



Ethics and City Council Procedures

July 12, 2016

Ethics Laws

- **Conflict of Interest**
- **Texas Open Meetings Act**
- **Texas Penal Code**
 - Improper Gift
 - Bribery
 - Official Oppression
 - Misuse of Official Information
- **Texas Open Records Act**
- **Addison Code of Ethics**



Conflict Of Interest

- Moral/Political Conflict of Interest
- VS.
- Statutory/Legal Conflict of Interest

The Dallas Morning News
Dallas, Texas, Friday, September 23, 2005

Star-Telegram
FORT WORTH
PUBLISHED DAILY EXCEPT SUNDAYS



Conflict of Interest

Chapter 171, Texas Local Government Code

- The Statutory Rule -- 171.004(a)

- If a local public official has a ***substantial interest*** in a business entity or in real property, the official shall:
 - Before a vote or decision on any matter involving the business entity or the real property, **file an affidavit** stating the nature and extent of the interest and
 - **Abstain** from **further participation** in the matter



Conflict of Interest

- **Local Public Official**
 - Elected Official
 - Appointed Official
- **Substantial Interest Can Be Either:**
 - **Personal Interest**
 - Related in 1st Degree by Consanguinity or Affinity
 - **Economic Interest**
 - Effect that is distinguishable from the effect on the public



Conflict of Interest

- Personal Interest

- **1st Degree Consanguinity (Blood)**

- Parent
 - Child
 - Adopted Child
 - Adoptive Parents

- **1st Degree Affinity (Marriage)**

- Spouse
 - Spouse's Parents
 - Spouse's Children
 - Spouse's Adoptive Family
 - Divorce Ends, Unless Children Present
 - Step Family Members



Conflict of Interest

- **Substantial Interest**

- Special economic effect on the business that is distinguishable from the effect on the public

- **Business Entity or Real Estate**

- \$15,000 Interest in the Entity
- 10% or more of the Voting Stock
- Past year earnings are 10% Gross Income

- **Substantial Interest in Real Estate**

- \$2,500 or more in fair market value
- E.g., Official lives within 200 ft. of zoning case



Conflict of Interest

- Penalty
 - Class A Misdemeanor
 - 1 Year in Jail
 - \$4,000 Fine
 - Both Jail and Fine



Conflict of Interest

- Personal Responsibility of the Public Official to Decide or Seek an Opinion on a Conflict of Interest Matter



Official Misconduct

Texas Penal Code Chapters 36 And 39

- Improper Gifts
- Bribery
- Abuse of Official Capacity
- Official Oppression
- Misuse of Official Information



Official Misconduct

- **Improper Gifts** – Sec. 36.08
 - Public Official Commits an Offense if he Solicits, Accepts, or Agrees to Accept any Benefit From a Person the Public Official Knows is Interested in or Likely to Become Interested in any Matter Before the Public Official or Governmental Body



Official Misconduct



Dallas ISD corruption trial focuses on computer vendor's gift-giving

12:34 AM CDT on Monday, June 30, 2008

By RICHARD ABSHIRE / The Dallas Morning News
rabshire@dallasnews.com

Two weeks into a slow-paced federal corruption trial, prosecutors and attorneys for a computer reseller have clashed over whether his gift-giving was generosity or an effort to lure contracts from a Dallas school administrator.



Ruben Bohuchot was a Dallas ISD worker from 1999 to 2006.



Official Misconduct

- Improper Gifts

- **Exceptions**

- Gift conferred on account of kinship of personal, professional, or business relationship independent of the official status of recipient
 - Political contribution
 - Item with a value less than \$50 excluding cash
 - Food, lodging, transportation, or entertainment if the donor or recipient is required by law to report the items



Official Misconduct

- Improper Gifts

- **Penalty**

- For the one who accepts the gift and the one who offers the gift
 - Class A Misdemeanor
 - 1 year in jail and/or
 - \$4,000 fine



Official Misconduct

- **Bribery** – Sec. 36.02
 - To solicit or accept any benefit in exchange for vote or act of discretion
 - Penalty – 2nd degree felony
 - 20 years and/or
 - \$10,000 fine



Official Misconduct

- **Abuse of Official Capacity** – Sec. 39.02
 - Misuse governmental property to harm or gain a benefit
 - Up to 1st Degree Felony (99 years, \$10,000 fine)
- **Official Oppression** – Sec. 39.03
 - Intentionally mistreat or sexually harass
 - Class A Misdemeanor (1 year, \$4,000 fine)
- **Misuse of Official Information** – Sec. 39.06
 - Uses information that has not been made public for gain or benefit
 - 3rd Degree Felony (10 years, \$10,000 fine)



Ethics Laws

- **Moral/Political Compass**
- **State Statutory Provisions**
- **Local Charter and Ethics Ordinances**
 - **Voluntary Compliance – Guidelines**
 - No penalty or prosecution
 - Possible bad publicity
 - Could be a talking point for removal of a board member by the Council
 - **Mandatory Compliance**
 - Removal from Office
 - Civil/Criminal Action



Ethics Concerns

- **Best Defense**

- Ask your City Attorney for help
 - More difficult to prove crime when acting on advice from City Attorney





Questions?



Ethics Ordinance

Chapter 2, Division 2 – Town's Code of Ordinance

Policy

- It is the policy of the Town that:
 - Officials be independent, impartial and responsible only to the people of the Town
 - Council decisions and policy be made using proper procedures
 - No official shall have any interest, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest



Policy

- It is the policy of the Town that:
 - Public office not be used for personal gain
 - The City Council shall at all times be maintained as a nonpartisan body
 - Officials fully comply with state statues, as amended, concerning conflicts of interest



Application of Ethics Ordinance

- The Town's Code of Ethics:
 - Applies to all officials, whether elected or appointed, paid or unpaid, advisory or administrative
 - Serves as a basis for discipline for those who refuse to abide by the Ethics Ordinance



Standards of Conduct

- No official (see definition of *official*) shall:
 - Accept or solicit anything of value which he knows is being offered with the intent to unlawfully influence the discharge of their official duties or in return for having exercised or performed official duties
 - Use his official position to secure special privileges for himself or others
 - Grant any special consideration to a person or organization beyond that which is available to every other person or organization



Standards of Conduct

- No official shall:
 - Disclose information deemed confidential by law that could adversely affect the property or affairs of the Town
 - Directly or indirectly use any information understood to be confidential which was gained by his official position for his own personal gain or benefit or for the private interest of others



Standards of Conduct

- No official shall:
 - Transact any business on behalf of the Town in his official capacity with any entity in which he is an officer, agent or member or in which he has an interest
 - No violation if he makes the interest known and refrains from discussing the matter at any time with members of the body and abstain from voting
 - Accept other employment or engage in outside activities incompatible his discharge of duties or impair his judgment



Standards of Conduct

- No official shall:
 - Personally provide services to compensation, directly or indirectly, to a person or entity requesting approval, investigation or determination from the body of which he is a member
 - Does not apply to outside employment if that employment is the officer's primary source of income
 - Receive any fee or compensation for his service as an officer of the Town except from the Town
 - Does not prohibit performing the same services to an outside entity if there is no conflict with Town duties



Standards of Conduct

- No official shall:
 - Personally represent the private interest of others:
 - Before the City Council or any Town Board or Department
 - In any proceeding involving the Town
 - In any litigation to which the Town is a party



Standards of Conduct

- No official shall:
 - Use his official position or Town-owned facilities, personnel, equipment, supplies, etc. or resources for any private purposes, personal advantage, pecuniary gain, for himself or others, or for any political campaign for himself or others
 - Does not prohibit:
 - Using official position to promote or encourage economic development and businesses within the Town, provided no benefit to prohibited person and the promotion doesn't benefit official or prohibited person.



Standards of Conduct

- Prohibition on use of official position or Town resources doesn't prohibit
 - Use of official's name and title in connection with any election for public office or in connection with any election ordered by the Town on a proposed measure.
- No official shall:
 - Use the prestige of position with the Town in behalf of any political party
 - Knowingly perform or refuse to perform any act to deliberately thwart the execution of valid Town ordinances, rules or regulations or achievement of Town purposes



Standards of Conduct

- No official shall:
 - Engage in any dishonest or criminal act or any other conduct prejudicial to the to the Town or than discredits the Town



Conflict of Interest

- May not participate or vote on a matter affecting a person, entity or property in which official has an interest
 - Includes non-profit entity which is not appointed by the Council
 - When interest is remote or incidental, official may participate, vote and need not disclose





Questions?



Council Procedures

Adopted Oct. 17, 2011

- Establishes additional rules for operation of the City Council
 - Meetings
 - Agendas
 - Meeting Procedures
 - Code of Conduct
 - Citizen Participation
 - Council and Staff Relations
 - Council and Media Relations



Meetings

- Regular Meetings

- 2nd and 4th Tuesdays - Town Hall – 7:30 start

- Special Meetings

- At the call of the Mayor, City Manager or 3 Council members
- Written notice to City Secretary
- May be held at a place other than Town Hall



Meetings

- Work Session Meetings
 - At the call of the Mayor, City Manager or 3 Council members
 - Written notice to City Secretary
 - Time, place and purpose included in public notice
 - Ordinarily – no official action



Agendas

- Mayor working with City Manager determines items on an agenda
 - If Council member or public raises an unposted issue – recite facts or policy but no discussion
- Council member may ask Mayor to place item on agenda
- Item will be placed on agenda at request of 2 Council members – 1:00 Tuesday prior week deadline



Agendas

- Staff works through City Manager on agenda items
- Agenda packets for Regular Meetings delivered electronically no later than Thursday before meeting
- City Secretary responsible for posting notices



Meeting Procedures

- Robert's Rules of Order may be consulted as a guide
- Mayor is presiding officer
 - Mayor Pro-Tempore in Mayor's absence
 - Deputy Mayor Pro- Tempore
- Mayor shall have a voice and may vote on all matters
- Presiding officer recognizes individuals to present items



Meeting Procedures

- Presiding officer preserves order and Council discussion is limited to question under consideration
- Presiding officer gives all members a full opportunity to speak on an item
- In event of a conflict between Council members, presiding officer acts as mediator



Meeting Procedures

- Mayor recognized as head of the Town government for ceremonial and military law but shall have no administrative duties
- Council members shall confine remarks to item under consideration
 - No references to personality, integrity or motives of any other Council member or staff member



Meeting Procedures

- Council member may ask presiding officer to enforce procedures established by Council
 - If presiding officer fails to do so – majority of Council may direct presiding officer to enforce procedures



Code of Conduct

- During meetings, Members of Council shall:
 - Preserve order and decorum
 - Not interrupt or delay proceedings
 - Not refuse to obey orders of the presiding officer
 - Shall demonstrate respect and courtesy to each other, Town staff and members of the public
 - Refrain from rude and derogatory remarks
- Council members should comply with the Town's Code of Ethics – Chapter 2 of the Code of Ordinances



Code of Conduct

- In accordance with Town's ethics ordinance and state law:
 - Members shall abstain from participating in or voting on items in which they have a conflict of interest
 - File a conflict of interest affidavit with City Secretary
 - At introduction of item, announce the conflict and refrain from participating or voting
 - Not required to leave the room



Citizen Participation

- If item is identified on an agenda as a public hearing, persons attending will be given the opportunity to speak
 - Presiding officer may set time limits
- Except for public hearings, as a general rule, persons attending a meeting may not participate in discussions of the Council



Council and Staff Relations

- Council members should attempt to ask questions to City Manager about the agenda packet prior to the meeting
 - Allows staff to provide additional information or prepare response
- City Manager designates staff member to present each agenda item
 - Presentations should be timely, professional and present options for resolving any issue



Council and Staff Relations

- City Manager is directly responsible for providing information to all members of Council concerning an inquiry by any member of the Council
 - If City Manager finds his or his staff's time being dominated by a single member – he should inform the Mayor
- Conflicts between staff and City Council will be addressed by Mayor and City Manager



Council and Staff Relations

- City Manager responsible for professional and ethical behavior of himself and staff
 - City Manager also responsible for staff training
- All members of Council and Town staff shall show respect and courtesy to each other and citizens at all times.
- City Manager responsible for orientation for all new Council members



Council and Media Relations

- Agenda packets shall be provided to all interested news media in advance of meeting
- Responses to media inquiries will be made as determined by Mayor and the City Manager
 - In Mayor's absence – Mayor Pro-Tempore or Deputy Mayor Pro-Tempore





Questions?