



**ETHICS ADVISORY COMMISSION
PRELIMINARY PANEL
MINUTES
September 13, 2005, Room 5ES**

05-0319

EAC Members Present: Calvin Bluiett, Vice-Chair
Rebecca Bergstresser
Gloria Tarpley

Staff Present: Shirley Acy, City Secretary
Jesus Toscano, City Attorney's Office
Gwen Satterthwaite, City Attorney's Office
Lisa Christopherson, City Attorney's Office
Peter Haskell, City Attorney's Office
Michelle M. Calloway, City Secretary's Office
Monesia Davis, City Secretary's Office

Others Present: Jesse Diaz, Complainant
Mayor Pro-Tem Donald Hill, Respondent

Meeting called to order at 1:05 PM.

The panel reviewed the complaint brought by Jesse Diaz, a citizen of Dallas against Mayor Pro-Tem Donald Hill regarding alleged violations of the Code of Ethics provisions, a response filed by Mayor Pro-Tem Hill and materials filed in the City Secretary's Office.

City Secretary Shirley Acy informed the panel that they would notice that the complaint submitted by Jesse Diaz was out of numerical sequence or order. She informed them that it was the policy of her office to not dismantle or rearrange complaints in any way, but rather to process them in the sequence and/or format they are received.

The panel began to review a checklist of Section 12A-26 (a)(1)-(4); Mayor Pro-Tem Donald Hill entered the room and was informed by Vice-Chair Bluiett that no testimony is received at preliminary panel meetings.

Commissioner Bergstresser expressed questions about which portions of the complaint should be considered as addressing Mayor Pro-Tem Hill; Commissioner Tarpley had questions concerning the issue of personal knowledge versus information that is contained in the public press and media.

Commissioner Tarpley moved that the panel go into executive session for purposes of considering the legal validity of the evidence presented for the purposes of the preliminary panel. Commissioner Bergstresser expressed that she was not clear as to why the panel had to go into executive session to discuss these matters and deferred the seconding of the motion to Vice-Chair Bluiett. Vice-Chair Bluiett seconded the motion; the motion passed with a 2-1 vote.

Vice-Chair Bluiett called a recess of the meeting at 1:19 PM in order that the Ethics Advisory Commission preliminary panel could meet in executive session under Section 551.071 of the Texas Government Code (Open Meetings Act) to confer with the city attorney.

Following the executive session, the Ethics Advisory Commission preliminary panel reconvened in open session.

Vice-Chair Bluiett stated that the panel could only make recommendations based upon what was in the record. Commissioner Tarpley stated that upon a review of the complaint based upon the requirements set forth in 12A-26(a)(1)(2)(3)(4), a statement of facts was not presented in the complaint, and that it was only a recitation of what had been presented in the press. After further discussion and remarks by panel members, it was determined that the complainant could not swear to any underlying facts. Commissioner Tarpley moved to dismiss the complaint, stating that based upon the lack of facts to support an ethics violation, just cause could not be found. Commissioner Bergstresser seconded the motion; the motion carried unanimously.

The panel requested that the issue of personal knowledge and the requirements of factual evidence be items for the agenda of the next full meeting of the EAC. Vice-Chair Bluiett called for a motion to adjourn. Commissioner Tarpley moved to adjourn; Commissioner Bergstresser seconded the motion. The motion passed unanimously.

The meeting adjourned at 2:04 PM.

Vice –Chair