

**ETHICS ADVISORY COMMISSION HEARING
MINUTES
September 6, 2002
L1FN (Green), Conference Room B**

Members Present: Calvin Bluiett, Vice-Chairman
Rebecca B. Bergstresser
Jim Clark
Margaret Donnelly
Gloria Tarpley

Members Absent: Daniel Perez, Chairman

Staff Present: Shirley Acy, City Secretary
Gwen Satterthwaite, City Attorney's Office
Jesus Toscano, City Attorney's Office
Jason Schuette, City Attorney's Office
Michelle M. Calloway, City Secretary's Office
Debbie Brown, City Secretary's Office
Yolanda Hernandez, City Secretary's Office

Others Present: David Spence
Jaime Chapa
Amanda Moreno Cross
Robert Ramirez
Margarito Ramirez
Rose Farley, Dallas Observer
David A. Michaels, Dallas Morning News

The meeting was called to order at 11:20 a.m.

Vice-Chairman Bluiett called for a motion at 11:21 a.m. to go into executive session to seek legal advice from the city attorney's office. The motion was moved by Commissioner Clark and seconded by Commissioner Tarpley.

The commission reconvened in open session at 11:28 a.m.

Vice-Chairman Bluiett clarified concerns of Mr. Spence regarding the complainant's ability to cross-examine witnesses. Vice-Chairman Bluiett stated that pursuant to Section 12A-28(e)...The complainant may not present or cross-examine witnesses, except with the permission of the commission. Vice-Chairman Bluiett further stated that the commission was granting the complainant permission to cross-examine witnesses. Commissioner Clark stated for the record that the State Attorney General had made complaints filed with the Ethics Advisory Commission open and accessible to the public.

Michelle M. Calloway swore in David Spence, Amanda Moreno Cross, Jaime Chapa, and Robert Ramirez.

Vice-Chairman Bluiett called a recess at 11:45 a.m. to allow Mr. Spence time to review the response provided by Mr. Ramirez.

The commission reconvened in open session at 11:47 a.m. Vice-Chairman Bluiett asked Mr. Ramirez if he had comments after reviewing the information and submitting his statement in writing to the commission. Mr. Ramirez stated that the only issue he is concern with is the unfair access to information. Amanda Moreno Cross, witness for Mr. Ramirez, requested time from the commission to make a statement. With permission from the commission, Ms. Moreno Cross provided brief remarks about the response filed by Mr. Spence.

After the commission had received all statements from the complainant, Vice-Chairman Bluiett opened the floor for Mr. Spence's comments. Mr. Spence provided a history and overview of his response and the issues that transpired over the past year.

Vice-Chairman Bluiett called a recess at 12:58 p.m.

The commission reconvened in open session at 1:05 p.m.

After Mr. Spence finished his statement, Vice-Chairman Bluiett asked Mr. Ramirez if he wished to cross-examine the witness. Mr. Ramirez provided additional testimony asking Mr. Spence if he received a copy of the ethics code.

Mr. Spence responded that he had received a copy as a board and commission member and signed a statement stating that. With no further questions from Mr. Ramirez, Mr. Spence then discussed each allegation made by Mr. Ramirez.

Vice-Chairman Bluiett called a recess at 1:46 p.m.

The commission reconvened in open session at 1:52 p.m.

Vice-Chairman Bluiett asked Mr. Spence if he wanted to cross-examine Mr. Ramirez and his witnesses. Mr. Spence stated he wanted to cross-examine Mr. Ramirez.

After Mr. Spence completed his cross-examination of Mr. Ramirez, the commission members asked questions of Mr. Spence and Mr. Ramirez. Amanda Moreno Cross and Jaime Chapa made a statement on behalf of Mr. Ramirez.

The commission went into executive session at 2:32 p.m. to seek legal advice from the city attorney's office.

The commission reconvened in open session at 2:38 p.m.

After discussion, Commissioner Donnelly moved that the commission find that there was a violation of Section 12A-6(a), improper access. Seconded by Commissioner Clark. Commissioner Clark moved

that the violation under 12A-4, unfair advancement of private interest and 12A-6(b), improper disclosure or use be dismissed. Seconded by Commissioner Tarpley. Vice-Chairman Bluiett called the vote on both Commissioner's Donnelly and Clark's motion. Both motions were unanimously approved. (Chairman Perez absent.)

Commissioner Bergstresser moved that the sanction be (1), a letter of notification. Motion died for lack of second.

Commissioner Clark moved that the sanction be (2), a letter of admonition. Commissioner Bergstresser seconded the motion.

Commissioner Donnelly moved that the sanction be (3), a reprimand. Commissioner Clark asked to withdraw his motion in order to second Commissioner Donnelly's motion. Commissioner Bergstresser withdrew her second. Commissioner Clark seconded the motion.

During the debate of the motion, Commissioner Bergstresser respectfully disagreed, as she did not believe there was clear and convincing evidence that the title was used for the purpose of evoking information that would not otherwise have been available and would not support a reprimand as opposed to a letter of admonition.

After discussion, Vice-Chairman Bluiett called the vote on the motion. The motion passed on a divided voice vote, with Commissioner Bergstresser voting no and Chairman Perez absent, (4-2).

Commissioner Clark moved for adjournment. Commissioner Tarpley seconded the motion. The commission adjourned at 3:37 p.m.