

# Memorandum



CITY OF DALLAS

DATE May 30, 2008

TO Members of the Economic Development Committee:  
Ron Natinsky (Chair), Tennell Atkins (Vice-Chair), Dwaine Caraway, Jerry R. Allen,  
Sheffie Kadane, Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **Amendment to the Code of Ethics – TIF Board Members**

Attached is a copy of a proposed ordinance allowing TIF 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 zones and prohibiting TIF Board members from having direct or indirect financial interest in city contracts involving the use of TIF funds. Also attached are bullet points prepared by the City Attorney's Office summarizing the new conflicts rules for TIF board members.

Should you have any further questions or concerns, please contact me at (214) 670-3314.

A handwritten signature in black ink, appearing to read 'A.C. Gonzalez'.

A.C. Gonzalez  
Assistant City Manager

C: The Honorable Mayor and Members of the City Council  
Mary K. Suhm, City Manager  
Deborah Watkins, City Secretary  
Tom Perkins, City Attorney  
Craig Kinton, City Auditor  
Judge Jay Robinson, Judiciary  
Ryan S. Evans, First Assistant City Manager  
David O. Brown, Interim Assistant City Manager  
Ramon Miguez, P.E., Assistant City Manager  
Jill A. Jordan, P.E., Assistant City Manager  
Dave Cook, Chief Financial Officer  
Jeanne Chipperfield, Interim Budget Director, Office of Financial Services  
Jesus Toscano, Jr., Administrative Assistant City Attorney  
Barbara Martinez, Assistant City Attorney  
Karl Zavitkovsky Director, Office of Economic Development  
Hammond Perot, Assistant Director, Office of Economic Development  
Chandra Marshall-Henson, Assistant to the City Manager

## BULLET POINTS – CODE OF ETHICS AMENDMENT – TIF BOARDS

The attached ordinance amends the Code of Ethics for the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended.

1. The ordinance amendment allows TIF board members to own and acquire property within the reinvestment zones they represent, but prohibits TIF board members from having a direct or indirect financial interest in a city contract that involves the use of TIF funds from the reinvestment zone on which the member serves.
2. The TIF board member may not submit a bid or proposal, on behalf of the TIF board member or on behalf of a private business entity, for a contract involving the use of tax increment funds from the reinvestment zone on which the TIF board member serves.
3. The TIF board member may not negotiate on behalf of the TIF board member or on behalf of a private business entity if the contract involves the use of tax increment funds from the reinvestment zone on which the TIF board member serves.

**Accordingly, a TIF board member would be required to resign from the TIF board on which they serve prior to submitting a bid or proposal for a TIF contract and prior to negotiations on behalf of the TIF board member or on behalf of a private business entity for tax increment funds if the TIF board member is serving on the board for that particular reinvestment zone.**

4. The TIF board member may, however, have a financial interest in a contract with the city that does not involve the use of TIF funds from the reinvestment zone on which the member serves, and submit bids and proposals and negotiate on behalf of the TIF board member or a private business entity to make a city contract, provided the city contract does not involve the use of TIF funds from the reinvestment zone that the member represents.
5. TIF board members can vote on matters that indirectly affect their property that they currently own or acquire in the reinvestment zone; however, the TIF board member cannot vote on matters that directly affect their property. For purposes of this restriction, a matter directly affects a member's property if the matter involves a TIF-funded project in the zone located within 200 feet of the member's property located in the zone.
6. TIF board members must comply with the recusal and disclosure requirements in Sections 12A-3 (c) and (d), if the matter before the board directly affects the TIF board member's property.

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Sections 12A-3, 12A-4, and 12A-12 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; allowing TIF 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 zones; prohibiting TIF board members from having direct or indirect financial interests in city contracts involving the use of TIF funds; 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-3 "Improper Economic Benefit," of Article II, "Present City Officials and Employees," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 12A-3. IMPROPER ECONOMIC BENEFIT.**

(a) Economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the economic interests of:

- (1) the official or employee;
- (2) the official's or employee's outside client;
- (3) the official's or employee's outside employer;
- (4) a business entity in which the official or employee knows that he or she holds an economic interest;
- (5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which he or she holds an economic interest;

(6) a business entity for which the city official or employee serves as an officer or director or in any other policymaking position; or

(7) a person or business entity:

(A) from whom, within the past 12 months, the official or employee, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official or employee, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(b) Substantial economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the substantial economic interests of:

(1) the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity;

(2) the official's or employee's domestic partner;

(3) an outside employer of the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or domestic partner, but only if the official or employee knows the family member or domestic partner has a substantial economic interest in the outside employer;

(4) a business entity in which the official or employee knows that a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner; or

(6) a person or business entity:

(A) from whom, within the past 12 months, the official's or employee's spouse or domestic partner, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official's or employee's spouse or domestic partner, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(c) Recusal and disclosure. A city official or employee whose conduct or action on a matter would violate Subsection (a) or (b) must recuse himself or herself. From the time that the conflict is recognized, the city official or employee shall:

(1) immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and

(2) promptly file with the city secretary a written statement disclosing the conflict on a form provided by the city secretary.

(d) Additional recusal and disclosure requirements. In addition to the requirements of Subsection (c):

(1) a supervised employee shall promptly bring his or her conflict to the attention of a supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person;

(2) the park and recreation director shall promptly bring his or her conflict to the attention of the park and recreation board;

(3) the civil service director shall promptly bring his or her conflict to the attention of the civil service board;

(4) the employees' retirement fund administrator shall promptly bring his or her conflict to the attention of the board of trustees of the employees' retirement fund;

(5) a municipal judge shall promptly bring his or her conflict to the attention of the administrative municipal judge;

(6) the city manager, city attorney, city secretary, city auditor, and administrative municipal judge shall promptly bring his or her conflict to the attention of the city council;

(7) a board or commission member shall promptly disclose his or her conflict to the board or commission of which he or she is a member and shall not be present during any discussion or voting on the matter; and

(8) a city council member shall promptly disclose his or her conflict to the city council and shall not be present during any discussion or voting on the matter.

(e) Disclosure requirements relating to offers of employment. Whenever a city employee who is a department director or of higher rank receives an offer of employment from any person or business entity that the employee knows had an economic interest in any discretionary contract with the city in which the employee personally participated within the preceding 12 months, the employee shall, immediately upon receiving the offer, disclose the offer, whether rejected or not, to the appropriate supervisory person or body designated under Subsection (d). Unless recusal is required under Subsection (c), the employee may continue to personally participate, on the behalf of the city, in contracts and other matters in which the person or entity making the employment offer has an economic interest.

(f) Board of directors of a reinvestment zone.

(1) Notwithstanding any other provision of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) ~~(1)~~ own property within that reinvestment zone; and

(B) ~~(2)~~ participate in discussions and voting on matters before the board of directors that may ~~directly or~~ indirectly affect the member's property within the reinvestment zone, but must adhere to the recusal and disclosure requirements in Subsections (c) and (d) of this section on matters before the board of directors that may directly affect the member's property.

(2) For purposes of this subsection, a matter directly affects a member's property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the member's property.

(g) City officials and employees serving in policymaking positions for business entities at the direction of the city. The restrictions and requirements of Subsections (a)(6), (c), and (d) of this section do not apply to an official or employee of the city serving as an officer or director or in any other policymaking position for a business entity when taking official action on behalf of the city on matters concerning that business entity, if the official or employee:

(1) was appointed by the mayor, city council, or city manager to represent the city as an officer or director or in any other policymaking position for the business entity; and

(2) has no economic interest in the business entity or in the matter on which the action is being taken.”

SECTION 2. That Section 12A-4, “Unfair Advancement of Private Interests,” of Article II, “Present City Officials and Employees,” of CHAPTER 12A, “CODE OF ETHICS,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 12A-4. UNFAIR ADVANCEMENT OF PRIVATE INTERESTS.**

(a) General rule. A city official or employee may not use his or her official position to unfairly advance or impede personal interests by granting or securing, or by attempting to grant or secure, for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to every other person or organization.

(b) Special rules. The following special rules apply in addition to the general rule set forth in Subsection (a):

(1) Acquisition of interest in impending matters. A city official or employee shall not acquire an interest in any matter if the official or employee knows that the interest will be affected by impending official action of the city.

(2) Acquisition of interest in decided matter. A city official or employee shall not acquire an interest in any matter affected by an official action of the city for a period of one year after the date of the official action.

(3) Reciprocal favors. A city official or employee may not enter into an agreement or understanding with any other person that official action by the official or employee will be rewarded or reciprocated by the other person.

(4) Appointment or employment of relatives.

(A) A city official or employee shall not appoint, or take any action to influence the appointment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city official or employee who was either a domestic partner or a relative within the first degree of consanguinity or affinity may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by the domestic partner or relative until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(B) A city council member shall not appoint any fellow city council member's domestic partner or relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city council member and who was either a domestic partner or relative within the first degree of consanguinity or affinity of another city council member may:

(i) complete his or her term on the board or commission; and

(ii) continue to be reappointed to that board or commission by any city council member until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.

(C) A city official or employee shall not appoint or employ, or take any action to influence the appointment or employment of, his or her domestic partner or any relative within the first degree of consanguinity or affinity to any position of employment within the city. Nothing in this subparagraph prohibits any person who, before June 28, 2000, was lawfully appointed to or employed in any position of employment with the city from continuing to serve in that position of employment.

(5) Supervision of relatives. In addition to the nepotism restrictions of Section 34-5(e) of the city code, no official or employee shall be permitted to be the immediate supervisor of his or her domestic partner or of any relative within the second degree of consanguinity or affinity.

(6) Fringe benefits. The general rule described in Subsection (a) of this section does not prohibit the city from granting fringe benefits to city employees as a part of their contracts of employment or as an added incentive to securing or retaining employees.

(c) Recusal and disclosure. A city official or employee whose conduct would violate Subsection (b)(4) of this section shall adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter.

(d) Board of directors of a reinvestment zone.

(1) Notwithstanding Subsections (b)(1) and (b)(2) of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) acquire property within that reinvestment zone; and



(B) participate in discussions and voting on matters before the board of directors that may indirectly affect the acquired property, but must adhere to the recusal and disclosure requirements in Sections 12A-3(c) and (d) of this chapter on matters before the board of directors that may directly affect the acquired property.

(2) For purposes of this subsection, a matter directly affects a member's acquired property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the acquired property.”

SECTION 3. That Section 12A-12, “Prohibited Interests in Contracts,” of Article II, “Present City Officials and Employees,” of CHAPTER 12A, “CODE OF ETHICS,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 12A-12. PROHIBITED INTERESTS IN CONTRACTS.**

(a) Charter restrictions relating to financial interests in city contracts. A city official or employee shall comply with the restrictions on financial interests in city contracts as set forth in Chapter XXII, Section 11 of the city charter.

(b) Additional restrictions relating to city contracts. An official or employee may not, while in the service or employment of the city, either individually or as the officer or principal of a private business entity:

(1) submit a bid or proposal, on behalf of the official or employee or on behalf of a private business entity, to make any city contract, whether or not the contract is required by state law to be competitively bid; or

(2) negotiate or enter into any city contract, on behalf of the official or employee or on behalf of a private business entity, whether or not the contract is required by state law to be competitively bid.

(c) Exceptions. The restrictions contained in Subsections (a) and (b) of this section do not apply to a member of:

(1) a board that functions only in an advisory or study capacity and that does not have the power to make findings as to the rights of specific parties, except that the restrictions do apply to a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, with respect to any city contract involving the use of tax increment funds from the reinvestment zone represented by the member; or

(2) a board of a nonprofit development corporation that acts as an instrumentality of the city.”

SECTION 4. 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 5. 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 6. 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/00301A