Memorandum

CITY OF DALLAS

DATE January 20, 2012

TO Honorable Mayor and
Members of the City Council

SUBJECT **ETHICS ADVISORY COMMISSION 2011 ANNUAL REPORT**

In accordance with Dallas City Code 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
Rosa A. Rios, Acting City Secretary

CITY OF DALLAS

ETHICS ADVISORY COMMISSION

2011

ANNUAL REPORT

ETHICS ADVISORY COMMISSION
2011 ANNUAL REPORT

TABLE OF CONTENTS

ETHICS ADVISORY COMMISSION MEMBERS	TAB 1
MISSION STATEMENT	TAB 2
SUMMARY OF ACTIVITIES	TAB 3
COMMISSION MEETINGS	TAB 4
ETHICS ADVISORY COMMISSION MEETING ATTENDANCE LOG	TAB 5

EXHIBITS

A. AD HOC ETHICS REVIEW COMMITTEE MINUTES	TAB 6
B. MEMO AND EAC RECOMMENDATIONS TO CITY COUNCIL	TAB 7
C. SUGGESTED ORDINANCE AMENDING CHAPTER 12A	TAB 8
D. 2011 ETHICS COMPLAINT INDEX	TAB 9

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.

Commissioner	Position	Appointment Date	Current Status
Randy H. Skinner, Chairman	1	03/03/10	Holdover
Vacant (01-03-11 to present)	2	—	—
Linda Camin	3	03/03/10	Holdover
Mickie Simpson Bragalone, Vice-Chair	4	03/03/10	Holdover
Vacant (12-16-11 to present)	5	—	—
James Adams	6	03/03/10	Holdover
Roger Wedell	7	03/03/10	Holdover

OTHER COMMISSIONERS SERVING IN 2011

Board Member	Position	Appointment Date	Current Status
Paula Rosales Aldana	5	09/15/10	Resigned 12/16/11

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

- April 15, 2011 – Boardmembers received training on NEOGOV, the new online board and commission application process implemented by the City Secretary's Office which included an interactive opportunity to register in the program.

- May 2011 – Acting Mayor Caraway selected 3 EAC members to serve on the City Council's Ad Hoc Ethics Review Committee (ERC). The ERC convened on May 19 and May 26, 2011 to discuss and review changes made to Dallas City Code Chapter 15A (Elections). *(See Ad Hoc Meeting Minutes behind Tab 6)*

- June 8, 2011 – At the request of the ERC, City Secretary Deborah Watkins supplied previous EAC recommendations of proposed changes to Dallas City Code Chapters 12A (Ethics) and 15A (Elections) to the Dallas City Council. *(See Memo and Recommendations behind Tab 7)*
  Note: Initially submitted to the City Council on February 23, 2007 and again on September 26, 2008.

- June 17, 2011 – Chairman Skinner began a conversation on the Philosophy of Ethics with a view to creating a template for ethical decision making for city government officials.

- November 2011 – Mayor Rawlings appointed Councilmember Jerry Allen as EAC Liaison.

- November 18, 2011 – EAC members reviewed and voted to recommend an ordinance to City Council mandating a change in Dallas City Code Chapter 12A (Ethics) to allow the EAC to serve Councilmembers in an advisory position and asked the City Attorney's Office (CAO) to make recommendations regarding frivolous complaints at the next meeting. *(See Draft Ordinance behind Tab 8)*
  Note: Councilmember Allen, City Council Liaison, informed of this matter. Since the EAC is considering other amendments to Dallas City Code Chapter 12A (Ethics), Councilmember Allen will await those recommendations in order to simultaneously submit all recommendations to City Council.

- December 16, 2011 – EAC received a preliminary briefing by the CAO regarding filers of multiple frivolous or unfounded complaints. A complete report and recommendations by the CAO to follow at the next meeting.

Nine (9) ethics complaints that met the minimum requirements for Preliminary Panel were received by the City Secretary's Office in 2011*

DATE SUBMITTED	COMPLAINANT	RESPONDENT	PRELIMINARY PANEL HEARING	EVIDENTIARY HEARING
01/10/11	Thomas J. Ellis	Christopher Bowers First Assistant City Attorney	Yes	No
04/04/11	Korey Deon Mack	Dwaine Caraway Mayor	Yes	No
04/12/11	Billy MacLeod	Pauline Medrano Deputy Mayor Pro Tem	Yes	No
04/20/11	Billy MacLeod	Pauline Medrano Deputy Mayor Pro Tem and Deborah Watkins City Secretary	Yes	No
05/09/11	Richard P. Sheridan	Mary K. Suhm City Manager	Yes	No
07/25/11	Sandra Crenshaw	Hollis Brashear Redistricting Commission	Yes	No
07/25/11	Sandra Crenshaw	Billy Ratcliff, Vice-Chair Redistricting Commission	Yes	No
07/25/11	Sandra Crenshaw	Donna Halstead Redistricting Commission	Yes	No
11/16/11	Sandra Crenshaw	Tennell Atkins Deputy Mayor Pro Tem	Yes	No

**See 2011 Complaint Index behind Tab 9 for more detailed information*

TAB 4

COMMISSION MEETINGS

Seven (7) EAC meetings were held in 2011 to discuss the following issues:

1. January 21, 2011

- Approval of the Minutes for the EAC Meeting held November 19, 2010
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

- Review and approval of the 2010 Annual Report
  RESULT: The EAC approved the 2010 Annual Report for submission to the City Council.

- EAC Calendar
  RESULT: The EAC agreed to continue meeting on a quarterly basis during 2011.

2. April 15, 2011

- Approval of the Minutes for the EAC Meeting held January 21, 2011
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

- NEOGOV Training
  RESULT: Boards and Commissions Manager Daniel Soliz explained the board application process was moving exclusively to an online system and EAC members were given the opportunity to register online in the NEOGOV system.

3. June 17, 2011

- Approval of the Minutes for the EAC Meeting held April 15, 2011
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

- Review City Council revisions to Chapter 15A (Elections)
  RESULT: Acting Mayor Caraway appointed Chairman Randy Skinner, Vice Chair Mickie Simpson Bragalone and Commissioner Roger Wedell to serve on an Ad Hoc Ethics Review Committee to revisit changes made to Chapter 15A of the Dallas City Code by the City Council on April 13, 2011, which addressed campaign contributions to City Councilmembers and candidates by applicants in designated zoning cases and public subsidy matters and make recommendations, if any, concerning revising the changes. *(See Ad Hoc Ethics Review Committee Minutes behind Tab 6)*

3. June 17, 2011 - Continued

- Discussion – Philosophy of Ethics: Seven guidelines for ethical decision making
  RESULT: Chairman Skinner requested EAC members review materials he provided from the Markkula Center for Applied Ethics at Santa Clara University on ethical decision-making in order to look at creating a template of standard ethical guidelines for future use by the City of Dallas.

- Discussion – Advisory Role of the Ethics Advisory Commission
  RESULT: Commissioner Adams requested the CAO draft a resolution to present to the Dallas City Council which recommended formalizing the advisory role of the EAC within Dallas City Code Chapter 12A (Ethics).

- Discussion – Recourse to Limit Baseless or Frivolous Complaints
  RESULT: Vice Chair Bragalone requested clarification regarding the EAC's ability to limit the advancement of frivolous complaints to the Preliminary Panel level.

  Assistant City Attorney Ernst noted the EAC could consider making a charge against a complainant who has filed multiple complaints which have been found to be without merit as a way to discourage abuse of the complaint process.

  Commissioner Adams asked for the EAC recommendations to strengthen the language in Chapter 12A-26(a) be discussed at the next meeting to determine if they should be again presented to the City Council.

4. August 26, 2011

- Approval of the Minutes for the EAC Meeting held June 17, 2011
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

- 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 complaints filed by Sandra Crenshaw against Redistricting Commission Members Hollis Brashear, Donna Halstead and Billy Ratcliff
  RESULT: The Preliminary Panel convened to hear the complaints was granted an extension of 45 days to issue a preliminary finding and a written decision.

5. September 16, 2011

- Approval of the Minutes for the EAC Meeting held August 26, 2011
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

- Discussion – Prior communications/recommendations to the City Council
  RESULT: The EAC reviewed the June 8, 2011 memo from the City Secretary's Office to the Mayor and City Council regarding prior communications and recommendations. *(See Memo and Recommendations behind Tab 7)*

  Chairman Skinner informed the EAC Mayor Rawlings had chosen Councilmember Jerry Allen to be a liaison between the City Council and the EAC. Chairman Skinner proposed discussing previous recommendations to City Council with Councilmember Allen in an effort to get the City Council to consider the EAC's request(s).

- Discussion – Ideas on devising a culture of ethics and guidelines
  RESULT: Chairman Skinner asked EAC Members review two documents he provided: (1) The Jones Lang LaSalle Code of Ethics, and (2) OECD Principles of Corporate Governance, with regard to building a grid for ethical decision making so that city government might have a better idea of how to work through ethical questions. At the request of EAC Members, Chairman Skinner agreed to invite Councilmember Allen to an upcoming EAC meeting to assist in determining City Council goals regarding the level of EAC involvement with ethics development in the City of Dallas.

- Discussion – Responsibilities of the Preliminary Panel
  RESULT: Assistant City Attorney Christopherson explained the process for examining a complaint.

6. November 18, 2011

- Approval of the Minutes for the EAC Meeting held September 16, 2011
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

6. November 18, 2011 - Continued

- Review and consider amending Dallas City Code Chapter 12A (Ethics)
  RESULT: The EAC voted to recommend the City Council adopt a proposed ordinance to change Dallas City Code Chapter 12A (Ethics), Section 12A-25 (Jurisdiction and Powers). *(See draft ordinance changing Section 12A-25 behind Tab 8).*

  The EAC agreed to review and consider additional changes to Chapter 12A (Ethics) regarding frivolous ethics complaints at a future meeting.

- Discussion – Ideas on devising a culture of ethics and guidelines
  RESULT: Councilmember Allen and guests Steve Riach, Founder and Board Chairman of Heart of a Champion, Jason DeLaPorte, President of Heart of a Champion, and CEO of DeLaPorte & Associates, Inc., and Russell Lake Executive Director of Seed Studios discussed the idea of making the City of Dallas the leader in ethical decision making and a model for other cities to follow.

7. December 16, 2011

- Approval of the Minutes for the EAC Meeting held November 18, 2011
  RESULT: Minutes signed by Chairman Skinner and filed as a permanent record in the City Secretary's Office.

- Review and consider an amendment to Dallas City Code Chapter 12A (Ethics)
  RESULT: For the upcoming EAC meeting, the CAO will prepare a report on comparable cities ethics programs in an effort to help identify and deal with vexatious complainants. An amendment to Chapter 12A of the Dallas City Code (Ethics) may be required to in order to bring about a solution.

- Review and consider an amending the Ethics Advisory Commission Rules of Procedure
  RESULT: Acting City Secretary Rios provided EAC members a table showing recommended changes to the EAC Rules of Procedure that may also require changes to Chapter 12A of the Dallas City Code (Ethics). The EAC requested the CAO bring back a formalized document for discussion and/or consideration.

- Discussion – Ideas on devising a culture of ethics and guidelines
  RESULT: City Auditor Craig Kinton and Assistant City Auditor Mamatha Sparks gave an overview of the city ethics audit currently being conducted at the request of the City Council.

TAB 5

2011
ETHICS ADVISORY COMMISSION
ATTENDANCE

PLACE	NAME	1/21/11	4/15/11	*6/17/2011	8/26/11	9/16/11	11/18/11	12/16/11
		REGULAR	REGULAR	REGULAR	SPECIAL	REGULAR	SPECIAL	SPECIAL
Place 01	Randy H. Skinner	P	P	P	**A**	P	P	P
Place 02	Vacant	V	V	V	V	V	V	V
Place 03	Linda Camin	P	P	P	P	P	P	P
Place 04	Mickie Simpson Bragalone	P	P	P	P	P	P	P
Place 05	Paula Rosales Aldana	**A**	**A**	P	**A**	P	P	R
Place 06	James Adams	**A**	P	P	P	P	P	P
Place 07	Roger Wedell	P	P	P	P	P	P	P

**Rescheduled to accommodate July Recess*

LEGEND: A=ABSENT, P=PRESENT, R=RESIGNED, V=VACANT

TAB 6

110097

RECEIVED

2011 JUN -6 PM 3:47

CITY SECRETARY
DALLAS, TEXAS

City of Dallas

AD HOC ETHICS REVIEW COMMITTEE
MEETING MINUTES
May 19, 2011
3:00 P.M.

Present: Ann Margolin, Councilmember, District 13 (Committee Chair)
Pauline Medrano, Deputy Mayor Pro Tem, District 2
Carolyn Davis, Councilmember, District 7
Tennell Atkins, Councilmember, District 8
Jerry Allen, Councilmember, District 10
Randy Skinner, Ethics Advisory Commission Chair
Mickie Bragalone, Ethics Advisory Commission Vice-Chair
Roger Wedell, Ethics Advisory Commission Commissioner

Staff Present: Deborah A. Watkins, City Secretary
Thomas P. Perkins, Jr., City Attorney
Warren Ernst, Executive Assistant City Attorney
Lisa Christopherson, Senior Assistant City Attorney
Daniel Soliz, Boards and Commissions Manager, CSO
Dawna Brown, Lobbyist Coordinator, CSO

Councilmember Margolin called the meeting to order at 3:07 p.m.

Councilmember Margolin stated the purpose of the meeting was to review the changes made to Chapter 15A of the Dallas City Code by the City Council on April 13, 2011, which addressed campaign contributions to City Councilmembers and candidates by applicants in designated zoning cases and public subsidy matters and make recommendations, if any, concerning revising the changes.

Agenda Item I – Speakers

The following speakers addressed the Ethics Review Committee (ERC) during the meeting:

Dallas Cothrum – Zoning Consultant (Masterplan)
Crispin Lawson – Dallas Homeowners League

Agenda Item II – Changes to Section 15A-4.1 of the Dallas City Code

The City Attorney's Office distributed a document that outlined the changes made to Chapter 15A-4.1 of the Dallas City Code.

Prior to Mr. Perkins beginning his presentation, Councilmember Davis inquired as to why the state rules regarding campaign contributions were different from City of Dallas requirements as set forth in Chapter 15A of the Dallas City Code. Mr. Perkins clarified that cities can adopt rules beyond what is required by the state and that Councilmembers and candidates must follow both state law and local ordinances.

Deputy Mayor Pro Tem Medrano stated that she sometimes finds it difficult to determine if individuals who contribute to her campaign are in compliance with the requirements of Chapter 15A. In response, Councilmember Margolin suggested a list be compiled of other items to be addressed by the ERC at a later time but that today's meeting would focus solely on reviewing the changes adopted by the City Council on April 13, 2011 and determine if those changes required further revisions.

Senior Assistant City Attorney Lisa Christopherson began review of the document distributed by the City Attorney's Office earlier in the meeting.

Ethics Advisory Commission Chairman Skinner asked for clarification on how these change affected the Ethics Code (Chapter 12A). Ms. Christopherson responded the ethics code was not impacted, but, rather, definitions used in the ethics code were used to update Chapter 15A for consistency and clarity.

Points of discussion centered on the following:

- *Definition of "Affiliated"*

  By unanimous consent, the ERC agreed the changes adopted on April 13, 2011 should remain the same.

- *Definition of "Applicant"*

  Councilmember Davis asked when exactly someone with a pending zoning case could a make a campaign contribution. Mr. Perkins responded that the posting of the meeting notice when the City Plan Commission would consider the case was one "trigger" of when making a contribution would be barred by an applicant.

  Councilmember Davis noted that the zoning change request process can take years and it seemed "unfair" that an individual may have to wait years to make contributions to Councilmembers or candidates because they have a zoning case in the review or approval process.

- *Definition of "Representative"*

  By unanimous consent, the ERC agreed it would recommend the ordinance be changed to again include a person who "represents" a property owner in connection with zoning case or public subsidy matter.

  After considerable discussion, Councilmember Margolin noted there was no consensus on whether an "employee" of a property owner or owner's representative should again be included in this section of the Dallas City Code and that the ERC would discuss the matter further at its next meeting on Thursday, May 26, 2011.

- *Definition of "Person Responding to A Request for Bids or Proposals on a City Contract"*

  By unanimous consent, the ERC agreed the changes adopted on April 13, 2011 should remain the same.

- *Definition of "Candidate and Expansion of Time Restrictions to Candidates"*

  By unanimous consent, the ERC agreed the changes adopted on April 13, 2011 should remain the same.

- *Campaign Contributions to Specific Purpose Political Committees*

  By unanimous consent, the ERC agreed the changes adopted on April 13, 2011 should remain the same.

By unanimous consent, the ERC agreed the remaining sections of the document presented by the City Attorney's Office would be discussed at the next meeting. At that time, Mr. Perkins will brief the ERC on the Constitutional and other legal implications of this section of the City Code.

Adjournment

Chairman Margolin adjourned the meeting at 5:24 p.m.

Ann Margolin

Ann Margolin, Chairman

110097

RECEIVED

2011 JUN -6 PM 3:47

CITY SECRETARY
DALLAS, TEXAS

City of Dallas

AD HOC ETHICS REVIEW COMMITTEE
MEETING MINUTES
May 26, 2011
3:00 P.M.

Present: Ann Margolin, Councilmember, District 13 (ERC Chair)
Pauline Medrano, Deputy Mayor Pro Tem, District 2
Carolyn Davis, Councilmember, District 7
Tennell Atkins, Councilmember, District 8
Sheffie Kadane, Councilmember, District 9
Jerry Allen, Councilmember, District 10
Mickie Bragalone, Ethics Advisory Commission Vice-Chair
Roger Wedell, Ethics Advisory Commission Commissioner

Absent: Randy Skinner, EAC Chair

Staff Present: Deborah A. Watkins, City Secretary
Thomas P. Perkins, Jr., City Attorney
Warren Ernst, Executive Assistant City Attorney
Lisa Christopherson, Senior Assistant City Attorney
Daniel Soliz, Boards and Commissions Manager, CSO
Stephen Jung, Special Projects Coordinator, CSO

Chair Margolin called the meeting to order at 3:04 p.m.

Chair Margolin reiterated the purpose of the meeting was to review the changes made to Chapter 15A of the Dallas City Code by the City Council on April 13, 2011, which addressed campaign contributions to City Councilmembers and candidates by applicants in designated zoning cases and public subsidy matters and make recommendations, if any, concerning revising the changes. She reminded the Ethics Review Committee (ERC) that some changes have been agreed to at the ERC meeting held on May 19, 2011.

Agenda Item I – Speakers

The following speaker addressed the ERC:

Rick Gonzalez – North Dallas Neighborhoods

Agenda Item II – Approval of Minutes

The minutes of the May 19, 2011 meeting of the ERC were accepted by unanimous consent.

Agenda Item III – Changes to Section 15A-4.1 of the Dallas City Code

The check list below was provided by the City Attorney's Office as a way to review the changes to Chapter 15A made by the City Council on April 13, 2011 and determine if further revisions were required.

I. **REPRESENTATIVES:** *(Representatives are not included in April 13, 2011 ordinance.)*

A. Include representatives **(and their principals)** in the definition of "applicant" in designated zoning cases and designated public subsidy matters.
YES _X____ NO _____

B. Include representatives **(and their principals)** in the definition of "person" responding to a request for bids or proposals on a city contract.
YES _X____ NO _____

The City Attorney's Office provided the ERC with an overview of *Citizens United v. Federal Elections Commission* and discussed the impact that U.S. Supreme Court decision has on state and local campaign finance ordinances. The ERC then continued its consideration of the check list.

II. **EMPLOYEES:** *(Employees are not included in April 13, 2011 ordinance.)*

A. Include **employees of a property owner** in the definition of "applicant" in designated zoning cases and designated public subsidy matters.
YES _____ NO _X____

B. Include **employees of a property owner's representative** in the definition of "applicant" in designated zoning cases and designated public subsidy matters.
YES _____ NO _X____

C. Include **employees of a bidder/proposer** in the definition of "person" responding to a request for bids or proposals on a city contract.
YES _____ NO _X____

D. Include **employees of a bidder's/proposer's representative** in the definition of "person" responding to a request for bids or proposals on a city contract.
YES _____ NO __X____

III. DATE CAMPAIGN CONTRIBUTION RESTRICTION PERIOD ENDS: *(30 days is used in April 13, 2011 ordinance.)*

A. 30 days after final action on a designated zoning case, designated public subsidy matter, or city contract award.
YES _____ NO __X____

B. 60 days after final action on a designated zoning case, designated public subsidy matter, or city contract award.
YES __X____ NO _____

IV. CORPORATE Political Action Committees: *(Corporate PACs are exempt in April 13, 2011 ordinance.)*

Apply time restrictions to campaign contributions made by (but not to) a political committee formed by a corporation that is an "applicant" or "person responding to bids/proposals."
YES __X____ NO _____

The City Attorney's Office will draft an ordinance to revise Chapter 15A based on the decisions made above and on May 19, 2011 by the ERC for City Council consideration at the June 8, 2011 briefing meeting.

Agenda Item IV – Additional Items for Consideration

Ethics Advisory Commission member Roger Wedell advised the ERC the Ethics Advisory Commission had written two letters to the City Council, one on February 23, 2007 and another on September 26, 2008, but the City Council never responded.

Chairwomen Margolin asked the City Secretary's Office staff to provide copies of the two letters to the members of the ERC.

Deputy Mayor Pro Tem Medrano stated she understood the burden was on campaign contributors to ensure they are in compliance with Chapter 15A. However, she stated that Councilmembers should have an easy way to determine if contributors are in compliance. In response, City Attorney Tom Perkins stated he would meet with City Secretary Deborah Watkins to see if there was a better way for Councilmembers to determine if campaign contributors are in compliance with Chapter 15A when they donate money to Councilmembers and candidates. Councilmember Jerry Allen stated that was a good idea as long as it did not create additional work for the City Secretary's Office.

Adjournment

Chair Margolin adjourned the meeting at 4:35 p.m.

Ann Margolin, Chair

TAB 7

Memorandum

CITY OF DALLAS

DATE June 8, 2011

TO Honorable Mayor and
Members of the City Council

SUBJECT Review of Ethics Advisory Commission (EAC) Previous Letters to City Council

On Thursday, May 26, 2011, the City Council's Ad Hoc Ethics Review Committee held its second meeting to finalize its discussion on recent changes to Chapter 15A of the Dallas City Code and recommend additional revisions.

At the meeting, the Ad Hoc Committee was informed the Ethics Advisory Commission had previously sent two letters to the City Council requesting the City Council consider certain revisions to Chapters 12A and 15A of the Dallas City Code. Ad Hoc Committee Chair Ann Margolin requested the attached letters be reviewed by the City Council.

Please let me know if you need additional information.

Deborah Watkins
City Secretary

Attachments

C: Thomas P. Perkins, Jr., City Attorney
Rosa A. Rios, Assistant City Secretary
Warren Ernst, Executive Assistant City Attorney
Lisa Christopherson, Senior Assistant City Attorney
Daniel Soliz, Boards and Commissions Manager, CSO
Sandra DuBose, Ethics Advisory Commission Coordinator, CSO

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.

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

City of Dallas

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,

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 8

ORDINANCE NO. _____

An ordinance amending Section 12A-25 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; clarifying the advisory duties of 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-25, "Jurisdiction and Powers," of Article VII, "Ethics Advisory Commission," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is to read as follows:

"SEC. 12A-25. JURISDICTION AND POWERS.

(a) Jurisdiction. The ethics advisory commission shall have jurisdiction to review and make findings concerning any alleged violation of this chapter by any person subject to those provisions, including but not limited to current city officials and employees, former city officials and employees, and persons doing business with the city, if a complaint is filed within one year after the date of the alleged violation. The commission may not consider any alleged violation that occurred before January 1, 2001 or more than one year before the date of the filing of a complaint.

(b) Termination of city official's or employee's duties. The termination of a city official's or employee's duties does not affect the jurisdiction of the ethics advisory commission with respect to alleged violations occurring prior to the termination of the official's or employee's official duties.

(c) Powers. The ethics advisory commission has the following powers only:

(1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations in a manner and form consistent with this article.

(2) To meet as often as necessary to fulfill its responsibilities.

(3) To request from the city manager through the city council the appointment of such staff as is necessary to carry out the duties of the commission.

(4) To review, index, maintain on file, and dispose of sworn complaints.

(5) To make findings of fact as necessary for the disposition of a complaint.

(6) To make notifications, extend deadlines, and conduct investigations.

(7) To advise the city council as requested on ethical matters and make recommendations concerning the city's ethics code and policies.

(8) Such other powers as are specifically granted in this chapter or by the city council."

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/00515A

TAB 9

2011 ETHICS COMPLAINT INDEX

DATE FILED	COMPLAINANT	RESPONDENT	CODE VIOLATION CITED	DATE HEARD	STATUS/OUTCOME
01/10/11	Thomas J. Ellis	Christopher Bowers First Assistant City Attorney	12A-1 12A-4	01/28/11	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
04/04/11	Korey D. Mack	Dwaine Caraway Acting Mayor	12A-4(a) 12A-4(b)(3)	04/19/11	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
04/12/11	Billy MacLeod	Pauline Medrano Deputy Mayor Pro Tem	12A-3(a) 12A-10(a)(1) 12A-10(c)(1)&(2) 12A-10(f) 12A-11(a)&(b) 12A-16 12A-17	05/02/11	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint is not supported by just cause under Chapter 12A Dallas City Code (Code of Ethics).
04/20/11	Billy MacLeod	Pauline Medrano Deputy Mayor Pro Tem and Deborah Watkins City Secretary	12A-4(a), 12A-4(b)(2)(E) 12A-18	05/10/11	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
05/09/11	Richard P. Sheridan	Mary K. Suhm City Manager	12-3 12-7 12-11(a)	05/23/11	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
07/25/11	Sandra Crenshaw	Hollis Brashear Redistricting Commission	12A-1(a)(1)	08/26/11	Preliminary Panel scheduled 08/15/11, cancelled for lack of quorum. Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)

2011 ETHICS COMPLAINT INDEX

DATE FILED	COMPLAINANT	RESPONDENT	CODE VIOLATION CITED	DATE HEARD	STATUS/OUTCOME
07/25/11	Sandra Crenshaw	Billy Ratcliff Vice-Chair Redistricting Commission	12A-1(a)(1) 12A-18	08/26/11	Preliminary Panel scheduled 08/15/11, cancelled for lack of quorum. Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
07/25/11	Sandra Crenshaw	Donna Halstead Redistricting Commission	12A-1(a)(1) 12A-18	08/26/11	Preliminary Panel scheduled 08/15/11, cancelled for lack of quorum. Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
11/16/11	Sandra Crenshaw	Tennell Atkins Deputy Mayor Pro Tem	None cited	12/02/11	Dismissed by Preliminary Panel. Based upon the evidence submitted the complaint fails to state a claim under Chapter 12A Dallas City Code (Code of Ethics)