) of the city code, no official or employee shall be permitted to be the immediate supervisor of his or her domestic partner or of any relative within the second degree of consanguinity or affinity.

(6) Fringe benefits. The general rule described in Subsection (a) of this section does not prohibit the city from granting fringe benefits to city employees as a part of their contracts of employment or as an added incentive to securing or retaining employees.

(c) Recusal and disclosure. A city official or employee whose conduct would violate Subsection (b)(4) of this section shall adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter.

(d) Board of directors of a reinvestment zone.

(1) Notwithstanding Subsections (b)(1) and (b)(2) of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) acquire property within that reinvestment zone; and

(B) participate in discussions and voting on matters before the board of directors that may indirectly affect the acquired property, but must adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter on matters before the board of directors that may directly affect the acquired property.

(2) For purposes of this subsection, a matter directly affects a member's acquired property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the acquired property."

SECTION 3. That Section 12A-12, "Prohibited Interests in Contracts," of Article II, "Present City Officials and Employees," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 12A-12. PROHIBITED INTERESTS IN CONTRACTS.

(a) Charter restrictions relating to financial interests in city contracts. A city official or employee shall comply with the restrictions on financial interests in city contracts as set forth in Chapter XXII, Section 11 of the city charter.

(b) Additional restrictions relating to city contracts. An official or employee may not, while in the service or employment of the city, either individually or as the officer or principal of a private business entity:

(1) submit a bid or proposal, on behalf of the official or employee or on behalf of a private business entity, to make any city contract, whether or not the contract is required by state law to be competitively bid; or

(2) negotiate or enter into any city contract, on behalf of the official or employee or on behalf of a private business entity, whether or not the contract is required by state law to be competitively bid.

(c) Exceptions. The restrictions contained in Subsections (a) and (b) of this section do not apply to a member of:

(1) a board that functions only in an advisory or study capacity and that does not have the power to make findings as to the rights of specific parties, except that the restrictions do apply to a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, with respect to any city contract involving the use of tax increment funds from the reinvestment zone represented by the member; or

(2) a board of a nonprofit development corporation that acts as an instrumentality of the city.”

SECTION 4. That CHAPTER 12A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

LC/DCC/00301A

6/18/08

ORDINANCE NO. _____

An ordinance amending Sections 12A-3 and 12A-4 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; allowing TIF board members to acquire property within the reinvestment zones they represent, but prohibiting them from participating and voting in matters that directly affect their acquired or existing property in the reinvestment zones; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 12A-3 "Improper Economic Benefit," of Article II, "Present City Officials and Employees," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 12A-3. IMPROPER ECONOMIC BENEFIT.

(a) Economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the economic interests of:

- (1) the official or employee;
- (2) the official's or employee's outside client;
- (3) the official's or employee's outside employer;
- (4) a business entity in which the official or employee knows that he or she holds an economic interest;
- (5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which he or she holds an economic interest;
- (6) a business entity for which the city official or employee serves as an officer or director or in any other policymaking position; or
- (7) a person or business entity;

(A) from whom, within the past 12 months, the official or employee, directly or indirectly, has:

- (i) solicited an offer of employment;
- (ii) received and not rejected an offer of employment; or
- (iii) accepted an offer of employment; or

(B) with whom the official or employee, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(b) Substantial economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the substantial economic interests of:

(1) the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity;

(2) the official's or employee's domestic partner;

(3) an outside employer of the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or domestic partner, but only if the official or employee knows the family member or domestic partner has a substantial economic interest in the outside employer;

(4) a business entity in which the official or employee knows that a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner; or

(6) a person or business entity:

(A) from whom, within the past 12 months, the official's or employee's spouse or domestic partner, directly or indirectly, has:

- (i) solicited an offer of employment;
- (ii) received and not rejected an offer of employment; or
- (iii) accepted an offer of employment; or

(B) with whom the official's or employee's spouse or domestic partner, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(c) Recusal and disclosure. A city official or employee whose conduct or action on a matter would violate Subsection (a) or (b) must recuse himself or herself. From the time that the conflict is recognized, the city official or employee shall:

(1) immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and

(2) promptly file with the city secretary a written statement disclosing the conflict on a form provided by the city secretary.

(d) Additional recusal and disclosure requirements. In addition to the requirements of Subsection (c):

(1) a supervised employee shall promptly bring his or her conflict to the attention of a supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person;

(2) the park and recreation director shall promptly bring his or her conflict to the attention of the park and recreation board;

(3) the civil service director shall promptly bring his or her conflict to the attention of the civil service board;

(4) the employees' retirement fund administrator shall promptly bring his or her conflict to the attention of the board of trustees of the employees' retirement fund;

(5) a municipal judge shall promptly bring his or her conflict to the attention of the administrative municipal judge;

(6) the city manager, city attorney, city secretary, city auditor, and administrative municipal judge shall promptly bring his or her conflict to the attention of the city council;

(7) a board or commission member shall promptly disclose his or her conflict to the board or commission of which he or she is a member and shall not be present during any discussion or voting on the matter; and

(8) a city council member shall promptly disclose his or her conflict to the city council and shall not be present during any discussion or voting on the matter.

(e) Disclosure requirements relating to offers of employment. Whenever a city employee who is a department director or of higher rank receives an offer of employment from any person or business entity that the employee knows had an economic interest in any discretionary contract with the city in which the employee personally participated within the preceding 12 months, the employee shall, immediately upon receiving the offer, disclose the offer, whether rejected or not, to the appropriate supervisory person or body designated under Subsection (d). Unless recusal is required under Subsection (c), the employee may continue to personally participate, on the behalf of the city, in contracts and other matters in which the person or entity making the employment offer has an economic interest.

(f) Board of directors of a reinvestment zone.

(1) Notwithstanding any other provision of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) ~~(1)~~ own property within that reinvestment zone; and

(B) ~~(2)~~ participate in discussions and voting on matters before the board of directors that may ~~directly or~~ indirectly affect the member's property within the reinvestment zone, but must adhere to the recusal and disclosure requirements in Subsections (c) and (d) of this section on matters before the board of directors that may directly affect the member's property.

(2) For purposes of this subsection, a matter directly affects a member's property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the member's property.

(g) City officials and employees serving in policymaking positions for business entities at the direction of the city. The restrictions and requirements of Subsections (a)(6), (c), and (d) of this section do not apply to an official or employee of the city serving as an officer or director or in any other policymaking position for a business entity when taking official action on behalf of the city on matters concerning that business entity, if the official or employee:

(1) was appointed by the mayor, city council, or city manager to represent the city as an officer or director or in any other policymaking position for the business entity; and

(2) has no economic interest in the business entity or in the matter on which the action is being taken.”

SECTION 2. That Section 12A-4, “Unfair Advancement of Private Interests,” of Article II, “Present City Officials and Employees,” of CHAPTER 12A, “CODE OF ETHICS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 12A-4. UNFAIR ADVANCEMENT OF PRIVATE INTERESTS.

(a) **General rule.** A city official or employee may not use his or her official position to unfairly advance or impede personal interests by granting or securing, or by attempting to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to every other person or organization.

(b) **Special rules.** The following special rules apply in addition to the general rule set forth in Subsection (a):

(1) **Acquisition of interest in impending matters.** A city official or employee shall not acquire an interest in any matter if the official or employee knows that the interest will be affected by impending official action of the city.

(2) **Acquisition of interest in decided matter.** A city official or employee shall not acquire an interest in any matter affected by an official action of the city for a period of one year after the date of the official action.

(3) **Reciprocal favors.** A city official or employee may not enter into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by the other person.

(4) **Appointment or employment of relatives.**

(A) A city official or employee shall not appoint, or take any action to influence the appointment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city official or employee who was either a domestic partner or a relative within the first degree of consanguinity or affinity may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by the domestic partner or relative until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(B) A city council member shall not appoint any fellow city council member's domestic partner or relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city council member and who was either a domestic partner or relative within the first degree of consanguinity or affinity of another city council member may:

- (i) complete his or her term on the board or commission; and
- (ii) continue to be reappointed to that board or commission by any city council member until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(C) A city official or employee shall not appoint or employ, or take any action to influence the appointment or employment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to any position of employment within the city. Nothing in this subparagraph prohibits any person who, before June 28, 2000, was lawfully appointed to or employed in any position of employment with the city from continuing to serve in that position of employment.

(5) Supervision of relatives. In addition to the nepotism restrictions of Section 34-5(e) of the city code, no official or employee shall be permitted to be the immediate supervisor of his or her domestic partner or of any relative within the second degree of consanguinity or affinity.

(6) Fringe benefits. The general rule described in Subsection (a) of this section does not prohibit the city from granting fringe benefits to city employees as a part of their contracts of employment or as an added incentive to securing or retaining employees.

(c) Recusal and disclosure. A city official or employee whose conduct would violate Subsection (b)(4) of this section shall adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter.

(d) Board of directors of a reinvestment zone.

(1) Notwithstanding Subsections (b)(1) and (b)(2) of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

- (A) acquire property within that reinvestment zone; and
- (B) participate in discussions and voting on matters before the board of directors that may indirectly affect the acquired property, but must adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter on matters before the board of directors that may directly affect the acquired property.

(2) For purposes of this subsection, a matter directly affects a member's acquired property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the acquired property.”

SECTION 3. That CHAPTER 12A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

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