**APRIL 7, 2010 CITY COUNCIL BRIEFING AGENDA**
**CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Briefing Agenda dated April 7, 2010. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.

Mary K. Suhm
City Manager

4-2-10
Date

Edward Scott
City Controller

4/2/10
Date

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CITY SECRETARY
DALLAS, TEXAS

# COUNCIL BRIEFING AGENDA

April 7, 2010

DATE

(FOR GENERAL INFORMATION AND RULES OF COURTESY PLEASE SEE OPPOSITE SIDE.)
(LA INFORMACIÓN GENERAL Y REGLAS DE CORTESÍA QUE DEBEN OBSERVARSE DURANTE LAS ASAMBLEAS DEL CONSEJO MUNICIPAL APARECEN EN EL LADO OPUESTO, FAVOR DE LEERLAS.)

## General Information

The Dallas City Council regularly meets on Wednesdays beginning at 9:00 a.m. in the Council Chambers, 6th floor, City Hall, 1500 Marilla. Council agenda meetings are broadcast live on WRR-FM radio (101.1 FM) and on Time Warner City Cable Channel 16. Briefing meetings are held the first and third Wednesdays of each month. Council agenda (voting) meetings are held on the second and fourth Wednesdays. Anyone wishing to speak at a meeting should sign up with the City Secretary's Office by calling (214) 670-3738 before 9:00 a.m. on the meeting date. Citizens can find out the name of their representative and their voting district by calling the City Secretary's Office.

Sign interpreters are available upon request with a 48-hour advance notice by calling (214) 670-5208 V/TDD. The City of Dallas is committed to compliance with the Americans with Disabilities Act. ***The Council agenda is available in alternative formats upon request***.

If you have any questions about this agenda or comments or complaints about city services, call 311.

## Rules of Courtesy

City Council meetings bring together citizens of many varied interests and ideas. To insure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, administrative staff, news media, citizens and visitors. These procedures provide:

- That no one shall delay or interrupt the proceedings, or refuse to obey the orders of the presiding officer.
- All persons should refrain from private conversation, eating, drinking and smoking while in the Council Chamber.
- Posters or placards must remain outside the Council Chamber.
- No cellular phones or audible beepers allowed in Council Chamber while City Council is in session.

"Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the City Council during that session of the City Council. If the presiding officer fails to act, any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the presiding officer to act." Section 3.3(c) of the City Council Rules of Procedure.

## Informacion General

El Ayuntamiento de la Ciudad de Dallas se reúne regularmente los miércoles en la Cámara del Ayuntamiento en el sexto piso de la Alcaldía, 1500 Marilla, a las 9 de la mañana. Las reuniones informativas se llevan a cabo el primer y tercer miércoles del mes. Estas audiencias se transmiten en vivo por la estación de radio WRR-FM 101.1 y por cablevisión en la estación *Time Warner CityCable* Canal 16. El Ayuntamiento Municipal se reúne el segundo y cuarto miércoles del mes para tratar asuntos presentados de manera oficial en la agenda para su aprobación. Toda persona que desee hablar durante la asamblea del Ayuntamiento, debe inscribirse llamando a la Secretaría Municipal al teléfono (214) 670-3738, antes de las 9 de la mañana del día de la asamblea. Para enterarse del nombre de su representante en el Ayuntamiento Municipal y el distrito donde usted puede votar, favor de llamar a la Secretaría Municipal.

Intérpretes para personas con impedimentos auditivos están disponibles si lo solicita con 48 horas de anticipación llamando al (214) 670-5208 (aparato auditivo V/TDD). La Ciudad de Dallas se esfuerza por cumplir con el decreto que protege a las personas con impedimentos, *Americans with Disabilties Act*. ***La agenda del Ayuntamiento está disponible en formatos alternos si lo solicita***.

Si tiene preguntas sobre esta agenda, o si desea hacer comentarios o presentar quejas con respecto a servicios de la Ciudad, llame al 311.

## Reglas de Cortesia

Las asambleas del Ayuntamiento Municipal reúnen a ciudadanos de diversos intereses e ideologías. Para asegurar la imparcialidad y el orden durante las asambleas, el Ayuntamiento ha adoptado ciertas reglas de cortesía que aplican a todos los miembros del Ayuntamiento, al personal administrativo, personal de los medios de comunicación, a los ciudadanos, y a visitantes. Estos reglamentos establecen lo siguiente:

- Ninguna pesona retrasará o interrumpirá los procedimientos, o se negará a obedecer las órdenes del oficial que preside la asamblea.
- Todas las personas deben de abstenerse de entablar conversaciones, comer, beber y fumar dentro de la cámara del Ayuntamiento.
- Anuncios y pancartas deben permanecer fuera de la cámara del Ayuntamiento.
- No se permite usar teléfonos celulares o enlaces electrónicos (*pagers*) audibles en la cámara del Ayuntamiento durante audiencias del Ayuntamiento Municipal.

"Los ciudadanos y visitantes presentes durante las asambleas del Ayuntamiento Municipal deben de obedecer las mismas reglas de comportamiento, decoro y buena conducta que se aplican a los miembros del Ayuntamiento Municipal. Cualquier persona que haga comentarios impertinentes, utilice vocabulario obsceno o difamatorio, o que al dirigirse al Ayuntamiento lo haga en forma escandalosa, o si causa disturbio durante la asamblea del Ayuntamiento Municipal, será expulsada de la cámara si el oficial que esté presidiendo la asamblea así lo ordena. Además, se le prohibirá continuar participando en la audiencia ante el Ayuntamiento Municipal. Si el oficial que preside la asamblea no toma acción, cualquier otro miembro del Ayuntamiento Municipal puede tomar medidas para hacer cumplir las reglas establecidas, y el voto afirmativo de la mayoría del Ayuntamiento Municipal precisará al oficial que esté presidiendo la sesión a tomar acción." Según la sección 3.3(c) de las reglas de procedimientos del Ayuntamiento.

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, APRIL 7, 2010
CITY HALL
1500 MARILLA
DALLAS, TEXAS 75201
9:00 A.M.

9:00 am Invocation and Pledge of Allegiance 6ES

Special Presentations

Open Microphone Speakers

VOTING AGENDA 6ES

1. Approval of Minutes of the March 3, 2010 City Council Meeting

2. Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)

ITEMS FOR INDIVIDUAL CONSIDERATION

**City Secretary's Office**

3. A resolution designating absences by Councilmember Delia Jasso and Councilmember Ron Natinsky as being for "official city business" - Financing: No cost consideration to the city

PUBLIC HEARINGS AND RELATED ACTIONS

**Park & Recreation**

4. A public hearing to receive comments on the proposed use of a portion of Fair Park property located at 1620 First Avenue (Science Place II Building) for a Head Start early childhood education program; and at the close of the hearing, consideration of a resolution authorizing the use - Financing: No cost consideration to the City

Briefings 6ES

A. FY2010-11 Budget Workshop #4 - Setting the Price of Government

B. City Charter Amendment Process

Lunch

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, APRIL 7, 2010

Briefings (Continued) 6ES

C. Local Option Elections

D. Proposed Amendments to Lobbyist Registration Ordinance

E. Amendments to Gift Policies for Councilmembers and Board and Commission Members

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

**Mayor and City Council**

**Judicial Nominating Commission**

**Note**: Only one of the following 3 alternative Ordinances may be adopted.

5. * An ordinance amending Chapter 13 of the Dallas City Code to: **(1)** eliminate specific qualifications for members of the judicial nominating commission; **(2)** prohibit members of the judicial nominating commission from practicing law in or before the municipal courts of the city; and **(3)** update the commission's appointment and term commencement dates to be consistent with the city charter - Financing: No cost consideration to the City

6. * An ordinance amending Chapter 13 of the Dallas City Code to: **(1)** increase the membership of the judicial nominating commission; **(2)** modify the qualifications for appointment to the commission; **(3)** prohibit members of the judicial nominating commission from practicing law in or before the municipal courts of the city; and **(4)** update the commission's appointment and term commencement dates to be consistent with the city charter - Financing: No cost consideration to the City

7. * An ordinance amending Chapters 2 and 13 of the Dallas City Code to: **(1)** eliminate the judicial nominating commission of the city and transfer its duties and responsibilities to the ad hoc legislative committee of the city council; **(2)** provide for the ad hoc legislative committee to interview administrative law judge candidates and municipal judge candidates and recommend nominees to the full city council; and **(3)** authorize the ad hoc legislative committee to periodically review and make recommendations regarding the pay structures of the administrative law judges and municipal judges - Financing: No cost consideration to the City

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

**Mayor and City Council** (Continued)

8. An ordinance amending Chapter 12A of the Dallas City Code to: **(1)** provide an exception from the definition of "lobbying" for oral responses to specific questions from city officials; and **(2)** allow a lobbying firm that is not required to register as a lobbyist to so register if it has multiple employees who would otherwise be required to register individually as lobbyists - Financing: No cost consideration to the City

9. An ordinance amending Chapter 12A of the Dallas City Code to provide an exception to lobbyist registration and reporting requirements for chambers of commerce, charitable organizations, and certain other organizations exempt from taxation under the Internal Revenue Code - Financing: No cost consideration to the City

10. A resolution clarifying and amending the reporting requirements for councilmembers and city officials who are board and commission members regarding gifts, tickets, meals, travel, lodging, entertaining, and honoraria - Financing: No cost consideration to the City

DESIGNATED PUBLIC SUBSIDY MATTERS

**Park & Recreation**

11. Authorize **(1)** the creation of a grant program, pursuant to Chapter 380 of the Local Government Code, under the Public/Private Partnership Program guidelines and criteria to allow the use of City funds to support the Dallas Football Classic Bowl Game and associated events at Fair Park; and **(2)** an escrow and contingent grant agreement with Comerica Bank providing for escrow of game revenues and a contingent 380 grant from game revenues pursuant to such program - Revenue: $400,000

Closed Session 6ES
Attorney Briefings (Sec. 551.071 T.O.M.A.)

- Serapio Lara and Claudia Jaramillo, Plaintiffs, and Eric Lee Pogue, Intervenor v. City of Dallas, Cause No. 08-12910-I
- Leanne Siri v. City of Dallas, Civil Action No. 3:10-CV-00036-M, and Helen Watts v. City of Dallas, Cause No. 08-13000-A, and claims made against the City on behalf of city employees Sherrie Lopez, Sheila Schulte-De Albrecht, Diana Salinas and Cheryl Hill
- City of Dallas v. Kenneth E. Albert, et al., Case No. 05-03-01297-CV
- Victor Alvarado Deleon v. City of Dallas, et al., Civil Action No. 3:02-CV-1097-K
- Leonard Jones v. City of Dallas, Case No. 05-08-01296-CV
- Phil Hillis, Individually and as Personal Representative of The Estate of Taylor Hillis, Deceased, et ux. v. Dallas Police Department et al., Cause No. 08-03205-A

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, APRIL 7, 2010

Closed Session (Continued) 6ES
Economic Development Deliberations (Sec. 551.087 T.O.M.A.)
- Comerica Bank Escrow and Contingent Grant Agreement

Open Microphone Speakers 6ES

The above schedule represents an estimate of the order for the indicated briefings and is subject to change at any time. Current agenda information may be obtained by calling (214) 670-3100 during working hours.
Note: An expression of preference or a preliminary vote may be taken by the Council on any of the briefing items.

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.

2. The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.

3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.

4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.

5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.

6. Deliberations regarding economic development negotiations. Section 551.087 of the Texas Open Meetings Act.

## PUBLIC MEETINGS FOR APRIL 1 - APRIL 15, 2010

### Tuesday, April 6, 2010

Civil Service Board
8:30 a.m.
City Hall Suite 1C-South

**AGENDA ITEM # 3**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** City Secretary

**CMO:** Deborah Watkins, 670-0653

**MAPSCO:** N/A

## SUBJECT

A resolution designating absences by Councilmember Delia Jasso and Councilmember Ron Natinsky as being for "official city business" - Financing: No cost consideration to the city

## BACKGROUND

Chapter III, Section 4(e) of the Dallas City Charter provides in part, "If any city council member, including the mayor, misses more than 10 percent of the total number of regular meetings held by the city council during any compensation year, then the city council member's compensation...for that year will be reduced proportionately by the number of meetings missed... Meetings missed by a city council member while he or she is on official business of the city and at the direction of the city council will not be counted towards the percentage of meetings missed for which compensation reduction is required... but will be counted as though the member had attended the meetings that are missed while so engaged in city business."

Section 4.11(b) of the City Council Rules of Procedure provides that an absence by a council member for (1) attending a meeting or conference of a professional organization or association of municipalities or municipal officers, (2) testifying at a legislative hearing at the request of the mayor, the city council, the chair of the council's legislative affairs committee or the city manager, or (3) attending a meeting of a board, commission, or committee to which the council member has been appointed by the mayor, or the city council, will automatically be deemed to be for "official city business at the direction of the city council" and will not be counted against a city council member for purposes of determining the council member's annual compensation.

Section 4.11 (c) of the City Council Rules of Procedure provides that in addition to those absences automatically considered to be on "official city business at the direction of the city council," under Section 4.11(b) above, the city council may by resolution designate whenever a council member's absence is for official city business and not counted as a missed meeting for purposes of determining the council member's annual compensation under Chapter III, Section 4 of the Dallas City Charter.

## PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

## FISCAL INFORMATION

No cost consideration to the City.

April 7, 2010

**WHEREAS**, Chapter III, Section 4(e) of the Dallas City Charter provides in part:

> If any city council member, including the mayor, misses more than 10 percent of the total number of regular meetings held by the city council during any compensation year, then the city council member's compensation … for that year will be reduced proportionately by the number of meetings missed…. Meetings missed by a city council member while he or she is on official business of the city and at the direction of the city council will not be counted towards the percentage of meetings missed for which compensation reduction is required… but will be counted as though the member had attended the meetings that are missed while so engaged in city business; and

**WHEREAS**, Section 4.11(b) of the City Council Rules of Procedure provides that an absence by a council member for (1) attending a meeting or conference of a professional organization of or association of municipalities or municipal officers, (2) testifying at a legislative hearing at the request of the mayor, the city council, the chair of the council's legislative affairs committee or the city manager, or (3) attending a meeting of a board, commission, or committee to which the council member has been appointed by the mayor or the city council, will automatically be deemed to be for "official city business at the direction of the city council" and will not be counted against a city council member for purposes of determining the council member's annual compensation; and

**WHEREAS**, Section 4.11 (c) of the City Council Rules of Procedure provides that in addition to those absences automatically considered to be on "official city business at the direction of the city council," under Section 4.11(b) above, the city council may by resolution designate whenever a council member's absence is for official city business and not counted as a missed meeting for purposes of determining the council member's annual compensation under Chapter III, Section 4 of the Dallas City Charter; and

**WHEREAS,** Councilmember Delia Jasso and Councilmember Ron Natinsky attended events as noted in **Exhibit A**, attached, which required each to miss one council committee meeting; and

**WHEREAS,** the purposes of these events are noted in **Exhibit A** attached; **Now**, **Therefore**,

April 7, 2010

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS**

**SECTION 1.** That, in accordance with Chapter III, Section 4(e) of the Dallas City Charter and Section 4.11(c) of the City Council Rules of Procedure, the events Councilmember Jasso and Councilmember Natinsky attended as noted in **Exhibit A** attached, are hereby deemed to be for "official city business" and any absences associated with these events will not be counted against Councilmember Jasso and Councilmember Natinsky in determining their annual compensation under Chapter III, Section 4 of the Dallas City Charter.

**SECTION 2.** That, in accordance with Section 4.11 of the City Council Rules of Procedure, the City Secretary shall maintain a record of these absences so that such absences will not count against Councilmember Delia Jasso and Councilmember Ron Natinsky in determining their annual compensation under Chapter III, Section 4 of the Dallas City Charter.

**SECTION 3**. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas and it is accordingly so resolved.

EXHIBIT A

CITY COUNCIL MEMBER(S)

TRIPS – REQUEST ABSENT ON OFFICIAL CITY BUSINESS

| COUNCILMEMBER | TRIP/EVENT | LOCATION | DATE | PURPOSE | MEETING MISSED | STATUS |
|---|---|---|---|---|---|---|
| Delia Jasso | Meeting with Dallas Independent School District Officials | DISD Headquarters 3700 Ross Ave., Dallas | 02/22/2010 | Anti-Graffiti Initiative | 02/22 - Budget | Complete |
| Ron Natinsky | Business Development Trip | Korea | 03/01/10 – 03/05/10 | Economic Development | 03/01 - Public Safety | Complete |

**AGENDA ITEM # 4**

**KEY FOCUS AREA:** Education Enhancements

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** 7

**DEPARTMENT:** Park & Recreation

**CMO:** Paul D. Dyer, 670-4071

**MAPSCO:** 46Q

## SUBJECT

A public hearing to receive comments on the proposed use of a portion of Fair Park property located at 1620 First Avenue (Science Place II Building) for a Head Start early childhood education program; and at the close of the hearing, consideration of a resolution authorizing the use - Financing: No cost consideration to the City

## BACKGROUND

The City of Dallas owns approximately 262 acres of land located in southeast Dallas known as Fair Park and is a major component of the city's municipal park system. Classified as a special-use park, it is developed with various buildings that are used for special events and museums, the Cotton Bowl, fountains, parking, and other recreational uses. Fair Park is the site of the State Fair of Texas.

The City's Office of Cultural Affairs manages contracts for the use of certain facilities in Fair Park, including the Science Place II Building, which currently houses the Museum of Nature and Science. The Museum of Nature and Science serves more than 200,000 school children annually through curriculum-based programs offered both on-site and through outreach services. As part of the Museum's educational programming, Head Start of Greater Dallas operates an early childhood education program. This program serves children and families free of charge for those meeting the federal poverty guidelines. It is one of thirty-six Head Start programs in Dallas County and operates from 7 a.m. to 5:30 a.m. Monday through Friday in the Science Place II Building.

To the extent that the Head Start program could be determined a change of use of municipal park land and in accordance with the Texas Parks and Wildlife Code, Chapter 26 (Sections 26.001 through 26.004) the City Council must advertise and hold a public hearing to authorize the use.

## PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

City Council authorized public hearing on March 10, 2010, by Resolution No. 10-0731.

Park and Recreation Board authorized public hearing on March 4, 2010.

## FISCAL INFORMATION

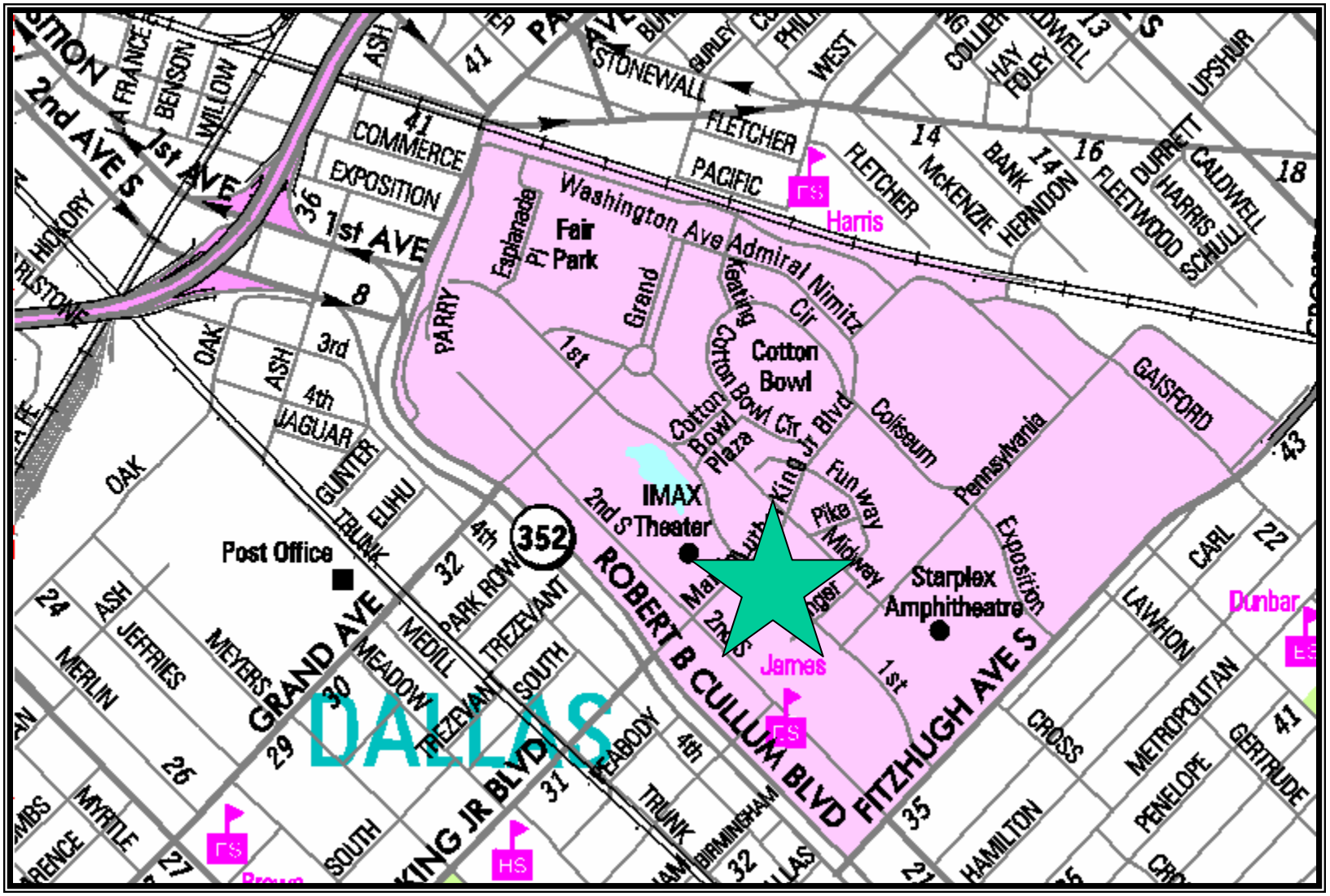
No cost consideration to the City

## MAP

Attached

# Fair Park

## Council District 7




## 1620 First Avenue

## (Science Place II Building)

April 7, 2010

**WHEREAS,** the City of Dallas owns land in Dallas known as Fair Park located at 1620 First Avenue (Science Place II Building), which was acquired for park purposes; and

**WHEREAS,** the Dallas Museum of Nature and Science, operating at Fair Park through the auspices of the Office of Cultural Affairs, proposes to continue operating a Head Start early education program, in partnership with Head Start of Greater Dallas, to serve children and families free of charge for those meeting the federal poverty guidelines; and the Park and Recreation Board is agreeable to providing the property for this use; and

**WHEREAS,** the Texas Parks and Wildlife Code, Chapter 26 (Section 26.001 through 26.004), requires that before a municipality may approve any program or project that requires the use or taking of any public land designated and used as park land, the governing body of such public municipality must determine that there is no feasible and prudent alternative to the change of use or taking of such land, and that the program or project includes all reasonable planning to minimize harm to the remainder of the park; **Now, Therefore,**

**BE IT RESOLVED BY THE PARK AND RECREATION BOARD AND THE CITY COUNCIL OF THE CITY OF DALLAS:**

**SECTION 1.** That as a result of the public hearing held on April 7, 2010, it is hereby determined that there is no feasible and prudent alternative to this use of park land and that all reasonable planning to minimize harm to the park has been taken.

**SECTION 2.** That since the public hearing has been held, the use is authorized.

**SECTION 3.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

**AGENDA ITEM # 5**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Mayor and City Council

**CMO:** NA

**MAPSCO:** N/A

## SUBJECT

An ordinance amending Chapter 13 of the Dallas City Code to: **(1)** eliminate specific qualifications for members of the judicial nominating commission; **(2)** prohibit members of the judicial nominating commission from practicing law in or before the municipal courts of the city; and **(3)** update the commission's appointment and term commencement dates to be consistent with the city charter - Financing: No cost consideration to the City

## BACKGROUND

The judicial nominating commission (JNC) is currently a 16 member advisory board to the city council responsible for interviewing full time and associate municipal judge applicants and recommending nominees to the city council ad hoc legislative committee, which then recommends nominees to the full city council for appointment. The JNC also is responsible for interviewing administrative law judge applicants and recommending nominees to the full city council for appointment. It also reviews and makes recommendations regarding the pay structures of the municipal judges and administrative law judges. Each city council member appoints one of the 15 members of the JNC, and the city attorney is the 16th member of the JNC. Nine members must be citizens-at large, one member must be a judge other than a Dallas municipal judge, and five members must be attorneys who are members of and nominated by various bar associations. Some of these special qualifications have made it difficult to fill all of the positions in the JNC, thereby making the municipal judge selection process less efficient.

**BACKGROUND** (Continued)

The proposed ordinance (marked Draft A) would amend Chapter 13 of the Dallas City Code to eliminate the specific qualifications for the 15 members of the judicial nominating commission. This would enable each city council member to make an appointment from citizens at large. The 16th member would still be the city attorney. The proposed ordinance would also prohibit members of the JNC from practicing law in or before the municipal courts of the city, and, in accordance with the city charter, change the date for appointing JNC members from August to September and the date JNC terms commence from September 1 to October 1.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

This item has no prior action.

**FISCAL INFORMATION**

No cost consideration to the City.

**DRAFT A -** 3/30/10

ORDINANCE NO._____

An ordinance amending Section 13-5.1 of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended; eliminating specific qualifications for members of the judicial nominating commission; prohibiting members of the judicial nominating commission from practicing law in or before the municipal courts of the city; updating the commission's appointment and term commencement dates to be consistent with the city charter; 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 13-5.1, "Judicial Nominating Commission Created," of Article II, "Municipal Court of Record," of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"**SEC. 13-5.1. JUDICIAL NOMINATING COMMISSION CREATED.**

(a) There is hereby created the judicial nominating commission of the city, which shall be an advisory body of 16 members. Fifteen of the members will be appointed by the city council, with each city council member appointing one member of the commission. The sixteenth member of the commission will be the Dallas city attorney, who shall serve as an ex officio, voting member of the commission and who, for purposes of Section 13, Chapter XXIV of the city charter, shall be appointed by the full city council. The mayor shall appoint the chair of the commission, and the full city council shall appoint the vice-chair.

(b) Appointments will be made in September [~~August~~] of each odd-numbered year for a two-year term beginning on October [~~September~~] 1. All members shall serve until their successors are appointed and qualified. The term limits established for board and commission members in Section 8-1.5 of this code do not apply to the city attorney's service on the commission.

(c) [~~The members of the commission who are appointed by individual city council members must meet the following qualifications:~~

~~(1) One member must be a member of and nominated by the Dallas Bar Association.~~

~~(2) One member must be a member of and nominated by the J. L. Turner Legal Association.~~

~~(3) One member must be a member of and nominated by the Dallas County Criminal Bar Association.~~

~~(4) One member must be a member of and nominated by the Mexican American Bar Association.~~

~~(5) One member must be a member of and nominated by the Asian American Bar Association~~.

~~(6) One member must be a judge other than a city of Dallas municipal judge.~~

~~(7) Nine members must be citizens at large.~~

~~(d)~~] A city of Dallas municipal judge shall serve as an ex officio, nonvoting member of the commission.

(d) [~~(e)~~] The commission must reflect, as nearly as practicable, the racial, ethnic, and gender makeup of the city's population.

(e) [~~(f)~~] The commission must meet at least once each quarter of the commission's term and may hold additional meetings at the call of the chair.

(f) No member of the judicial nominating commission may engage in the practice of law in or before the municipal courts of the city."

SECTION 2. That CHAPTER 13 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 _____

RM/DCC/0000028

**AGENDA ITEM # 6**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Mayor and City Council

**CMO:** NA

**MAPSCO:** N/A

## SUBJECT

An ordinance amending Chapter 13 of the Dallas City Code to: **(1)** increase the membership of the judicial nominating commission; **(2)** modify the qualifications for appointment to the commission; **(3)** prohibit members of the judicial nominating commission from practicing law in or before the municipal courts of the city; and **(4)** update the commission's appointment and term commencement dates to be consistent with the city charter - Financing: No cost consideration to the City

## BACKGROUND

The judicial nominating commission (JNC) is currently a 16 member advisory board to the city council responsible for interviewing full time and associate municipal judge applicants and recommending nominees to the city council ad hoc legislative committee, which then recommends nominees to the full city council for appointment. The JNC also is responsible for interviewing administrative law judge applicants and recommending nominees to the full city council for appointment. It also reviews and makes recommendations regarding the pay structures of the municipal judges and administrative law judges. Each city council member appoints one of the 15 members of the JNC, and the city attorney is the 16th member of the JNC. Nine members must be citizens-at large, one member must be a judge other than a Dallas municipal judge, and five members must be attorneys who are members of and nominated by various bar associations. Some of these special qualifications have made it difficult to fill all of the positions in the JNC, thereby making the municipal judge selection process less efficient.

**BACKGROUND** (Continued)

The proposed ordinance (marked Draft B) would amend Chapter 13 of the Dallas City Code to increase the size of the judicial nominating commission to 21 members. Fifteen of the members would be appointed by each individual city council member from citizens at large. Five of the members would be appointed by the council as a whole and must meet the following special qualifications - four JNC members must be members of and nominated by the Dallas Bar Association, J. L. Turner Legal Association, Hispanic Bar Association, and Asian American Bar Association, respectively, and one JNC member must be a judge other than a Dallas municipal judge. The 21st member would be the city attorney. The proposed ordinance would also prohibit members of the JNC from practicing law in or before the municipal courts of the city, and, in accordance with the city charter, change the date for appointing JNC members from August to September and the date JNC terms commence from September 1 to October 1.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

This item has no prior action.

**FISCAL INFORMATION**

No cost consideration to the City.

**DRAFT B -** 3/30/10

ORDINANCE NO._____

An ordinance amending Section 13-5.1 of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended; increasing the membership of the judicial nominating commission; modifying the qualifications for appointment to the commission; prohibiting members of the judicial nominating commission from practicing law in or before the municipal courts of the city; updating the commission's appointment and term commencement dates to be consistent with the city charter; 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 13-5.1, "Judicial Nominating Commission Created," of Article II, "Municipal Court of Record," of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"**SEC. 13-5.1. JUDICIAL NOMINATING COMMISSION CREATED.**

(a) There is hereby created the judicial nominating commission of the city, which shall be an advisory body of 21 [~~16~~] members. Fifteen of the members will be appointed by the city council, with each city council member appointing one member of the commission. Five of the members will be appointed by the city council as a whole. The 21st [~~sixteenth~~] member of the commission will be the Dallas city attorney, who shall serve as an ex officio, voting member of the commission and who, for purposes of Section 13, Chapter XXIV of the city charter, shall be appointed by the full city council. The mayor shall appoint the chair of the commission, and the full city council shall appoint the vice-chair.

(b) Appointments will be made in September [~~August~~] of each odd-numbered year for a two-year term beginning on October [~~September~~] 1. All members shall serve until their successors are appointed and qualified. The term limits established for board and commission members in Section 8-1.5 of this code do not apply to the city attorney's service on the commission.

(c) The five members of the commission who are appointed by the [~~individual~~] city council as a whole [~~members~~] must meet the following qualifications:

(1) One member must be a member of and nominated by the Dallas Bar Association.

(2) One member must be a member of and nominated by the J. L. Turner Legal Association.

(3) [~~One member must be a member of and nominated by the Dallas County Criminal Bar Association.~~

~~(4)~~] One member must be a member of and nominated by the Hispanic [~~Mexican American~~] Bar Association.

(4) [~~(5)~~] One member must be a member of and nominated by the Asian American Bar Association.

(5) [~~(6)~~] One member must be a judge other than a city of Dallas municipal judge.

[~~(7) Nine members must be citizens at large.~~]

(d) A city of Dallas municipal judge shall serve as an ex officio, nonvoting member of the commission.

(e) The commission must reflect, as nearly as practicable, the racial, ethnic, and gender makeup of the city's population.

(f) The commission must meet at least once each quarter of the commission's term and may hold additional meetings at the call of the chair.

(g) No member of the judicial nominating commission may engage in the practice of law in or before the municipal courts of the city."

SECTION 2. That CHAPTER 13 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 _____

RM/DCC/0000028

**AGENDA ITEM # 7**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Mayor and City Council

**CMO:** NA

**MAPSCO:** N/A

## SUBJECT

An ordinance amending Chapters 2 and 13 of the Dallas City Code to: **(1)** eliminate the judicial nominating commission of the city and transfer its duties and responsibilities to the ad hoc legislative committee of the city council; **(2)** provide for the ad hoc legislative committee to interview administrative law judge candidates and municipal judge candidates and recommend nominees to the full city council; and **(3)** authorize the ad hoc legislative committee to periodically review and make recommendations regarding the pay structures of the administrative law judges and municipal judges - Financing: No cost consideration to the City

## BACKGROUND

The judicial nominating commission (JNC) is currently a 16 member advisory board to the city council responsible for interviewing full time and associate municipal judge applicants and recommending nominees to the city council ad hoc legislative committee, which then recommends nominees to the full city council for appointment. The JNC also is responsible for interviewing administrative law judge applicants and recommending nominees to the full city council for appointment. It also reviews and makes recommendations regarding the pay structures of the municipal judges and administrative law judges. Each city council member appoints one of the 15 members of the JNC, and the city attorney is the 16th member of the JNC. Nine members must be citizens-at large, one member must be a judge other than a Dallas municipal judge, and five members must be attorneys who are members of and nominated by various bar associations. Some of these special qualifications have made it difficult to fill all of the positions in the JNC, thereby making the municipal judge selection process less efficient.

**BACKGROUND** (Continued)

The proposed ordinance (marked Draft C) would amend Chapters 2 and 13 of the Dallas City Code to eliminate the judicial nominating commission of the city and transfer its duties and responsibilities to the ad hoc legislative committee of the city council. The ad hoc legislative committee would interview administrative law judge candidates and municipal judge candidates and recommend nominees to the full city council. The ad hoc legislative committee would also periodically review and make recommendations to the full city council regarding the pay structures of the administrative law judges and municipal judges.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

This item has no prior action.

**FISCAL INFORMATION**

No cost consideration to the City.

**DRAFT C** - 3/30/2010

ORDINANCE NO. _____

An ordinance amending Section 2-164 of CHAPTER 2, "ADMINISTRATION," and amending Section 13-5.2 and repealing Section 13-5.1 of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended; eliminating the judicial nominating commission of the city and transferring its duties and responsibilities to the ad hoc legislative committee of the city council; providing for the ad hoc legislative committee to interview administrative law judge candidates and municipal judge candidates and recommend nominees to the full city council; authorizing the ad hoc legislative committee to periodically review and make recommendations regarding the pay structures of the administrative law judges and municipal judges; 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 2-164, "Administrative Law Judges: Appointment; Qualifications; Termination of Contract," of Article XXVII, "Civil Service Board; Adjunct Members; Administrative Law Judges," of CHAPTER 2, "ADMINISTRATION," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 2-164. ADMINISTRATIVE LAW JUDGES: APPOINTMENT; QUALIFICATIONS; TERMINATION OF CONTRACT.**

(a) By January 1 of each even-numbered year [~~beginning with the year 1992~~], and whenever a vacancy occurs, the ad hoc legislative committee of the city council [~~judicial nominating commission~~] shall recommend persons to be appointed by the city council to serve as administrative law judges, as provided for in Section 12.1, Chapter XVI of the city charter. Each

appointment will be made through the award of a city contract, and not less than three [~~n~~]or more than five persons may have contracts with the city to serve as administrative law judges at the same time. Administrative law judges shall hear appeals in accordance with Section 34-40 of this code.

(b) The city council ad hoc legislative committee [~~judicial nominating commission~~] shall recommend as administrative law judges persons selected from applicants responding to an open, public request for proposals for professional services. The ad hoc legislative committee [~~judicial nominating commission~~] shall review the applications and resumes, research applicant qualifications, and interview the applicants. If a vacancy occurs within 120 days after the appointment of any administrative law judge, for which the committee [~~commission~~] conducted interviews, the committee [~~commission~~] is not required to conduct additional interviews but may, in its discretion, recommend nominees to fill the new vacancy from applicants who were interviewed for any administrative law judge position that was filled within the preceding 120 days. The ad hoc legislative committee [~~judicial nominating commission~~] shall, as nearly as may be practicable, recruit and recommend as administrative law judges persons who are representative of the racial, ethnic, and gender makeup of the city's population.

(c) An administrative law judge must:

(1) be a licensed attorney who has practiced law in the State of Texas for at least three years or a person who has at least five years experience adjudicating hearings of personnel decisions; and

(2) not have been an employee or an elected or appointed officer of the city, other than a full-time or associate municipal judge, within the five years immediately preceding application.

(d) An administrative law judge will be compensated for services based on a rate established by contract with the city. At least every two years, the city council ad hoc legislative committee [~~judicial nominating commission~~] shall review the pay structure of the administrative law judges and recommend to the city council appropriate rate adjustments or other compensation.

(e) A person is ineligible to serve as an administrative law judge if, on two occasions within any 12-month period after appointment as an administrative law judge, the person:

(1) refuses or is unable to accept an assignment from the civil service board to conduct an appeal hearing, except when based on a challenge by a party as to the selection of the administrative law judge; or

(2) is unable to conduct an appeal hearing within the time limits required by Section 34-40 of this code after considering all allowable postponements and extensions.

(f) The city council ad hoc legislative committee [~~judicial nominating commission~~] shall periodically review and evaluate the performance of each administrative law judge and recommend to the city council whenever the contract of an administrative law judge should be terminated or not renewed. The city council may, by a majority vote and upon the recommendation of the ad hoc legislative committee [~~judicial nominating commission~~], terminate the contract of an administrative law judge for unsatisfactory performance. Unsatisfactory performance includes, but is not limited to:

(1) failure to acquire, retain, or correctly apply knowledge of the city's personnel rules, civil service rules and procedures, or other laws and regulations governing personnel matters heard by an administrative law judge;

(2) failure to remain impartial and objective in hearing appeals and performing other duties as an administrative law judge; or

(3) failure to competently and efficiently hear appeals and perform other duties as an administrative law judge."

SECTION 2. That Section 13-5.2, "Judicial Nominating Commission Duties and Responsibilities; Selection of Municipal Judges," of Article II, "Municipal Court of Record," of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 13-5.2. CITY COUNCIL AD HOC LEGISLATIVE COMMITTEE [~~JUDICIAL NOMINATING COMMISSION~~] DUTIES AND RESPONSIBILITIES; SELECTION OF MUNICIPAL JUDGES.**

(a) The ad hoc legislative committee of the city council [~~judicial nominating commission shall act as an advisory body to the city council and~~] shall:

(1) recommend nominees to serve as full-time and associate municipal judges;

(2) make reports and recommendations to the city council [~~ad hoc legislative committee~~] on the status of the selection process for municipal judges;

(3) review and make recommendations to the city council [~~ad hoc legislative committee~~] on the salary structure for municipal judges, including evaluating the feasibility of a merit pay plan;

(4) make recommendations to the city council concerning the selection, removal, and pay of administrative law judges in accordance with Article XXVII, Chapter 2 of this code; and

(5) perform other duties assigned by the city council.

(b) The ad hoc legislative committee of the city council shall establish [~~provide to the judicial nominating commission~~] minimum qualifications and evaluation guidelines for assessing applicants for a vacancy in the office of municipal judge and a time schedule for recommending nominees. The guidelines must include appropriate goals for achieving sufficient racial, ethnic, and gender diversity within the municipal court of record. Each associate and full-time municipal judge, including the administrative municipal judge, shall reside in the city of Dallas within four months after the date of appointment and throughout his or her term as a municipal judge for the city of Dallas.

(c) When there is a vacancy in the office of full-time or associate municipal judge (including a vacancy created by the expiration of a judge's term), the director of human resources shall receive applications, which shall be forwarded to the city council ad hoc legislative committee [~~judicial nominating commission~~] through its chair. The committee [~~commission~~] shall review the applications and resumes, research applicant qualifications, and conduct interviews; except that if a vacancy occurs within 120 days after the appointment of any full-time or associate municipal judge, for which the committee [~~commission~~] conducted interviews, the committee [~~commission~~] is not required to conduct additional interviews but may, in its discretion, recommend nominees to fill the new vacancy from applicants who were interviewed for any municipal judge position that was filled within the preceding 120 days. The ad hoc legislative committee [~~commission~~] may also, by a two-thirds vote, waive the interview requirement for any person who has completed at least eight consecutive years of continuous service as a full-time municipal judge for the city when that person applies for a position as an associate municipal judge. If in the opinion of the ad hoc legislative committee [~~commission~~], none of the applicants for a municipal judge position meets minimum qualifications established by the [~~city council ad hoc legislative~~] committee, the committee [~~commission~~] may search for and interview additional applicants.

(d) [~~After deliberation, the judicial nominating commission shall recommend to the city council ad hoc legislative committee a number of nominees equal to 150 percent of the number of vacancies in the office of full-time or associate municipal judge, rounded up to whole numbers. The nominees must be divided into two groups, one for full-time judges and one for associate judges, with the members of each group being ranked in the order of preference by the judicial nominating commission, with Number 1 being the highest ranking. If the number of applicants for all of the vacant municipal judge positions is less than the number of nominees required by this subsection to be recommended to the ad hoc legislative committee, then the commission may, in its discretion, either recommend any persons who have applied or seek additional candidates.~~

~~(e) Upon receiving the judicial nominating commission's recommendation of nominees, the city council ad hoc legislative committee may interview one or more of the nominees. If not satisfied with any number of the nominees, the ad hoc legislative committee may request that the commission recommend a specified number of additional nominees to the~~

~~committee.~~] After deliberation, the ad hoc legislative committee shall recommend [~~forward~~] to the full city council a number of nominees equal to 150 percent of the number of vacancies in the office of full-time or associate municipal judge, rounded up to whole numbers. The nominees must be divided into two groups, one for full-time judges and one for associate judges, with the members of each group being ranked in the order of preference by the ad hoc legislative committee, with Number 1 being the highest ranking. If the number of applicants for all of the vacant municipal judge positions is less than the number of nominees required by this subsection to be recommended to the full city council, then the ad hoc legislative committee may, in its discretion, either recommend any persons who have applied or seek additional candidates. [~~Rankings of the nominees by the judicial nominating commission must also be forwarded to the full city council.~~]

(e) [~~(f)~~] Upon receiving the ad hoc legislative committee's recommendation of nominees, the city council shall select one nominee to fill each vacancy. Before making a selection, the city council may interview one or more of the nominees. If not satisfied with any number of the nominees, the city council may, in its discretion, fill whatever vacancies it desires and request that the ad hoc legislative committee [~~judicial nominating commission~~] recommend to the city council [~~ad hoc legislative committee~~] a specified number of additional nominees for the unfilled vacancies.

(f) [~~(g)~~] When there is a vacancy in the office of the administrative municipal judge (including a vacancy created by the expiration of the judge's term), the city council ad hoc legislative committee [~~judicial nominating commission~~] shall conduct interviews of all interested full-time municipal judges of the city of Dallas, and all interested applicants for vacant full time municipal judge positions, for the office of administrative municipal judge. After deliberation, the committee [~~commission~~] shall recommend to the full city council three nominees for the office of administrative municipal judge ranked in the order of preference, with Number 1 being the highest ranking. The city council shall interview the nominees and select one as the administrative municipal judge, or, if not satisfied with any of the nominees, the city council may reject all and request that the ad hoc legislative committee [~~judicial nominating commission~~] repeat the nominating process.

(g) [~~(h)~~] The city manager shall provide staff to assist the city council ad hoc legislative committee [~~judicial nominating commission~~] in performing its duties and responsibilities.

(h) [~~(i)~~] Nothing in this section affects the holdover status of an incumbent municipal judge under applicable city, state, and federal laws."

SECTION 3. That Section 13-5.1, "Judicial Nominating Commission Created," of Article II, "Municipal Court of Record," of CHAPTER 13, "COURTS, FINES AND IMPRISONMENTS," of the Dallas City Code, as amended, is repealed.

SECTION 4**.** That CHAPTERS 2 and 13 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/00481A

**AGENDA ITEM # 8**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Mayor and City Council

**CMO:** NA

**MAPSCO:** N/A

## SUBJECT

An ordinance amending Chapter 12A of the Dallas City Code to: **(1)** provide an exception from the definition of "lobbying" for oral responses to specific questions from city officials; and **(2)** allow a lobbying firm that is not required to register as a lobbyist to so register if it has multiple employees who would otherwise be required to register individually as lobbyists - Financing: No cost consideration to the City

## BACKGROUND

On November 9, 2009, the city council passed Ordinance No. 27748, which established lobbyist registration and reporting requirements for persons receiving compensation or reimbursement of $200 or more in a calendar quarter for lobbying Dallas city officials. The ordinance became effective on April 1, 2010. The City Secretary's Office and City Attorney's Office conducted several public orientation/training sessions on the new requirements. The proposed ordinance would address a couple of concerns that arose at the sessions. First, the proposed ordinance would amend Section 12A-15.2(10) of the Dallas City Code to provide an exception from the definition of "lobbying" for narrowly tailored oral responses to specific questions from city officials; the current provision only exempts written responses. Second, the proposed ordinance would amend Section 12A-15.3 of the Dallas City Code to allow a corporation or organization that is not required to register as a lobbyist (because it does not receive compensation or reimbursement of $200 or more in a calendar quarter) to so register if it has multiple employees who would otherwise be required to register individually as lobbyists. This allows a corporation or organization with several staff lobbyists to only pay one annual $300 registration fee. This would give the corporation or organization the same advantage as a paid lobbying firm, which is currently allowed to register all of its staff lobbyists under the same registration after paying one annual $300 fee.

## PRIOR ACTION/REVIEW (Council, Boards, Commissions)

This item has no prior action.

## FISCAL INFORMATION

No cost consideration to the City.

**DRAFT -** 3/17/10

ORDINANCE NO. _____

An ordinance amending Sections 12A-15.2 and 12A-15.3 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; defining terms; providing an exception from the definition of "lobbying" for oral responses to specific questions from city officials; allowing a lobbying firm that is not required to register as a lobbyist to so register if it has multiple employees who would otherwise be required to register individually as lobbyists; providing a penalty not to exceed $500; 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 Subsection (10) of Section 12A-15.2, "Definitions," of Article III-A, "Lobbyists," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"(10) LOBBY or LOBBYING.

(A) "Lobby or lobbying" means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question.

(B) "Lobby or lobbying" does not include a communication:

(i) merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a city official;

(ii) made by a public official or employee (including, but not limited to, an official or employee of the city of Dallas) acting in his or her official capacity;

(iii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iv) made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;

(v) made at a meeting open to the public under the Texas Open Meetings Act;

(vi) made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(vii) made in writing as a petition for official action and required to be a public record pursuant to established city procedures;

(viii) made in an oral or written [~~in writing to provide information in~~] response narrowly tailored to address an oral or written request by a city official for specific information;

(ix) the content of which is compelled by law;

(x) made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;

(xi) made on behalf of an individual with regard to that individual's employment or benefits;

(xii) made by a fact witness or expert witness at an official proceeding; or

(xiii) made by a person solely on behalf of that individual, his or her spouse or domestic partner, or his or her minor children."

SECTION 2. That Subsection (11) of Section 12A-15.2, "Definitions," of Article III-A, "Lobbyists," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"(11) LOBBYING FIRM means:

(A) a self-employed lobbyist; [~~or~~]

(B) a person who has one or more employees that are lobbyists on behalf of a client or clients other than that person; or

(C) a person who has one or more employees that are lobbyists on the person's behalf and the person is the client."

SECTION 3. That Section 12A-15.3, "Persons Required to Register as Lobbyists," of Article III-A, "Lobbyists," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 12A-15.3. PERSONS REQUIRED TO REGISTER AS LOBBYISTS.**

(a) Except as provided by Section 12A-15.4, a person must register with the city secretary if the person:

(1) receives compensation of $200 or more in a calendar quarter for lobbying;

(2) receives reimbursement of $200 or more in a calendar quarter for lobbying; or

(3) lobbies as the agent or employee of a person who:

(A) receives compensation of $200 or more in a calendar quarter for lobbying;

(B) receives reimbursement of $200 or more in a calendar quarter for lobbying.

(b) A lobbying firm that is not required to register under Subsection (a) of this section may register as a lobbyist with the city secretary if the lobbying firm has more than one employee who is required to register under Subsection (a). A lobbying firm that chooses to register under this subsection for all of its employees that are lobbyists, instead of having them register individually, will be deemed to be a "registrant" and "a person required to register" for all purposes of this article and will be subject to all requirements, procedures, and penalties applicable to a "registrant" and "person required to register," as those terms are used in this article."

SECTION 4. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed $500.

SECTION 5. 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 6. 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 7. 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/00480A

**AGENDA ITEM # 9**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Mayor and City Council

**CMO:** NA

**MAPSCO:** N/A

## SUBJECT

An ordinance amending Chapter 12A of the Dallas City Code to provide an exception to lobbyist registration and reporting requirements for chambers of commerce, charitable organizations, and certain other organizations exempt from taxation under the Internal Revenue Code - Financing: No cost consideration to the City

## BACKGROUND

On November 9, 2009, the city council passed Ordinance No. 27748, which established lobbyist registration and reporting requirements for persons paid to lobby Dallas city officials. The ordinance became effective on April 1, 2010. The City Secretary's Office and City Attorney's Office have conducted several public orientation/training sessions on the new requirements. At the sessions, chambers of commerce and nonprofit organizations expressed concerns about how the lobbyist registration and reporting requirements would affect them. Under the current ordinance provisions, a chamber or nonprofit organization would not be required to register, unless it received compensation or reimbursement of $200 or more in a calendar quarter for lobbying on another person's behalf. Further, if a CEO, board member, or employee of a chamber or nonprofit organization lobbied a city official, but such lobbying was not part of that individual's regular job responsibilities and only occurred incidentally, then those individuals would not have to register as lobbyists. Only the chamber's or nonprofit organization's paid staff lobbyists, who lobby city officials as a regular part of their job responsibilities, would have to register under the current ordinance provisions.

**BACKGROUND** (Continued)

Some chambers of commerce and nonprofit organizations, however, proposed an exception that would also exempt their paid staff lobbyists from the lobbyist registration and reporting requirements. That exception is contained in the proposed ordinance and would apply to a charitable organization registered under Section 501(c)(3) of the Internal Revenue Code, a social welfare organization registered under Section 501(c)(4) of the Internal Revenue Code, a labor or agricultural organization registered under Section 501(c)(5) of the Internal Revenue Code, or a business league, chamber of commerce, or real estate board registered under Section 501(c)(6) of the Internal Revenue Code (as those terms are defined in the Internal Revenue Code) or the members of the organization, league, chamber, or board when lobbying on a municipal question that affects such organization, league, chamber, or board as a whole.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

This item has no prior action.

**FISCAL INFORMATION**

No cost consideration to the City.

**DRAFT -** 3/16/10

ORDINANCE NO. _____

An ordinance amending Section 12A-15.4 of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended; providing an exception to lobbyist registration and reporting requirements for chambers of commerce, charitable organizations, and certain other organizations exempt from taxation under the Internal Revenue Code; 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-15.4, "Exceptions," of Article III-A, "Lobbyists," of CHAPTER 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, is amended to read as follows:

"**SEC. 12A-15.4. EXCEPTIONS.**

The following persons are not required to register or file an activity report under this article:

(1) A person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating to municipal questions, provided that the person does not engage in other activities that require registration under this article. This exception does not apply if a person's relation to the news media is only incidental to a lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a municipal question in which the media outlet has a direct or indirect economic interest.

(2) A person whose only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence municipal questions.

(3) A governmental entity and its officials and employees, provided the communications relate solely to subjects of governmental interest concerning the governmental entity and the city.

(4) A person who neither knows nor has reason to know that a municipal question is pending at the time of contact with a city official. This exception does not apply if the existence of a municipal question is discovered during on-going contacts with a city official and the person then engages in additional lobbying of the same official or other city officials with respect to that municipal question.

(5) An attorney or other person whose contact with a city official is made solely as part of resolving a dispute with the city, provided that the contact is solely with city officials who do not vote on or have final authority over any municipal question involved.

(6) An agent or employee of a lobbying firm or other registrant, provided that the lobbying firm or other registrant files a registration statement or activity report for the period in question fully disclosing all relevant information known to the agent or employee.

(7) An individual who engages in lobbying, but who does not receive compensation or reimbursement for lobbying with respect to any client.

(8) A neighborhood association, crime watch group, or homeowners association or its members when lobbying on a municipal question that affects the group or association as a whole.

(9) A charitable organization registered under Section 501(c)(3) of the Internal Revenue Code, a social welfare organization registered under Section 501(c)(4) of the Internal Revenue Code, a labor or agricultural organization registered under Section 501(c)(5) of the Internal Revenue Code, or a business league, chamber of commerce, or real estate board registered under Section 501(c)(6) of the Internal Revenue Code (as those terms are defined in the Internal Revenue Code) or the members of the organization, league, chamber, or board when lobbying on a municipal question that affects such organization, league, chamber, or board as a whole."

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/00479A

**AGENDA ITEM # 10**

**KEY FOCUS AREA:** Make Government More Efficient, Effective and Economical

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Mayor and City Council

**CMO:** NA

**MAPSCO:** N/A

## SUBJECT

A resolution clarifying and amending the reporting requirements for councilmembers and city officials who are board and commission members regarding gifts, tickets, meals, travel, lodging, entertaining, and honoraria - Financing: No cost consideration to the City

## BACKGROUND

The City Council has adopted a Code of Ethics, Chapter 12A, Dallas City Code, as amended, that provides general rules for the acceptance of gifts by city officials and employees. Section 12A-5(c)(6) of Chapter 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, allows city officials and employees to accept gifts, tickets, meals, travel, lodging, entertainment, and honoraria in accordance with policies established by city council resolution. The City Council on June 11, 2008, approved Resolution No. 08-1723 adopting a policy regarding the solicitation and acceptance of gifts, tickets, meals, travel, lodging, entertainment, and honoraria by councilmembers to provide further guidance clarifying the circumstances under which the acceptance of certain benefits by councilmembers is permissible in the performance of their official duties. On September 17, 2008, the City Council approved Resolution No. 08-2506 adopting a policy regarding the solicitation and acceptance of gifts, tickets, meals, travel, lodging, entertainment, and honoraria by city officials who are board and commission members to provide further guidance clarifying the circumstances under which the acceptance of certain benefits by city officials who are board and commission members is permissible in the performance of their official duties.

**BACKGROUND** (Continued)

On November 9, 2009, the City Council approved Resolution No. 09-2836, revising the policy guidelines for councilmembers and city officials who are board and commission members concerning the solicitation and acceptance of gifts, tickets, meals, travel, lodging, entertainment, and honoraria. The policy guidelines were revised to require councilmembers and city board and commission members to file an annual gift disclosure statement with the City Secretary identifying any gifts, tickets, meals, travel, lodging, entertainment, or honorarium having a value of $50 or more, or an accumulation of gifts, tickets, meals, travel, lodging, entertainment or honoraria having an aggregate value of $100 or more from a single source, accepted by the councilmember, city board and commission, or his or her immediate family member from a person who is interested in or is likely to become interested in any contract, purchase, payment, claim, or pecuniary transaction with the city that involves the exercise of the city official's discretion, or who is a registered lobbyist pursuant to Article III-A, Chapter 12A of the Dallas City Code.

This action will provide clarification and guidelines concerning the reporting requirements and what should be included and excluded in the annual gift report.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

Resolution 08-1723, passed June 11, 2008, adopted policy guidelines for city councilmembers concerning the solicitation and acceptance of gifts, tickets, meals, travel, lodging, entertainment, and honoraria.

Resolution 08-2506, passed September 17, 2008, adopted policy guidelines for city officials who are board and commission members concerning the solicitation and acceptance of gifts, tickets, meals, travel, lodging, entertainment, and honoraria.

On October 28, 2009, an agenda item adopting reporting requirements for city councilmembers and city board and commission members concerning certain gifts, tickets, meals, travel, lodging, entertainment, and honoraria was deferred by Mayor Tom Leppert.

Resolution No. 09-2836, passed November 9, 2009, adopted reporting requirements for city councilmembers and city officials who are board and commission members concerning the certain gifts, tickets, meals, travel, lodging, entertainment, and honoraria received from persons who are interested in or are likely to become interested in a contract, purchase, payment, claim, or pecuniary transaction with the city that involves the exercise of the councilmember’s or board or commission member’s discretion, or who is a registered lobbyist pursuant to Article III-A, Chapter 12A of the Dallas City Code.

## FISCAL INFORMATION

No cost consideration to the City.

April 7, 2010

**WHEREAS,** the City Council believes that public office should not be used for personal gain and that elected and appointed city officials should conduct themselves and operate with integrity and in a manner that merits the trust and support of the public;

**WHEREAS,** the City Council has adopted a Code of Ethics, Chapter 12A, Dallas City Code, as amended, that provides general rules for the solicitation and acceptance of gifts by city officials and employees;

**WHEREAS,** pursuant to state law, public servants may solicit and accept certain benefits, such as gifts, tickets, meals, travel, entertainment and honoraria, under limited circumstances and conditions; provided the benefit is not being offered, solicited, or accepted as consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant;

**WHEREAS,** pursuant to Resolution Nos. 08-1723 and 08-2506, the City Council has adopted policy guidelines regarding the solicitation and receipt of gifts, tickets, travel, lodging, entertainment and honoraria by City Councilmembers and members of city boards and commissions to provide practical guidance clarifying the circumstances under which the acceptance of certain benefits by city officials is permissible in the performance of their city duties;

**WHEREAS,** pursuant to Resolution No. 09-2836, the City Council revised the policy guidelines regarding the solicitation and receipt of gifts, tickets, travel, lodging, entertainment and honoraria by City Councilmembers and members of city boards and commissions to add a reporting requirement for disclosure of gifts, tickets, travel, lodging, entertainment and honoraria received from lobbyists or persons who are interested in a city contract or are likely to become interested in a city contracts and other matters involving the exercise of the city official's discretion; and

**WHEREAS,** it is now necessary to provide clarification and guidelines regarding what should be included and excluded from the annual gift disclosure reports; **Now, Therefore,**

**Be It Resolved By The City Council Of The City Of Dallas:**

**Section 1.** That the policy guidelines regarding City Reporting Requirements (for gifts, tickets, meals, travel, lodging, entertainment, or honorarium) contained in the Gift Policy for City Councilmembers and the Gift Policy for Board and Commission Members, are hereby revised, as noted on the attached Exhibits A and B, to:

- add a "knowingly or with knowledge" requirement
- exclude ceremonial functions and functions where councilmembers and board and commission members (and their family members) attend in their official capacities in accordance with city's gift policies from reporting requirements
- exclude tickets to fundraisers or charity events that benefit city facilities and

programs given to councilmembers and board and commission members (and their family members) in accordance with the city's gift policies from reporting requirements

- exclude travel, meals, entertainment, and lodging reporting, if travel, meals, entertainment, and lodging have been reported in accordance with city's travel reporting requirement under Section 12A-21
- exclude annual memberships to city-owned facilities given councilmembers or board or commission members in accordance with city's gift policies from reporting requirements
- exclude tickets given to councilmembers or board and commission members (and their family members) in accordance with city's gift policies from reporting requirements
- exclude ceremonial and protocol gifts received on behalf of the city, if the gifts have been delivered to the city manager and inventoried as city property within 30 days of receipt
- exclude honorarium reported in accordance with state law on a councilmember's personal financial statement
- clarify that the gift reporting requirement applies to persons who are interested in or likely to become interested in zoning matters that involve the exercise of a councilmember's or board or commission member's discretion.

**Section 2.** That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of the Dallas, and it is accordingly so resolved.

# EXHIBIT A

# GIFT POLICY FOR CITY COUNCILMEMBERS

## *CITY REPORTING REQUIREMENTS (for gifts, tickets, meal, travel, lodging, entertainment, or honorarium)*

The reporting requirements of this section are in addition to any applicable reporting requirements for city councilmembers pursuant to Title 15 of the Texas Election Code, Chapter 145 of the Local Government Code, Chapter 176 of the Local Government Code, and Chapter 12A of the Dallas City Code.

1. City councilmembers shall file a sworn annual gift disclosure statement with the City Secretary itemizing each gift, ticket, meal, travel, lodging, entertainment, or honorarium having a value of $50 or more, or accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of $100 or more, received by the councilmember or his or her immediate family during the preceding calendar year from a person, other than a relative within the second degree of consanguinity or affinity, who the councilmember knows is interested in or is likely to become interested in any contract, purchase, payment, claim, zoning matter, or pecuniary transaction with the city that involves the exercise of the councilmember's discretion, or who is a registered lobbyist pursuant to Article III-A, Chapter 12A of the Dallas City Code.

   City Councilmembers do not have to report the following in the annual gift disclosure statement:
   - Ceremonial functions and other functions that councilmembers and their family members attend in their official capacities in accordance with this gift policy
   - Tickets to fundraisers or charity events that benefit city facilities and programs given to councilmembers and their family members in accordance with this gift policy
   - Travel, meals, entertainment and lodging, if reported in accordance with the city's travel reporting requirement in Section 12A-21, Dallas City Code
   - Annual memberships to city-owned facilities given to city councilmembers in accordance with this gift policy
   - Tickets given to city councilmembers in accordance with this gift policy
   - Ceremonial and protocol gifts received on behalf of the city and delivered to the city manager within 30 days of receipt and inventoried as city property

- Honorarium reported on the councilmember's personal financial statement in accordance with state law

2. The annual gift disclosure statement for the preceding calendar year must be on a form prescribed by the City Secretary and filed with the City Secretary no later than 5:00 p.m. on April 30. When the deadline falls on a Saturday or Sunday, or on an official city holiday or furlough day as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, official holiday or furlough day.

3. The annual gift disclosure statement must include the date(s) the item(s) were given, the name of the donor, a description of the item(s), the estimated value of the item(s) and indicate whether the item(s) were given to the city councilmember or a member of the councilmember's immediate family.

4. A councilmember is not required to file an annual gift disclosure statement if the councilmember, his or her spouse, domestic partner or dependent children have not, within the preceding calendar year, received any gifts, tickets, meals, travel, lodging, entertainment, or honorarium having a value of $50 or more, or an accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of $100 or more, from a person, other than a relative within the second degree of consanguinity or affinity, who, the councilmember knows is interested in or is likely to become interested in any contract, purchase, payment, claim, zoning matter, or pecuniary transaction with the city that involves the exercise of the councilmember's discretion, or who is a registered lobbyist pursuant to Article III-A, Chapter 12A of the Dallas City Code.

5. For purposes of this policy, immediate family means a spouse, a domestic partner, and dependent children.

# EXHIBIT B

## GIFT POLICY FOR BOARD AND COMMISSION MEMBERS

***CITY REPORTING REQUIREMENTS (for gifts, tickets, meal, travel, lodging, entertainment, or honorarium)***

The reporting requirements of this section are in addition to any applicable reporting requirements for city board and commission members pursuant to Chapter 12A of the Dallas City Code and Chapter 176 of the Local Government Code.

1. City board and commission members shall file a sworn annual gift disclosure statement with the City Secretary itemizing each gift, ticket, meal, travel, lodging, entertainment, or honorarium having a value of $50 or more, or accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of $100 or more, received by the board or commission member or his or her immediate family during the preceding calendar year from a person, other than a relative within the second degree of consanguinity or affinity, who the member knows is interested in or is likely to become interested in any contract, purchase, payment, claim, zoning matter, or pecuniary transaction with the city that involves the exercise of the board or commission member's discretion, or who is a registered lobbyist pursuant to Article III-A, Chapter 12A of the Dallas City Code.

   City board and commission members do not have to report the following in the annual gift disclosure statement:
   - Ceremonial functions and other functions that board and commission members and their family members attend in their official capacities in accordance with this gift policy
   - Tickets to fundraisers or charity events that benefit city facilities and programs given to board and commission members and their family members in accordance with this gift policy
   - Travel, meals, entertainment and lodging, if reported in accordance with the city's travel reporting requirement in Section 12A-21, Dallas City Code
   - Annual memberships to city-owned facilities given to city board and commission members in accordance with this gift policy
   - Tickets given to city board and commission members in accordance with this gift policy
   - Ceremonial and protocol gifts received on behalf of the city and delivered to the city manager within 30 days of receipt and inventoried as city property

2. The annual gift disclosure statement for the preceding calendar year must be on a form prescribed by the City Secretary and filed with the City Secretary no later than 5:00 p.m. on April 30. When the deadline falls on a Saturday or Sunday, or on an official city holiday or furlough day as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, official holiday or furlough day.

3. The annual gift disclosure statement must include the date(s) the item(s) were given, the name of the donor, a description of the item(s), the estimated value of the item(s) and indicate whether the item(s) were given to the board or commission member or a member of the board or commission member's immediate family.

4. A board or commission member is not required to file an annual gift disclosure statement if the board or commission member, his or her spouse, domestic partner or dependent children have not, within the preceding calendar year, received any gifts, tickets, meals, travel, lodging, entertainment, or honorarium having a value of $50 or more, or an accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of $100 or more from a person, other than a relative within the second degree of consanguinity or affinity, who the board and commission member knows is interested in or is likely to become interested in any contract, purchase, payment, claim, zoning matter, or pecuniary transaction with the city that involves the exercise of the board or commission member's discretion, or who is a registered lobbyist pursuant to Article III-A, Chapter 12A of the Dallas City Code.

5. For purposes of this policy, immediate family means a spouse, a domestic partner, and dependent children.

**AGENDA ITEM # 11**

**KEY FOCUS AREA:** Economic Vibrancy

**AGENDA DATE:** April 7, 2010

**COUNCIL DISTRICT(S):** 7

**DEPARTMENT:** Park & Recreation
Office of Economic Development

**CMO:** Paul D. Dyer, 670-4071
A. C. Gonzalez, 671-8925

**MAPSCO:** 45Q

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## SUBJECT

Authorize **(1)** the creation of a grant program, pursuant to Chapter 380 of the Local Government Code, under the Public/Private Partnership Program guidelines and criteria to allow the use of City funds to support the Dallas Football Classic Bowl Game and associated events at Fair Park; and **(2)** an escrow and contingent grant agreement with Comerica Bank providing for escrow of game revenues and a contingent 380 grant from game revenues pursuant to such program - Revenue: $400,000

## BACKGROUND

The Dallas Football Classic is a new bowl game to be played at the Cotton Bowl Stadium on January 1, 2011 between a Big Ten and a Big 12 and/or Conference USA collegiate football team. The City desires to provide an economic incentive to Comerica Bank to induce the bank to provide a $2 million letter of credit to the benefit of the NCAA and assigned to the teams selected to play in the Bowl Game, as a backup support for the Host's promised payments to the teams for participating in the Dallas Football Classic. The purpose of providing funding for this game is to promote within the City of Dallas, and particularly within the South Dallas/Fair Park area, (1) development and diversification of the economy, (2) elimination of unemployment and underemployment, and (3) development and expansion of commerce.

**BACKGROUND** (continued)

The City will execute an escrow and contingent grant agreement with Comerica Bank and place the City's portion of food and beverage revenues (40.1%) and parking revenues (82.25%) derived from the Dallas Football Classic in an escrow account. Funds from the escrow account will be distributed to Comerica Bank ("Bank") up to the deficit amount calculated as (a) the amount by which a claim under the Letter of Credit is made by the beneficiary(ies) thereto less (b) all amounts collected by the Bank from the Host as obligor and all other sources of repayment of draws on the Letter of Credit. The escrow and contingent grant agreement (a) will have a term of one year, (b) will provide that escrowed amounts will remain in escrow until the earlier of when the escrowed amounts have been distributed to the Bank as a 380 grant or the expiration of the then current one-year term of the Letter of Credit, (c) will provide that all amounts in the escrow account not distributed to the Bank as a 380 grant will be distributed to the City and (d) will be renewable at the option of the City Council and the Bank for additional one-year terms if the Letter of Credit is renewed by the Bank.

**PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

This item has no prior action.

**FISCAL INFORMATION**

Revenue: $400,000

**WHEREAS,** under the authority of Chapter 380 of the Texas Local Government Code, the City of Dallas has heretofore established programs, including programs for making loans and grants of public money and providing personnel and services of the City, to promote local economic development and to stimulate business and commercial activity in the City of Dallas, and more particularly within the South Dallas/Fair Park area; and

**WHEREAS,** in furtherance of these programs, and as an additional program and to promote within the City of Dallas, and particularly within the South Dallas/Fair Park area, (1) development and diversification of the economy, (2) elimination of unemployment and underemployment, and (3) development and expansion of commerce, the City desires to provide an economic incentive to Comerica Bank (the "Bank") to induce it to provide financial support to the Dallas Football Classic, Inc., a Texas non-profit corporation (the "Host"), that plans to host the New Year's Day Dallas Football Classic (the "Bowl Game") in the Cotton Bowl Stadium at Fair Park on January 1, 2011; and

**WHEREAS,** the Host desires to host future Dallas Football Classic football games in the Cotton Bowl Stadium in exchange for certain considerations; and

**WHEREAS,** the City intends to negotiate a use agreement with the Host for its use of the Cotton Bowl Stadium for Dallas Football Classic games; and

**WHEREAS,** holding the game at the Cotton Bowl Stadium, along with the advertising broadcasting, news media, and promotion activities related to the Dallas Football Classic, will attract tourists to the City and Fair Park, increase business opportunities throughout the city, and portray the City nationally in a positive fashion; and

**WHEREAS,** holding the game at the Cotton Bowl Stadium will also generate parking and food and beverage revenues for the City; and

**WHEREAS,** in order to further the foregoing, the City desires to enter into an escrow and contingent grant agreement for such with the Bank;

**Now, Therefore,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

**SECTION 1.** That the Office of Economic Development is authorized to create a grant program pursuant to Chapter 380 of the Local Government Code, under the Public/Private Partnership Program guidelines and criteria to allow for use of City funds to support football games and associated events at the Cotton Bowl.

**SECTION 2.** That pursuant to the program to be created pursuant to this resolution, the City Manager is hereby authorized, following approval as to form by the City Attorney, to execute on behalf of the City an escrow and contingent grant agreement with Comerica Bank in order to induce Comerica Bank to issue a one-year $2 million Letter of Credit on behalf of the Host so that the Host can organize and host the Dallas Football Classic football game in the Cotton Bowl Stadium on January 1, 2011.

**SECTION 3.** That the Host will provide NCAA football teams from the Big Ten, Big 12 and/or Conference USA to play in the Dallas Football Classic annually.

**SECTION 4.** That pursuant to the escrow and conditional grant agreement the City parking and food and beverage revenues collected from the Bowl Game will be placed in an escrow account on mutually agreed reasonable terms, providing that the escrowed amounts will be held as a contingent grant to be made under the program to be created pursuant to Chapter 380 of the Local Government Code, to be distributed to the Bank up to the deficit amount calculated as (a) the amount by which a claim under the Letter of Credit is made by the beneficiary(ies) thereto less (b) all amounts collected by the Bank from the Host as obligor and all other sources of repayment of draws on the Letter of Credit.

**SECTION 5.** That the escrow and contingent grant agreement (a) will have a term of one year, (b) will provide that escrowed amounts will remain in escrow until the earlier of when the escrowed amounts have been distributed to the Bank as a 380 grant or the expiration of the then-current one-year term of the Letter of Credit, (c) will provide that all amounts in the escrow account not distributed to the Bank as a 380 grant will be distributed to the City and (d) will be renewable at the option of the City Council and the Bank for additional one-year terms if the Letter of Credit is renewed by the Bank.

**SECTION 6.** That the City Controller be and is hereby authorized to deposit the City's portion of the food and beverage and parking revenues from the 2011 Dallas Football Classic into Fund 0377, Unit 1453, Agency PKR, Revenue Code 7453 and 7824.

**SECTION 7.** That the City Manager is hereby authorized to establish appropriations in Fund 0377, Dept PKR, Unit 1453, Object 3510 in an amount not to exceed $400,000.

**SECTION 8.** That the City Controller be and is hereby authorized to place funds into Fund 0377, Agency PKR, Unit 1453, Balance Sheet Account 0394, in an amount not to exceed $400,000.

**SECTION 9.** That the City Controller be and is hereby authorized to expense funds from the Escrow account in the event escrowed amounts have been distributed as a 380 grant or the expiration of the current one-year term of the Letter of Credit from Fund 0377, Agency PKR, Unit 1453, Obj 3510, Vendor VC0000000525, in an amount not to exceed $400,000.

**SECTION 10.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

# Memorandum

CITY OF DALLAS

DATE April 2, 2010

TO The Honorable Mayor and Members of the City Council

SUBJECT FY 2010-11 Budget Workshop #4 – Setting the Price of Government

On January 20th, you reviewed presentations from each of the six Key Focus Area (KFA) Teams. The KFA Teams have incorporated your changes to the objectives and strategies in the Request for Results. Departments have prepared offers that will be reviewed by the KFA Teams. As the next step in the process, we ask you to set a preliminary "Price of Government" for the City of Dallas. This "price" can change prior to budget adoption on September 22nd, but will provide staff with a "starting point" to prepare a recommended FY 2010-11 budget.

Please let me know if I can provide any additional information.

Mary K. Suhm
City Manager

Attachment

c: Thomas P. Perkins, Jr., City Attorney
Deborah A. Watkins, City Secretary
Craig Kinton, City Auditor
C. Victor Lander, Judiciary
Ryan S. Evans, First Assistant City Manager
A.C. Gonzales, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest Turner, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Helena Stevens-Thompson

# FY 2010-11 Budget Workshop #4 – Setting the Price of Government

April 7, 2010

# Purpose of This Session

- Update Council on FY 2010-11 Budgeting for Outcomes process
- Describe methodology to set “Price of Government” for City of Dallas
- Recommend a “Price of Government” for City of Dallas for FY 2010-11

# Steps in Budgeting For Outcomes Process

- ✓ July 29th – Budget Workshop #1 – During Council retreat, Citywide results and indicators were established
- ✓ October 19th – Budget Workshop #2 – During Council meeting, work completed at July council retreat was confirmed and Strategic Plan was finalized
- ✓ January 20th – Budget Workshop #3 – Council reviewed strategies for each Key Focus Area that are designed to achieve desired results
- ✓ February 1st – Departments were asked to submit offers that will carry out the strategies in order to achieve desired results
- Today – Budget Workshop #4 – Set overall "price" of Dallas government for FY 2010-11
- Allocate "price" to each Key Focus Area
- Evaluate and prioritize offers in each Key Focus Area
- Buy down list of offers until money runs out ("draw the line")
- Build final budget to present to Council on August 9th

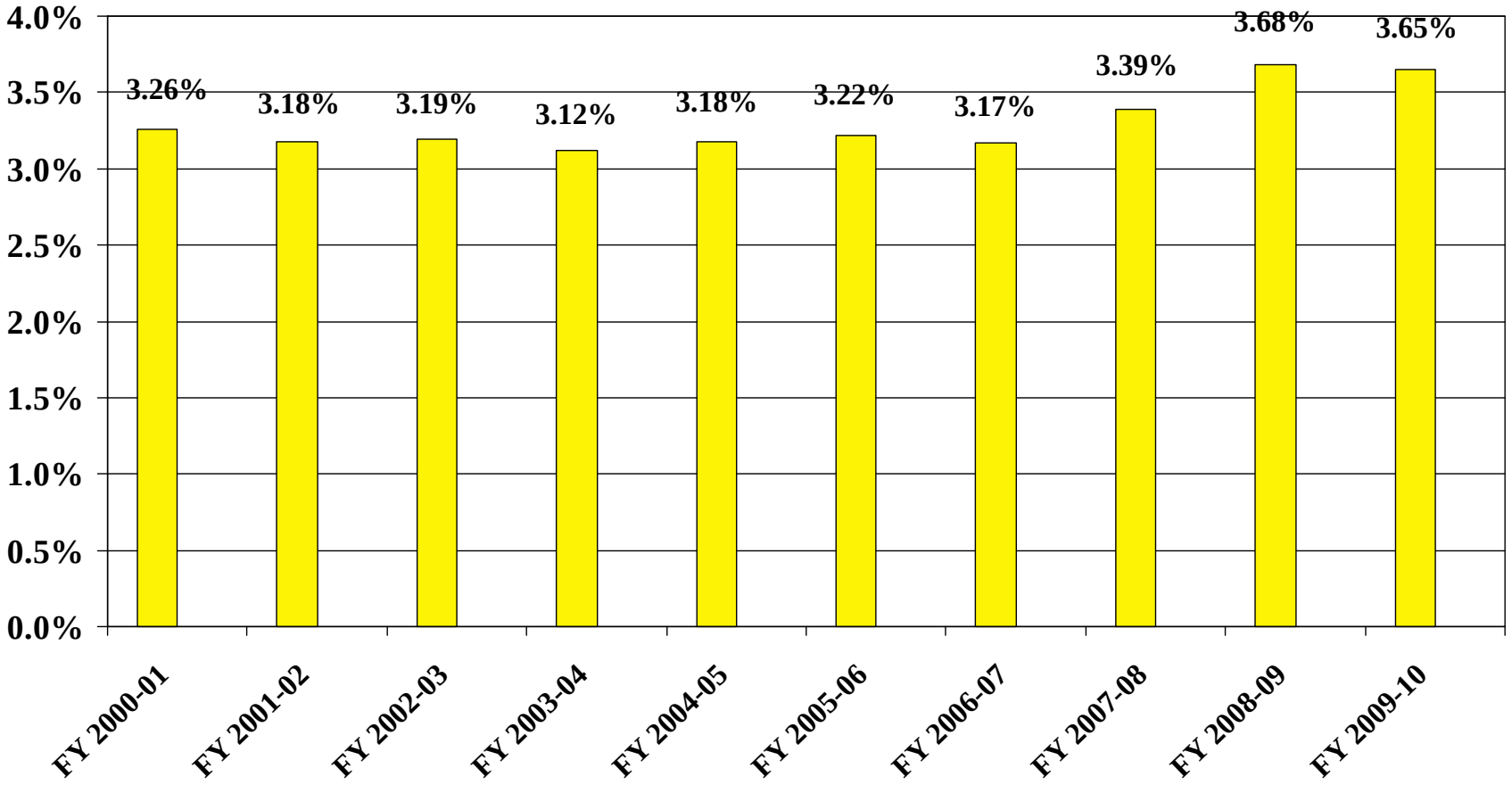
# Setting the “Price” of Dallas Government

- “Price” is what residents of Dallas are “willing” to pay for services they receive
  - “Price” includes what residents pay through all taxes, fees, and charges (see Appendix A)
- “Price” is expressed as percentage of residents’ gross personal income used to pay for local services
- A “price” will be recommended to City Council as a starting point to build FY 2010-11 budget
  - This price can change prior to budget adoption on September 22, 2010

# Trends for “Price of Government” in Dallas

- Since 2001, “price” of Dallas government has fluctuated between 3.12% and 3.68% due to changes in personal income and revenue
- In FY 2009-10, “Price of Government” in Dallas is $1.911 billion or 3.65% of personal income

# Trends for “Price of Government” in Dallas




Note: See Appendix B - Gross Personal Income Statistics

# “Price” Determined by Two Methods

- **Method 1** – “Price” based on a percentage of personal income
- Using this parameter as framework for FY 2010-11 (in current dollars)
  - 3.68% (10 year high) = $1.971 billion
  - 3.12% (10 year low) = $1.671 billion
  - 3.65% (FY 2009-10 “price”) = $1.955 billion

# “Price” Determined by Two Methods

- **Method 2** – “Price” based on revenue estimates driven by current policy, including no tax rate increase:

| | |
|---|---|
| FY 2009-10 revenues | $1,911.4m |
| Ad Valorem tax base (8.5% total value loss) (delay increase in over 65/disabled exemption) | ($53.6m) |
| Sales tax (flat with FY 2009-10 estimate) | ($8.4m) |
| Atmos Gas franchise fee increase (full year) | $1.0m |
| Oncor Electric franchise fee | ($2.9m) |
| Municipal Court | ($2.7m) |
| Sanitation Services private disposal | ($1.4m) |
| Sanitation Services rate decrease – $0.65 per month (Council Briefing August 2009) | ($1.6m) |
| Sanitation Services rate increase - $0.36 per month for sanitation emergency response reserve | $1.0m |
| Water & Wastewater rate increase – 4.2% (Council Briefing August 2009) | $19.8m |
| Other revenue adjustments | ($12.0m) |
| **FY 2010-11 projected total revenue** | **$1,850.6m** |

- Based on revenue estimates, “price” would decrease to 3.46% of personal income

# “Price” Determined by Two Methods

- Method 1 – Maintaining FY 2009-10 “price” of 3.65% will yield $1.955 billion in FY 2010-11
- Method 2 – Establishing a new “price” based on current revenue estimates of $1.851 billion for FY 2010-11 results in “price” of 3.46% of personal income
- Recommend using more conservative “price” as starting point for developing FY 2010-11 budget
  - Recommend preliminary “price” for FY 2010-11 budget be 3.46% which will yield $1.851 billion
  - This price can change prior to budget adoption on September 22, 2010

# Expenditure Outlook for FY 2010-11

| **Expenditure Increases and Decreases** | |
|---|---|
| Full-year funding for new police officers added in FY 2009-10 | $5.5m |
| No police officers above attrition to be hired in FY 2010-11 | $0.0m |
| Staffing for truck added at Fire Station #10 | $0.8m |
| Replacement ambulances | $3.0m |
| Pay steps for sworn employees will not be reinstated in FY 2010-11 | $0.0m |
| Merit pay for civilian employees will not be reinstated in FY 2010-11 | $0.0m |
| General Obligation Debt Service (assume implementation of commercial paper program) | ($0.6m) |
| Sanitation and recycling programs | ($1.6m) |
| Sanitation emergency response reserve | $1.0m |
| Water and Wastewater costs for needed capital investment | $19.8m |
| May 2011 election | $1.0m |
| Replenish Contingency Reserve (includes $1.0m for Alcohol Sales petition and November election) | $3.4m |
| Bond Program O&M | $0.1m |
| Continue 5 civilian furlough days in FY 2010-11, same as in FY 2009-10 | $0.0m |
| Increase cost for contract wrecker service | $0.6m |

# Recommendation

- "Price" is what residents of Dallas are willing to pay for services they receive
- Current year "price" is 3.65% of personal income
- $1.851 billion (based on available revenues) is recommended as starting point for developing FY 2010-11 budget which decreases "price" to 3.46% of personal income
  - This "price" can be adjusted prior to budget adoption on September 22, 2010
- Additional budget workshops will be held on May 19th and June 16th, prior to budget recommendation on August 9th

- Appendix A - List of taxes, fees, and charges
- Appendix B - Gross Personal Income Statistics

# Appendix A – List of taxes, fees, and charges

- Property tax for both general fund and debt service
- Sales tax
- Franchise fees – telephone, gas, electricity and cable TV
- Licenses and permits – commercial container fee, taxicab permits, liquor licenses, dog/cat registration, etc.
- Fines – court, parking, red light camera, etc.
- Charges for services – sanitation, storm water, water/sewer, ambulance, security alarm, etc.

# Appendix B - Gross Personal Income Statistics

| Year | Gross Personal Income | Percent Change From Prior Year |
|---|---|---|
| 2001 | $41,814,519,354 | 2.56% |
| 2002 | $42,176,150,410 | 0.86% |
| 2003 | $42,834,409,381 | 1.56% |
| 2004 | $44,897,075,934 | 4.82% |
| 2005 | $47,304,573,339 | 5.36% |
| 2006 | $51,712,846,678 | 9.32% |
| 2007 | $54,665,549,957 | 5.71% |
| 2008 | $55,866,298,461 | 2.20% |
| 2009 | $53,298,912,474 | -4.60% |
| 2010 | $52,362,285,110 | -1.76% |
| 2011 | $53,555,584,426 | 2.28% |

Note: Years 2001-2007 are based on actuals as reported by the Bureau of Economic Analysis, Department of Commerce. Years 2008-2011 are estimates based on a regression analysis of Congressional Budget Office forecasts of Gross Domestic Product.

# Memorandum

CITY OF DALLAS

DATE April 1, 2010

TO The Honorable Mayor and Members of the City Council

SUBJECT Charter Amendment Process

---

Please find enclosed for Wednesday's briefing the materials for the Charter Amendment Process.

Please contact me should you have any questions.

THOMAS P. PERKINS, JR.
City Attorney

c: Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
Forest E. Turner, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Deborah A. Watkins, City Secretary
Craig Kinton, City Auditor
The Honorable C. Victor Lander, Administrative Judge
Jeanne Chipperfield, Chief Financial Officer
Frank Librio, Public Information Office
Helena Stevens-Thompson, Assistant to the City Manager

# *City Charter Amendment Process*

City Council Briefing

April 7, 2010

# Purpose

Describe applicable provisions of Texas Constitution, Texas Statutes and City Charter

# Texas Constitution
## (Art. XI, Sec. 5)

- Charter amendments require a majority vote of the qualified voters of the city, at an election held for that purpose
- Charters and amendments are subject to such limitations as may be prescribed by the legislature
- No charter may contain any provision inconsistent with the Texas Constitution or state law  (Any home rule charter or ordinance provisions that conflict with subsequently adopted state laws are invalid)
- No city charter can be altered, amended, or repealed more often than every two years

# Texas Statutes

## CITY COUNCIL INITIATED ELECTION

- State law (Chapter 9, Local Government Code) authorizes the governing body of a municipality to submit proposed charter amendments to the voters for their approval at an election.

- The manner in which the city council determines which proposed amendments it wishes to consider is discretionary. For example, the Mayor can appoint an ad hoc committee to propose amendments for full council consideration or it can be assigned to an existing council committee.

# Texas Statutes

- Recent prior proposed amendments:
  - The November 8, 2005 charter election considered amendments that were the result of joint meetings of the Finance and Audit Committee and Government and Minority Affairs Committee.
  - The charter amendment approved by the voters on May 5, 2001, was the result of the city council acting as a committee of the whole.
  - The Finance and Audit Committee was used to develop the charter amendments in May, 1993, and May, 1997.

# Texas Statutes

## PETITION INITIATED ELECTION

- A citizen petition procedure is also authorized
- The city council must submit a proposed charter amendment to the voters for their approval if it is supported by a petition signed by a number of qualified voters of the municipality equal to at least 5% of the number of qualified voters or 20,000, whichever is less.
- Under Chapter XVIII, Section 11 of the city charter, petitioners are required to file an intention to circulate a petition with the city secretary. The petitioners have 60 days from the date of filing of intent to collect the required signatures.

# Texas Statutes

## Applicable Election Law Provisions

- UNIFORM ELECTION DATE
  - The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Texas Election Code.
  - The uniform election dates are (i) the second Saturday in May, and (ii) the first Tuesday after the first Monday in November.
  - The Texas Election Code requires the election to be ordered by the City Council at least 62 days before election day (70 days if election day is in November of an even-numbered year).

# Texas Statutes

## Applicable Election Law Provisions

- PUBLISH NOTICE OF ELECTION -- Notice of the election shall be published in a newspaper of general circulation published in the municipality, and must:

  a. include a substantial copy of the proposed amendments; and

  b. be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

- ONE SUBJECT PER PROPOSITION -- Each charter amendment may not contain more than one subject.

# Texas Statutes

## Applicable Election Law Provisions

- SEPARATE PROPOSITIONS -- The ballot must be prepared so that a voter may approve or disapprove any one or more amendments, without having to approve or disapprove all of the amendments.

- MAJORITY VOTE FOR ADOPTION -- A proposed amendment is adopted if approved by a majority of the qualified voters who vote at the election held for that purpose.

# Texas Statutes

- EFFECTIVE UPON COUNCIL ENTERING ORDER -- Amendments take effect when the governing body of the municipality enters an order declaring the amendments adopted, unless subject to Justice Department clearance under the Voting Rights Act.
- CONCURRENT ELECTIONS -- An election to amend the charter may occur at the same election for persons to hold office under the amendment.
- AMENDMENTS FILED WITH SECRETARY OF STATE -- Following adoption, a certified copy of the charter amendments must be filed with the Secretary of State.
- RECORD OF CHARTER -- The city secretary shall record the adopted charter amendments on microfilm or in a book kept for that purpose.

# City Charter

Charter Review Process (Ch. II, Sec. 3 adopted 2005)

- At intervals of not more than 10 years (the first to occur within 10 years of adoption of this section), the Charter shall be reviewed by a commission appointed by the City Council.
- Commission shall complete the review and report to the City Council within one year after its appointment.

# Questions

# Memorandum

CITY OF DALLAS

DATE April 1, 2010

TO The Honorable Mayor and Members of the City Council

SUBJECT Local Option Elections

---

Please find enclosed the materials for Wednesday's briefing on the local option elections.

Please contact me should you have any questions.

THOMAS P. PERKINS, JR.
City Attorney

c: Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
Forest E. Turner, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
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Craig Kinton, City Auditor
The Honorable C. Victor Lander, Administrative Judge
Dave Cook, Chief Financial Officer
Frank Librio, Public Information Office
Helena Stevens-Thompson, Assistant to the City Manager

# LOCAL OPTION ELECTIONS

John Rogers
Assistant City Attorney
April 7, 2010

# Proposed Elections

- Allow sale of mixed beverages in restaurants that have a  food and beverage (F&B) certificate.
- Allow sale of beer and wine for off-premise consumption only.
  - Grocery stores
  - Convenience stores
  - Stores that sell only beer and/or wine
  - Not package stores with hard liquor

# Source Law

- Texas Constitution Art. XVI, Section 20
- Texas Alcoholic Beverage Code Chapter 251
- Texas Election Code Chapter 501

# General

- All areas within Texas are “wet” for the sale of all kinds of alcoholic beverages, unless that status is changed by local option election.
  - But most of Texas is dry to some extent due to historic elections.
- The local option provisions give voters the ability to determine whether the sale of specific types of alcoholic beverages will be prohibited or allowed within an area.

# General

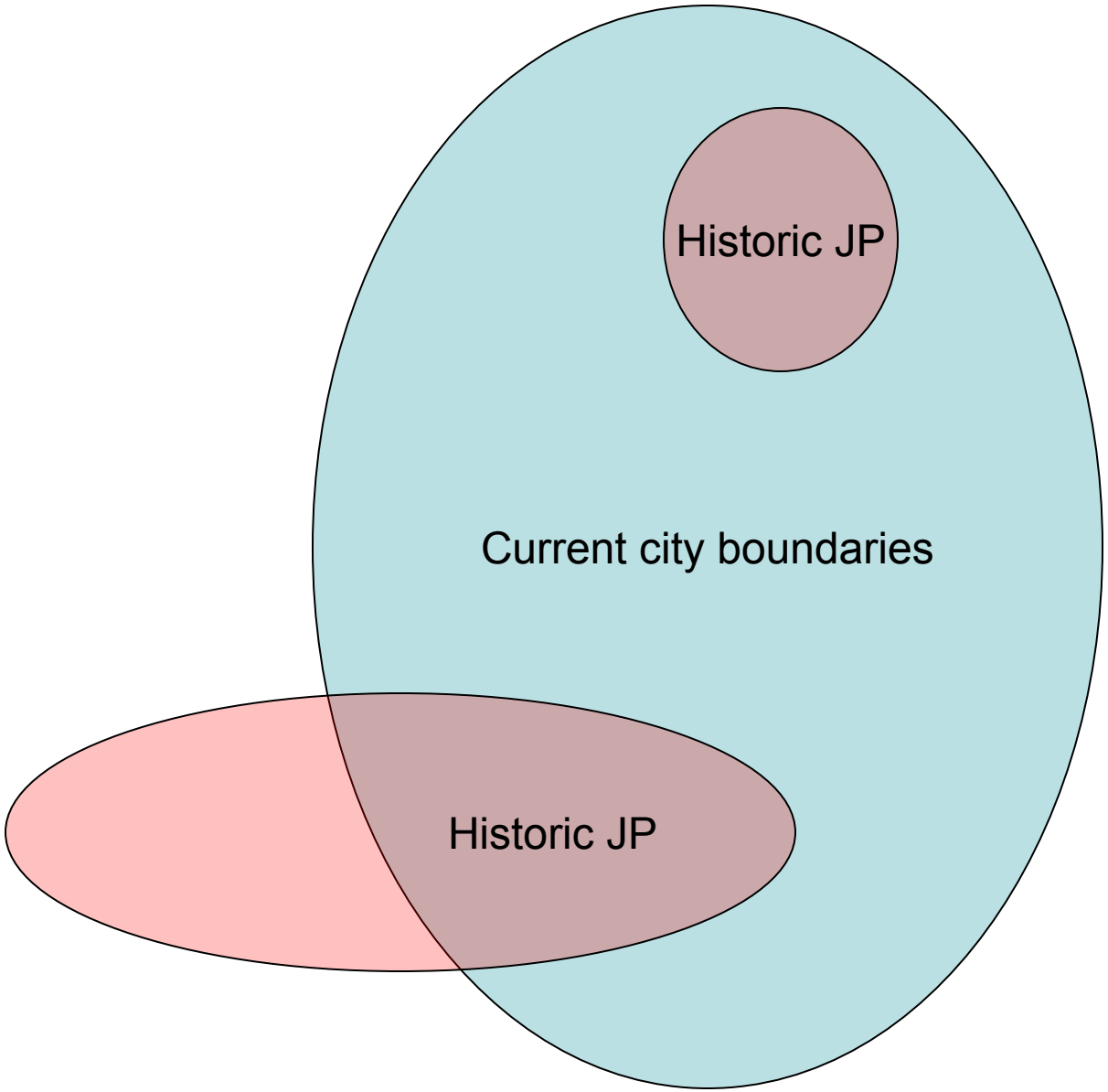
- An area is “dry” as to a particular type of alcoholic beverage if the sale is prohibited.
  - A dry area will still have private clubs (bars) because they serve alcohol rather than sell alcohol.
  - A dry area will not have package stores (off-premise consumption).
- An area is “wet” as to a particular type of alcoholic beverage if the sale of alcohol is allowed.

# General

- An area can be “wet” for one purpose and “dry” for another purpose.
  - An area can be “wet” for off-premise consumption, but “dry” for on-premise consumption.
  - An area can be “wet” for beer and wine, but “dry” for hard liquor.

# General

- Elections can be held within the boundary of a county, city, or JP precinct.
- A voting unit retains its wet or dry status until changed by election in the same voting unit.
- If two overlapping voting units have different local option status, the smallest voting unit controls.
  - The local option status of a city controls over the local option status of a JP precinct if only part of the JP precinct is within the city limits.
  - The local option status of a JP precinct controls over the local option status of a city if the JP precinct is wholly within the city limits.
  - The relative dates of the elections are of no consequence.


Historic JP
Current city boundaries
Historic JP

# General

- If sale of alcohol is prohibited, the following licenses and permits are exempt from the prohibition:
  - Manufacturer's licenses or brewer's permits.
  - Distiller's and rectifier's permit.
  - Licensed distributor of beer.
  - Wholesaler's permit.
- Wholesaler and distributor licenses can be issued in any area that is wet for any type of alcohol.

# History of Local Option

- Local option was added to the Texas Constitution in 1891.
- In 1918, national prohibition went into effect.  In 1919, Texas adopted state prohibition.
- In 1933, national prohibition was repealed. In 1935, Texas prohibition was repealed.
- Areas that voted dry before prohibition remained dry after repeal of prohibition.

# History of Local Option

- There have been 55 elections within JP precincts or within Dallas County between 1877 and 1985.
  - Most of the elections prohibited alcohol.
  - 18 elections were unsuccessful.
  - 37 elections were successful.
  - The portion of Dallas that is currently wet was made wet by an election in 1935.
- There have been 49 elections in suburb cities within Dallas County between and 1985 and 2010.
  - All of these elections were to allow alcohol sales.
  - 14 elections were unsuccessful.
  - 36 elections were successful.
- Amendments in 2003 made in easier to hold elections.
  - The number of petition signatures needed was reduced from 35% of registered voters to 35% of voters in last gubernatorial election.
  - 60 days to gather signatures on a petition rather than 30 days.
  - Cities located in several counties can now hold elections.
- There has never been a city-wide election in Dallas.

# Boundaries

- An election in a city or county may include any area added to the voting unit after its creation.
- JP precinct elections must be held in the boundaries at the time the local option status was determined.
  - If the JP precinct boundaries have changed since the local option status was established, the county must determine the JP precinct boundaries.

# Local Option Procedures – Application

- The voting unit must have been in existence for at least 18 months.
- If the election is held in a city that is located in more than one county, the city must conduct the election.
  - The city assumes the duties of the county.

# Local Option Procedures - Application

- At least 10 qualified voters within the city must submit an application to the City Secretary requesting a petition.
  - The application must be published in a newspaper of general circulation.
- The city is required to pay for one election per year.
  - If there is a second election, the petitioners must give a deposit of 25 cents per registered voter. The deposit cannot be refunded.

# Local Option Procedures – Petition

- The petition must have the issue to be voted on, date issued, serially numbered pages, and City Secretary's seal.
  - The City Secretary must supply up to one page for every 10 registered voters.
    - Applicants want 20,000 petitions per issue (40,000 total).
  - The City Secretary must keep a copy of each petition and a record of the applicants.
- Within 5 days after issuing the petition, the City Secretary must notify the TABC and Secretary of State that a petition was issued.

# Local Option Procedures - Petition

- A petition is valid if submitted to the City Secretary within 60 days and is signed by a number equal to 35% of the registered voters within the city who voted in the last gubernatorial election.
  - For this city-wide election, 68,462 signatures are needed.

# Local Option Procedures - Petition

- The City Secretary must verify the signatures on the petition.
  - A statistical sampling can be used to verify signatures, unless a citizen requests and pays for 100% verification.
  - The City Secretary must certify to the City Council the number of signatures on the petition.
  - Each signature must also have the printed name, date of birth, county, address, and date. A signature is valid if it uses ditto marks, or does not give the state or zip code.
  - A signer may withdraw his signature up until the petition is submitted to the City Secretary.
- The City Council must record the petition in its minutes.

# Local Option Procedures - Election

- At the next regular meeting that is 30 days or more after submission of the petition, the City Council shall order an election if a valid petition is submitted.
- The order to hold an election is prima facie evidence of compliance with the petition requirements.
- The election order must state:
  - Whether the election is to prohibit or legalize.
  - The issue to be voted on.
  - The election precincts.
  - The polling place for each precinct.
  - The early voting places and hours.
  - The address for sending mailed ballots.

# Local Option Procedures - Election

- An election must comply with the requirements of the Texas Election Code.
  - Notice of the election must be posted on the public bulletin board at least 21 days before the election.
  - Notice of the election must be published in a newspaper of general circulation at least once 30 to 10 days before the election.
  - Notice must be given to election judges 15 days after the election is ordered.
  - Notice of the election must be given to the county clerk 60 days before the election.

# Local Option Procedures - Election

- An election on a particular issue may not be held within one year after the last election on that issue.
- An election for a city must be held in city election precincts.  The election must be held at customary polling places.
- It is a Class B misdemeanor to misrepresent the purpose or effect of a petition.

# Local Option Procedures - Election

- The City Secretary must furnish ballots equal to the number of registered voters plus 10%.
- The ballot must state the issues.
  - The issues must be the same as on the petition.
  - The issues must be exactly as stated in the Election Code.
- The city pays for the election.
- The votes must be counted within 24 hours after the polls close.

# Local Option Procedures - Election

- After completion of the canvassing, City Council must enter an order declaring the results of the election.
  - The election is decided by majority vote.
  - Entry of an order is prima facie evidence of compliance with election requirements.
- Within 3 days after the results of the election have been declared, the City Secretary must certify the results to the Secretary of State and the TABC.
- An election does not affect the sale of mixed beverages unless the proposition specifically mentions mixed beverages.

# Local Option Procedures - Contest

- An election can be contested.
  - The local option status is not suspended during an election contest.
  - An election contest settles all questions relating to the election. An election cannot be challenged in another lawsuit.
- If an election is not timely challenged within 30 days by an election contest, the election is valid and binding.

# FAQs - Procedures

- Q: Could City Council order the election without an application and petition?
  - A: No. Local option status can be changed only by following the TABC and Election Code procedures.
- Q: Could City Council declare an area wet or dry?
  - A: No. Local option status can be changed only by following TABC and Election Code procedures. Municipal regulation of alcohol is preempted by the TABC.

# FAQs – Procedures

- Q:  What happens if the applicants do not get enough signatures on the petition?
  - A:  The City Secretary will still present the results to the City Council, but an election will not be ordered.

# FAQs – Partial elections

- Q: Can only a portion of a county, city, or JP precinct have an election?
  - A: No. The entire county, the entire city, or the entire JP precinct must hold the election.

# FAQs – Election day

- Q:  What day will the election be held?
  - A:  Tuesday, November 2, 2010 because it is the next uniform election date that is more than 60 days after the petition was issued.
- Q:  Will citizens who live in the portion of Dallas that is already wet be allowed to vote?
  - A:  Yes.  Any registered voter within the city of Dallas will be allowed to vote.

# FAQs – Failed election

- Q:  If the election fails, does it affect the wet or dry status of Dallas?
  - A:  No. Wet or dry status can only be changed by a successful election.  That portion of Dallas that is currently wet would remain wet. The remainder of Dallas would remain dry.

# FAQs – Effective date

- Q:  If the election is successful, when will alcohol sales be allowed?
  - A:  Legalization takes effect at the time that the results of the election are officially canvassed.  But it takes about 45-60 days to obtain permits from the TABC.

# FAQs – Current wet area

- Q:  Will this city-wide election affect the status of the portion of Dallas that is currently wet?
  - A: No.  The portion of Dallas that is currently wet for on-premise mixed beverage permits without a F&B certificate (bars) and for off-premise licenses (package stores) will remain wet for those purposes.

# FAQs - Annexation

- Q: Does annexation or disannexation change the wet or dry status?
  - A:  No. The local option status can only be changed by election.
    - Subsequently annexed or disannexed areas do not change their local option status.
    - The wet or dry status of the annexed or disannexed area can only be changed by election in the entire county, entire city, or entire JP precinct (not the annexed or disannexed area alone).

# FAQs - Redistricting

- Q:  Does redrawing district lines change the local option status?
  - A:  No. The local option status can only be changed by election.

# FAQs - Bars

- Q: Will the election change the zoning where bars (alcoholic beverage establishments) are allowed?
  - A: No.
    - "Bar, lounge of tavern" gets 75% of its revenue from on-premise sale of alcohol.
      - Bars will still only be allowed in that portion of Dallas that is currently wet because the election is only for mixed beverage with a F&B certificate (50% or less alcohol).
    - "Private-club bar" has a private club permit, is in dry area, gets 35% of its revenue from on-premise service of alcohol, and does not have a F&B certificate.
      - Most of Dallas (except the portion that is currently wet) will still be "dry" for private clubs without a F&B certificate, so private club bars can still locate in most of Dallas.
    - Allowed in GO(A), CR, RR, CS, I, CA, MU, MC, MF-4, LO(A), MO(A), UC-2, and UC-3 by SUP only.
    - The election will not change the zoning regulations that apply to bars.

# FAQs - Bars

- If the election is successful, how restaurants and bars will be classified and treated by the TABC and the city:

| 0% | 50% | 75% | 100% |
|---|---|---|---|
| TABC = restaurant | TABC = bar | TABC = bar | |
| City = restaurant | City = restaurant | City = bar | |
| F&B from TABC | | SUP from city | |
| Anywhere in the city | Current wet area | Current wet area | |

# FAQs – Retail alcohol stores

- Q: Will the election affect where stores that sell alcohol are allowed?
  - A: Yes, if the store sells only beer or wine. No, if the package store sells hard liquor.
    - A store that sells only beer and wine will be allowed anywhere in the city if the zoning allows it.
    - A package store that sells hard liquor will still be allowed only in that portion of Dallas that is currently wet and if the zoning allows it.
    - "Liquor store" is principally for retail off-premise sale of alcohol.
      - Grocery stores and convenience stores are not "liquor stores."
    - By right in CR, RR, CS, CA, MU-2, MU-3, MC-2, MC-3, and MC-4.
    - The election will not change the zoning regulations that apply to liquor stores.

# FAQs – Private clubs

- Q: Would existing private clubs have to apply for a new mixed beverage on-premise permit with a F&B certificate?
  - A: No.
    - The existing permit remains valid until the expiration date.
    - Private club permits can still be issued in any part of Dallas.
    - But they will probably apply for a new mixed beverage permit with a F&B certificate because (1) the permit allows sales for profit rather than nonprofit service, (2) the recordkeeping is less, and (3) there are advantages to having a F&B certificate.

# FAQs – D and D-1 Overlays

- Q:  Will the election affect the D and D-1 zoning overlays?
  - A:  No.
    - Cannot sell or serve alcohol in a D overlay.
    - Can sell or serve alcohol in D-1 with SUP.
    - Valid only if created before June 11, 1987.

# FAQs - Spacing

- Q: Will the election change the spacing rules?
  - A: No.
    - Alcohol sales are prohibited within 300 feet of a church, public or private school, or public hospital, day-care center, or child-care facility.
    - Alcohol sales are prohibited within 1,000 feet of alcohol-free schools.
    - Measurement of spacing.
      - Church and hospital: From front door to front door.
      - Schools, day-care centers, child-care facilities: From property line to property line.
      - The city cannot require a different measurement.
    - The alcohol business is grandfathered if it existed before the church, school, hospital, day-care center, or child-care facility.
    - City Council can grant variances to the spacing rules.

# FAQs – Permit process

- Q:  What is the process to get a beer and wine off-premise permit?
  - A:
    - Application to the TABC.
    - City signs off that the area is wet, zoning allows the use, and spacing is OK.
    - TABC does background check on criminal history.
    - Applicant posts notice sign on the property and mails notice to residential uses within 300 feet.
    - Applicant posts surety bond if within 1,000 feet of a school.

# FAQs – Permit process

- Q:  What is the process to get a mixed beverage on-premise permit with a F&B certificate?
  - A:
    - Application to the TABC.
    - City signs off that the area is wet, zoning allows the use, and spacing is OK.
    - TABC does background check on criminal history.
    - No bond or newspaper notice because they have a F&B certificate.

# FAQs – F&B Certificates

- Q:  What are the requirements to get a F&B certificate?
  - A:  To get a F&B certificate:
    - food service must be the primary business,
    - must have a kitchen for preparation of multiple entrees, and
    - alcohol sales must be 50% or less.

# FAQs – F&B Certificate continued

- Q: What are the advantages of a F&B certificate?
  - A:
    - no conduct surety bond.
    - can have employees under 18.
    - exempt from spacing from private schools, day-care centers, and child-care facilities.
    - do not have to mail notice of TABC application to residents within 300 feet.

# FAQs – F&B Certificate continued

- Q:  How does the TABC monitor the 50% rule for F&B certificates?
  - A:  The Texas Comptroller of Public Accounts monitors the monthly gross receipts tax report.  If the business has more than 50% alcohol, the Comptroller reports that to the TABC and the TABC takes enforcement action.
    - The city can also ask the alcohol business for records to determine the percentage of revenue from alcohol.

# FAQs - Protest

- Q:  If a specific location becomes a problem, does the city have any recourse?
  - A:  Yes.  The city can protest the alcohol permit.
    - The mayor, a councilmember, the police chief, or the city attorney can file a protest asking that a permit or license be denied, suspended, or revoked.
    - The protest must show that the place or manner of operation harms the general welfare, health, peace, safety, or public sense of decency.
    - Protest must be supported by sworn statement of one credible person.

# FAQs - Preemption

- Q:  Can the city impose additional regulations on businesses that sell alcohol, such as convenience stores, beer barns, or drive-through windows?
  - A:  No.
    - Dallas Merchants v. Dallas - Alcohol regulation is preempted by the TABC.
      - The city cannot impose regulations on a business merely because it has an alcohol permit.
      - The city cannot impose stricter standards on a business that sells alcohol.
      - The city cannot discriminate against a business that sells alcohol.
    - The city can impose zoning or other regulations on all retail businesses if it affects alcohol and non-alcohol businesses equally.
    - The city can regulate the location of a business the derives 75% or more of its revenue from alcohol.  The city requires an SUP for bars.

QUESTIONS and DISCUSSION

# Memorandum

CITY OF DALLAS

DATE April 1, 2010

TO The Honorable Mayor and Members of the City Council

SUBJECT Lobbyist Registration Ordinance

---

Please find attached for Wednesday's briefing the materials for the Lobbyist Registration Ordinance.

Please contact me should you have any questions.

THOMAS P. PERKINS, JR.
City Attorney

Attachment

c: Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
Forest E. Turner, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Deborah A. Watkins, City Secretary
Craig Kinton, City Auditor
The Honorable C. Victor Lander, Administrative Judge
Jeanne Chipperfield, Chief Financial Officer
Frank Librio, Public Information Office
Helena Stevens-Thompson, Assistant to the City Manager

# PROPOSED AMENDMENTS TO THE

# LOBBYIST REGISTRATION ORDINANCE

- **ON NOVEMBER 9, 2009, THE CITY COUNCIL PASSED ORDINANCE NO. 27748 WHICH ESTABLISHED LOBBYIST REGISTRATION AND REPORTING REQUIREMENTS FOR PERSONS RECEIVING COMPENSATION OR REIMBURSEMENT OF $200 OR MORE IN A CALENDAR QUARTER FOR LOBBYING DALLAS CITY OFFICIALS.**

- **THE ORDINANCE BECAME EFFECTIVE APRIL 1, 2010.**

- **OVER THE LAST SEVERAL MONTHS, THE CITY SECREATARY'S OFFICE AND THE CITY ATTORNEY'S OFFICE HAVE CONDUCTED A SERIES OF PUBLIC ORIENTATION/TRAINING SESSIONS ON THE ORDINANCE'S REQUIREMENTS.**

- **THE PROPOSED ORDINANCE AMENDMENT ADDRESSES TWO CONCERNS RAISED DURING THOSE SESSIONS.**

- **FIRST, THE PROPOSED ORDINANCE WOULD AMEND SECTION 12A-15.2(10) TO PROVIDE AN EXCEPTION FROM THE DEFINITION OF LOBBYING FOR NARROWLY TAILORED ORAL RESPONSES TO SPECIFIC QUESTIONS FROM CITY OFFICIALS.**

- **THE CURRENT PROVISION ONLY EXEMPTS WRITTEN RESPONSES.**

- **SECOND, THE PROPOSED ORDINANCE WOULD AMEND SECTION 12A-15.3 TO ALLOW A CORPORATION OR ORGANIZATION THAT IS NOT REQUIRED TO REGISTER AS A LOBBYIST, BUT THAT HAS SEVERAL STAFF LOBBYISTS, TO ONLY PAY ONE ANNUAL $300 REGISTRATION FEE.**

- **THIS WOULD TREAT A CORPORATION OR ORGANIZATION THE SAME AS A PAID LOBBYING FIRM, WHICH IS CURRENTLY ALLOWED TO REGISTER ALL OF ITS STAFF LOBBYISTS UNDER THE SAME REGISTRATION WITH ONE ANNUAL $300 FEE.**

- **<u>THIRD,</u> PURSUANT TO A MEMORANDUM DATED FEBRUARY 24, 2010, A THIRD PROPOSED ORDINANCE APPEARS ON TODAY'S AGENDA.**

- **THE PROPOSAL AMENDS SECTION 12A-15.4 TO ADD PARAGRAPH (9)TO EXEMPT ORGANIZATIONS REGISTERED WITH THE INTERNAL REVENUE SERVICE UNDER SECTIONS 501(c)3, 501(c)4, 501(c)5, AND 501(c)6 AND THEIR MEMBERS, FROM THE REGISTRATION AND ACTIVITY REPORT REQUIREMENTS OF THE ORDINANCE WHEN LOBBYING ON A MUNICIPAL QUESTION THAT AFFECTS THAT ORGANIZATION.**

- **THE PROPOSED ORDINANCE AMENDMENT WOULD EXEMPT CHARITABLE ORGANIZATIONS, SOCIAL WELFARE ORGANIZATIONS, LABOR OR AGRICULTURAL ORGANIZATIONS AND BUSINESS LEAGUES, CHAMBERS OF COMMERCE, AND REAL ESTATE BOARDS.**

- **ORGANIZATIONS DESCRIBED IN SECTION 501(c) 3 ARE PROHIBITED FROM CONDUCTING POLITICAL CAMPAIGN ACTIVITIES TO INTERVENE IN ELECTIONS FOR PUBLIC OFFICE.**

- **HOWEVER, 501(c)3 ORGANIZATIONS ARE PERMITTED TO CONDUCT A LIMITED AMOUNT OF LOBBYING TO INFLUENCE LEGISLATION, PROVIDED THAT "NO SUBSTANTIAL PART" OF A PUBLIC CHARITY'S ACTIVITIES MAY BE DEVOTED TO LOBBYING ACTIVITIES.**

- **501(c)4, 501(C)5 AND 501(c)6 ORGANIZATIONS MAY ENGAGE IN LOBBYING ACTIVITIES.**

- **THE FOLLOWING FREQUENTLY ASKED QUESTION AND ANSWER IS POSTED ON THE CITY SECRETARY'S WEBSITE:**

  - **SECTION 12A-15.3 OF THE DALLAS CITY CODE REQUIRES A PERSON WHO RECEIVES COMPENSATION OR REIMBURSEMENT OF $200 OR MORE IN A CALENDAR QUARTER FOR LOBBYING ACTIVITIES TO REGISTER AS A LOBBYIST AND TO REPORT CERTAIN INFORMATION REGARDING HIS OR HER LOBBYING ACTIVITIES. SECTION 12A-15.2(3)(B) OF THE CITY CODE SPECIFICALLY PROVIDES THAT "COMPENSATION" DOES NOT INCLUDE PAYMENTS TO AN INDIVIDUAL REGULARLY EMPLOYED BY A PERSON IF LOBBYING ACTIVITIES ARE NOT PART OF THE INDIVIDUAL'S REGULAR RESPONSIBILITIES. THUS, COMPENSATION DOES NOT INCLUDE AN INDIVIDUAL'S REGULAR SALARY IF LOBBYING IS NOT PART OF THE INDIVIDUAL'S REGULAR JOB DUTIES.**

- **CONSEQUENTLY, THE LOBBYIST REGISTRATION AND REPORTING REQUIREMENTS WOULD ONLY APPLY TO AN EMPLOYEE OF A CHAMBER OF COMMERCE OR NON-PROFIT ENTITY WHOSE REGULAR JOB DUTIES CONSISTED OF LOBBYING ACTIVITIES, OR TO A CHAMBER OF COMMERCE OR NON-PROFIT ENTITY THAT HAS BEEN RETAINED FOR LOBBYING ACTIVITIES AND RECEIVES COMPENSATION OR REIMBURSEMENT OF $200 OR MORE IN A CALENDAR QUARTER FOR THOSE ACTIVITIES.**

- **PERSONS WHO ENGAGE IN OCCASIONAL OR INCIDENTAL LOBBYING ACTIVITIES, BUT WHOSE REGULAR JOB RESPONSIBILITIES DO NOT INCLUDE LOBBYING, WOULD NOT HAVE TO COMPLY WITH THE LOBBYIST REGISTRATION AND REPORTING REQUIREMENTS.**

# Memorandum

CITY OF DALLAS

DATE April 1, 2010

TO The Honorable Mayor and Members of the City Council

SUBJECT Amendments to Gift Policies for Council Members and Board and Commission Members

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Please find attached for Wednesday's briefing the materials for the Amendments to gift policies for council members and boards and commission members.

Please contact me should you have any questions.

THOMAS P. PERKINS, JR.
City Attorney

Attachment

c: Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
Forest E. Turner, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Deborah A. Watkins, City Secretary
Craig Kinton, City Auditor
The Honorable C. Victor Lander, Administrative Judge
Jeanne Chipperfield, Chief Financial Officer
Frank Librio, Public Information Office
Helena Stevens-Thompson, Assistant to the City Manager

# Reporting Guidelines Under City's Gift Policies for Councilmembers and Board and Commission Members

- On November 9, 2009, the Dallas City Council, pursuant to Resolution No. 09-2836, revised the gift policy guidelines for city council members and board and commission members to include reporting requirements for certain gifts, tickets, meals, travel, lodging, entertainment and honorarium.

If a council member, board or commission member, or a spouse, domestic partner, or dependent child of a council member or board or commission member, receives:

- a gift, ticket, meal, travel, lodging, entertainment, or honorarium having a value of $50 or more, or
- an accumulation of gifts, tickets, meals, travel, lodging, entertainment, or honoraria from a single source having an aggregate value of $100 or more from a single source in a calendar year

from a person:

- who is interested in or is likely to become interested in any contract, purchase, payment, claim, or pecuniary transaction with the city that involves the exercise of the council member's or board or commission member's discretion, or
- who is a registered lobbyist under the city's new lobbyist registration ordinance,

the council member or board and commission member will need to file an annual gift disclosure report with the City Secretary's Office no later than April 30 of each year.

If a council member, board or commission member, or his or her spouse, domestic partner, or dependent child did not receive any gifts, meals, travel, lodging, entertainment and honoraria from

- a person who is interested in or likely to become interested in a contract, purchase, payment, claim, or pecuniary transaction with the city that involves the exercise of the council member's or board or commission member's discretion, or
- a registered lobbyist under the city's new lobbyist registration ordinance,

then the council member or board or commission member does not need to file an annual gift disclosure report under the city's gift policies.

The city's gift disclosure reporting requirements under the city's gift policies are in addition to other reporting requirements under state and local laws.

- council members are still be required to list all gifts worth more than $250 received by the councilmember, his or her spouse or dependent child, in the preceding calendar year on his or her annual personal financial statement, as required by state law (Chapter 145, Local Government Code) and
- those board and commission members who are required to file a financial disclosure report under the city's code of ethics (See Section 12A-19, Dallas City Code), are still required to report on the city's financial disclosure report, the source of each gift worth more than $250 or accumulation of gifts worth more than $250 from one source received by the board or commission member, his or her spouse, domestic partner, or dependent in the preceding calendar year, and the estimated value of each gift.

In addition, the city's code of ethics contains certain travel reporting requirements applicable to council members, board and commission members and other city staff.

- The annual gift disclosure report covers gifts received in the preceding calendar year and the first gift disclosure report is due April 30, 2010 for the prior calendar period from November 9, 2009 (when Resolution No. 09-2836 was adopted) until December 31, 2009.

- The annual gift disclosure report itemizes:
- date the item was given,
- name of donor,
- description of item,
- value of item,
- whether item was given to councilmember or his or her family member

Questions have arisen regarding what should be included on the annual gift disclosure form.

The following suggested guidelines are proposed for clarifying what should be reported on the annual gift disclosure form.

- **Add a “knowingly or with knowledge” requirement,**
- **exclude ceremonial functions and functions where council members and board and commission members ( and their family members) attend in their official capacities in accordance with city’s gift policies from reporting requirements,**
- **exclude tickets to fundraisers or charity events that benefit city facilities and programs given to council members and board and commission members (and their family members) in accordance with the city’s gift policies from reporting requirements,**
- **exclude travel, meals, entertainment and lodging reporting, if travel, meals, entertainment and lodging have been reported in accordance with city’s travel reporting requirement under Section 12A-21,**
- **exclude annual memberships to city-owned facilities given council members or board or commission members in accordance with city’s gift policies from reporting requirements,**
- **exclude tickets given to council members or board and commission members (and their family members) in accordance with city’s gift policies from reporting requirements,**
- **exclude ceremonial and protocol gifts received on behalf of the city, if the gifts have been given to the city manager and, if applicable, reported in accordance with Section 12A-22 of the Dallas City Code,**
- **exclude honorarium reported in accordance with state law on a council member’s personal financial statement,**
- **clarify that the gift reporting requirement applies to persons who are interested in or likely to become interested zoning matters that involve the exercise of a council member’s or board or commission member’s discretion**