



**ETHICS ADVISORY COMMISSION
HEARING MINUTES
October 4, 2005 - Room 6ES**

05-0319

EAC Members Present: Daniel Perez, Chair
Calvin Bluiett, Vice-Chair
Rebecca B. Bergstresser
Gloria Tarpley

Staff Present: Shirley Acy, City Secretary
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

Complainant: Mike Lang

Hearing called to order at 1:11 PM.

Chairman Perez stated that the Commission was meeting to review the complaint filed by Mike Lang, an employee of the city of Dallas against former Commission on Productivity and Innovation member Philip Walker regarding alleged violations of the Code of Ethics provisions, a response filed by Philip Walker and materials filed in the City Secretary's Office.

Commissioner Bergstresser requested clarification concerning complainant Mike Lang's residency status and eligibility to file a complaint as specified in Section 12A-26(a). Lisa Christopherson and Gwendolyn Satterthwaite, Assistant City Attorneys, stated that as an employee of the city of Dallas, Mike Lang "does business" with the city and is therefore eligible to file a complaint.

Chairman Perez called for a motion to admit into the record the information packet supplied by the City Secretary's office regarding the complaint filed by Mike Lang. Motion made by Vice-Chair Bluiett, seconded by Commissioner Tarpley and passed unanimously.

Chairman Perez moved to admit into the record the cassette tape submitted by Mike Lang with his complaint. The motion was seconded by Commissioner Tarpley and passed unanimously.

Chairman Perez instructed the City Secretary's staff to play the tape filed by Mike Lang. The Commissioners listened to the tape and asked questions of Mike Lang; discussion ensued. Chairman Perez moved to close testimony; motion seconded by Commissioner Tarpley and passed unanimously.

Chairman Perez stated that the Commission would separately review and take action on each section of the Code cited by Mike Lang as being violated by Philip Walker; the City Attorney's staff informed the Commissioners that the alleged violations under Section 12A-1(b) may not be used to create a cause of action against an official or employee under the city's Code of Ethics and could not be considered. After discussion, the Commissioners determined that Philip Walker had violated Sections 12A-7(b)(3)(A) and 12A-7(b)(3)(B). Commissioner Tarpley made a motion declaring the same; the motion was seconded by Vice-Chair Bluiett and passed unanimously.

The Commissioners considered Section 12A-6(a); discussion ensued. It was determined that this section had not been violated; motion stating the same was made by Chairman Perez, seconded by Vice-Chair Bluiett and passed unanimously.

Additional discussion and questions asked of Mike Lang ensued; the Commissioners were informed that there had been no need for the prior closing of evidence or testimony. In light of this, Commissioner Tarpley moved to re-open the evidence and testimony; the motion was seconded by Vice-Chair Bluiett and passed unanimously.

The Commissioners considered Section 12A-3(a)(1) and Section 12A-3(a)(2). They determined that the evidence presented supported the allegation that both sections had been violated; Vice-Chair Bluiett made a motion stating the same. The motion was seconded by Commissioner Tarpley and passed unanimously.

The Commissioners then discussed what action they should take in the disposition of the complaint and reviewed Section 12A-30(b). Commissioner Tarpley stated that in her estimation, Section 12A-30(b)(4) was moot and Section 12A-30(b)(1) did not apply because it was readily apparent that the actions of Philip Walker were intentional. She stated that while Section 12A-30(b)(2) could be considered, Section 12A-30(b)(3) was more appropriate and made a motion stating the same. Commissioner Bergstresser seconded the motion recommending the reprimand. Chairman Perez stated that he did not believe that an admonition was appropriate but that an overall reprimand was more appropriate.

The Commissioners were informed by the City Attorney's staff that in their disposition they would be making a *recommendation* to the City Council, and that the Council itself would vote on what *action* it would take. Commissioner Tarpley expressed that the reprimand should be noted for the record, should Philip Walker be nominated for another position by the City in the near future.

Vice-Chair Bluiett moved that the EAC recommend that a reprimand be issued by the Council due to violations by Philip Walker of Sections 12-A-7(b)(3)(A); 12A-7(b)(3)(B); Section 12A-3(a)(1) and Section 12A-3(a)(2) of the Dallas City Code. The motion was seconded by Commissioner Tarpley and passed unanimously. Commissioner Tarpley asked Vice-Chair Bluiett if he would accept a friendly amendment to his motion the recommendation of a reprimand be kept in Mr. Walker's file. Vice-Chair Bluiett accepted the friendly amendment to his motion, amended it and so moved; Commissioner Tarpley

seconded the motion and Chairman Perez declared that the motion was passed unanimously.

Chairman Perez called for a motion to dismiss the meeting; a motion was made by Vice-Chair Bluiett, seconded by Commissioner Tarpley and passed unanimously.

The hearing adjourned at 2:19 PM.

Chair

ATTACHMENT
WRITTEN DECISION
CONCERNING THE COMPLAINT AGAINST PHILIP WALKER
FORMER COMMISSION ON INNOVATION AND PRODUCTIVITY
MEMBER

On July 7, 2005, Mr. Mike Lang, a City of Dallas employee, filed a sworn complaint with an accompanying cassette tape (see Attachment 1) with the City Secretary's Office against Mr. Philip Walker, a member of the Dallas Commission on Productivity and Innovation alleging that:

1. On June 30, 2005 he went to 5101 W Hanover to do a plumbing final inspection for the city of Dallas.
2. He was unable to make the inspection because a site management sign was not posted.
3. When he returned to his office he checked his voice messages.
4. At 9:56 Commissioner Philip Walker left a threatening message on his voice mail.

The complaint alleged that Mr. Walker violated the following code of ethics provisions:

- Section 12A-7(b)(3)
- Section 12A-6(a)
- Section 12A-3(a)(1)
- Section 12A-3(a)(2)
- Section 12A-1(b)

On September 6, 2005, the City Secretary received a letter from Mr. Philip Walker resigning his position on the Dallas Commission of Productivity and Innovation effective immediately (see Attachment 2). The Ethics Advisory preliminary panel met on Wednesday, September 7, 2005 at 9:11 AM in City Hall Room 4CN#3. The panel members consisted of Calvin Bluiett, Vice-Chair, Margaret Donnelly, Commission member and Gloria Tarpley, Commission member. In a unanimous decision, the panel determined that based upon the evidence submitted, the complaint was supported by just cause, and recommended that it be referred to the Ethics Advisory Commission for hearing and review.

The Ethics Advisory Commission met on Tuesday, October 4, 2005 at 1:11 PM in City Hall Room 6ES. Ethics Advisory Commission members in attendance were Daniel Perez, Chairman, Calvin Bluiett, Vice-Chair, Rebecca B. Bergstresser, Commission member

and Gloria Tarpley, Commission member. Based upon the information submitted into the record and the testimony presented at the hearing, the Ethics Advisory Commission made the following findings:

- 1) That alleged violations by Mr. Philip Walker under Section 12A-1(b) may not be used to create a cause of action against Mr. Walker under the city's Code of Ethics.
- 2) That Mr. Philip Walker violated: Section 12A-7(b)(3)(A) of the Dallas City Code by asserting the prestige of his city position for the purpose of advancing private interests; 12A-7(b)(3)(B) of the Dallas City Code by implying that he was able to influence city action on a basis other than the merits; Section 12A-3(a)(1) of the Dallas City Code by taking official action that he knew was likely to affect particularly his economic interests; and Section 12A-3(a)(2) of the Dallas City Code by taking official action that he knew was likely to affect particularly the economic interests of his outside client.
- 3) That Mr. Philip Walker did not violate Section 12A-6(a) of the Dallas City Code.

Pursuant to Section 12A-30(a)(4) of the Dallas City Code, the complaint involves a former city official and the Ethics Advisory Commission hereby refers this matter to the City Council.

Pursuant to Section 12A-30(b) the Ethics Advisory Commission determined that Mr. Philip Walker intentionally committed violations of the city's Code of Ethics and recommends the following sanction:

That the City Council issue a reprimand to Mr. Philip Walker based on violations of Sections 12A-7(b)(3)(A), 12A-7(b)(3)(B), 12A-3(a)(1) and 12A-3(a)(2) of the Dallas City Code and that the reprimand be kept in Mr. Walker's file.

Daniel Perez, Chair

Calvin Bluiett, Vice-Chair

Rebecca B. Bergstresser, Member

Gloria Tarpley, Member