

CITY OF DALLAS

ETHICS ADVISORY COMMISSION

2008

ANNUAL REPORT

FEBRUARY 1, 2009

ETHICS ADVISORY COMMISSION

2008 ANNUAL REPORT

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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
4. Gloria M. Tarpley, Commissioner
5. Rebecca Baird Bergstresser, Commissioner
6. James Adams, Commissioner
7. Roger Wedell, Commissioner

Margaret Donnelly, Resigned 04/10/08
Linda Sorrells, Holdover until 06/09/08

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.

SUMMARY OF ACTIVITIES

- Four (4) EAC meetings were held in 2008:
 - January 18, 2008
 - August 15, 2008
 - September 19, 2008
 - October 17, 2008
- Two (2) ethics complaints were filed in 2008:

Date	Complainant	Respondent	Withdrawn Before Hearing	Preliminary Panel Hearing	Evidentiary Hearing
05/15/08	William B. Vandivort, II	Robin Moss Norcross	No	Yes	Yes
09/03/08	Elroy A. Williams	Tommy Tine	No	Yes	Yes

Complaint log for 2008 and more detailed information is included in this report as Exhibit A behind Tab 4

- The City Council made the following appointments/reappointments to the EAC in 2008:

Place	Name	Appointment/ Reappointment Date
1	Randy H. Skinner	Appointed Member and Chairman 06/11/2008
2	Calvin C. Bluiett	Reappointed Member and Vice Chairman 06/04/2008
3	Rodolfo Rodriguez, Jr.	Appointed 06/04/2008
4	Gloria M. Tarpley	Appointed 10/03/2007
5	Rebecca Baird Bergstresser	Appointed 10/03/2007
6	James Adams	Appointed 06/04/2008
7	Roger Wedell	Reappointed 06/04/2008

Attendance log for EAC members is included in this report as Exhibit B behind Tab 5

- Two forms were adopted by the EAC and added as amendments to the Rules of Procedure:
 - Evidentiary Hearing Decision Form - adopted August 28, 2008
 - Declaratory Ruling Form - adopted August 28, 2008

Both forms are included in the EAC Rules of Procedure and included in this report as Exhibit C behind Tab 6.

- On June 25, 2008, the City Council considered an ordinance amending Chapter 12A of the Dallas City Code to allow TIF board members to acquire property within the reinvestment zone they represent, but prohibiting them from participating and voting in matters that directly affect their acquired or existing property in the reinvestment zones.

The City Council voted to refer the proposed ordinance to the City Council Economic Development Committee and the EAC for review and recommendation to the City Council.

On August 18, 2008, the EAC considered the matter and adopted the statement and recommendation included in this report as Exhibit D behind Tab 7. It is unknown what action was taken on this matter by the City Council Economic Development Committee

- On September 26, 2008, Randy Skinner, EAC Chairman, on behalf of the EAC, sent the City Council a memo requesting "formal direction and/or consensus" in order to begin work on specific issues Councilmembers had expressed interest in during interviews held on June 4, 2008 and June 11, 2008 with individuals being considered for appointment/reappointment to the EAC. Two specific issues were:
 - Gifts and contributions to Councilmembers from zoning applicants
 - Clarification of the definition of the "per city election" period for purposes of collecting campaign contributions defined in Chapter 15A of the Dallas City Code

The letter sent to the City Council is included in this report as Exhibit E behind Tab 8.

- In response to the September 26, 2008 letter to the City Council, Mayor Tom Leppert appointed Councilmembers Pauline Medrano, Mitchell Rasansky and Carolyn Davis to a Task Force to work with the EAC to review Chapter 12A of the Dallas City Code for possible revisions.

The Task Force met with the EAC Chairman and Vice Chairman on November 19, 2008 and December 17, 2008 in order to review prior revisions to Chapter 12A of the Dallas City Code.

- On February 23, 2007, the EAC sent a letter to the City Council recommending an amendment to Chapter 12A of the Dallas. 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 as requested, 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."**

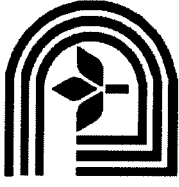
This change would mean a complainant would no longer be required to have "personal knowledge" of an ethics violation in order to file an ethics complaint. A complainant could file an ethics complaint based on "information and belief, based on credible evidence, that a violation of the ethics code has occurred."

The EAC has yet to receive a response from the City Council on this recommended amendment to Chapter 12A.

The February 23, 2007 letter to the City Council and recommended changes to Chapter 12A is included in this report behind Tab 9 as Exhibit F.

**This paragraph is an amended version of what was sent to the City Council with the EAC's letter of February 23, 2007. This revision was adopted by the EAC on October 17, 2008.

EXHIBIT A
2008 INDEX OF COMPLAINTS



CITY OF DALLAS

Ethics Advisory Commission Index of Complaints End of Year 2008

EAC CASE #	FILE #	DATE FILED	COMPLAINT	RESPONDENT	CODE VIOLATION CITED	DATE HEARD	STATUS/OUTCOME
36	08-0855	04/03/08	William Bateman Vandivort, II	Robin Moss Norcross	12A-3, 12A-4 12A-16	05/15/08	04/28/08 Preliminary Panel found that sufficient evidence existed to find "just cause" under 12A-3(a)(7)(B).05/15/08 at Hearing EAC voted unanimously to dismiss complaint because the allegation was not supported by clear and convincing evidence.
37	08-5209	9/3/2008	Elroy A. Williams	Tommy Tine	12A3 (a)(1)(4) 12A3 (b)(1)(4a)(5a) 12A3 (c1)(d1)	11/07/08	Dismissed by the Preliminary Panel. Based upon the evidence submitted, the complaint did not state a claim as specified by the ethics code.

EXHIBIT B

**ETHICS ADVISORY COMMISSION
MEETING ATTENDANCE LOG**

**2008 ATTENDANCE RECORD
ETHICS ADVISORY COMMISSION**

MEETING DATES	1/15/08	2/15/08	3/15/08	4/15/08	5/15/08	6/15/08	7/15/08	8/15/08	9/15/08	10/15/08	11/15/08	12/15/08
Randy H. Skinner	N/A							P	P	P		
Calvin C. Bluiett	P							P	P	P		
Rodolfo Rodriguez	N/A							P	P	A		
Gloria M. Tarpley	P							P	P	P		
Rebecca Baird Bergstresser	P							P	P	A		
James Adams	N/A							P	P	P		
Roger Wedell	P							P	A	P		
Linda Sorrells	P											
Margaret Donnelly	P			Resigned		Replaced						

LEGEND:
A=ABSENT
N/A=NOT YET APPOINTED
NM=NO MEETING
P=PRESENT
V=VACANT

EXHIBIT C

**ETHICS ADVISORY COMMISSION
RULES OF PROCEDURE**

EXHIBIT D

**AUGUST 28, 2008
STATEMENT AND RECOMMENDATION
OF THE EAC TO THE CITY COUNCIL**

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.

EXHIBIT E

**SEPTEMBER 26, 2008
LETTER TO THE CITY COUNCIL**



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,

A handwritten signature in cursive script that reads "Randy A. 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

EXHIBIT F

**FEBRUARY 23, 2007
LETTER TO THE CITY COUNCIL**



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