



**MEMORANDUM
LEGAL DEPARTMENT**

VIA E-MAIL and U.S. Mail

TO: Roger Scott, Chair
Ethics Advisory Committee

FROM: Deirdre O. Dexter, City Attorney 

DATE: March 27, 2009

SUBJECT: Request for Ethics Opinion

A citizen of Tulsa has made a complaint to me regarding Michael Slankard and his conduct as a member of the Ethics Advisory Committee. Based on my understanding that Mr. Slankard was not reappointed and would be replaced on the Committee, I did not bring this complaint forward, believing that any misconduct perceived by the citizen had become moot. I understand that the Mayor has appointed Sandra Rodolf to the Ethics Advisory Committee as the replacement for Mr. Slankard. However, the City Council has apparently passed Ms. Rodolf's confirmation to some undetermined point in the future. When Ms. Rodolf appeared at the City Council committee meeting in connection with her appointment, certain City Councilors stated objections to Ms. Rodolf's appointment replacing Mr. Slankard. Based on some of the statements made at that meeting, I understand that these objections are based, in large part, on the fact that you sent a letter urging that Mr. Slankard be reappointed to the Committee. As I am sure you are aware, as a consequence of the Council's failure/refusal to confirm Ms. Rodolf's appointment, Mr. Slankard will continue to serve on the Committee.

Following the Council meeting at which Ms. Rodolf's appointment was passed, I was again contacted by the Tulsa citizen who requested I take action to address the concerns raised. I was provided with specific information regarding the complaints and asked whether Mr. Slankard's conduct, detailed below, is a violation of the Ethics Code and would or should subject him to removal from the Committee. The citizen in question has requested anonymity, stating fear of retribution from City Councilors, based on comments made by some of the Councilors during Ms. Rodolf's appearance before the Council.

Because a citizen cannot request a formal legal opinion from the City Attorney's office and because before bringing this question forward I reviewed prior opinions and recommendations of the Ethics Advisory Committee, I have determined that the appropriate response to this citizen's request is to request an Ethics Opinion from the Committee. While the citizen could have filed a formal complaint with the City Clerk, I believe this avenue is appropriate and because it appears the general issue has been previously addressed by the Ethics Advisory Committee, will provide an expeditious resolution to the complaint. I have not shared

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March 27, 2009
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this information with the City Council, the Mayor or any individual member of the City Council in order to avoid any appearance that this is driven by politicians, it is not. I am bringing this forward because, based on the information provided to me and prior decisions by the Ethics Advisory Committee, I am concerned that the Ethics Code has been violated by Mr. Slankard. I am attaching, for your information, the documents which were provided to me in connection with the complaint as well as EAC-2006-02. Obviously, Mr. Slankard cannot participate in the discussion or determination of the question raised, or any investigation related thereto, except to provide full and truthful information or testimony. *See* 12 TRO §608. In addition, I will certainly understand if you decide to ask another member of the Committee to deal with my request, given your involvement in urging Mr. Slankard's reappointment.

Specifically, the factual scenario for which an opinion is requested involves Mr. Slankard's raising the question regarding Councilor Patrick's trip on Mayor Taylor's plane last year. According to the information provided (see attached), Mr. Slankard has been a candidate for the office held by Councilor Patrick and has endorsed and apparently continues to support former Councilor Roscoe Turner, who was defeated by Councilor Patrick in the 2008 election and has informally announced his intention to run against Councilor Patrick in the November 2009 election and continues to have a web site devoted to his re-election campaign.

Based on my research and review of prior Ethics Advisory Committee opinions, it appears that this general issue was addressed in EAC-2006-02 and would dictate that Mr. Slankard's participation in the discussion and vote is a violation of the Ethics Code. However, because the facts are different than those considered in EAC-2006-02, I am requesting an opinion from the Committee regarding whether there was a violation of §600 as prohibited by §603, due to Mr. Slankard's relationship with former Councilor Turner. Specifically, I am concerned that in EAC-2006-02 the past relationship between Councilor Mautino and American Airlines was found to create the potential for the impairment of objectivity or independence of judgment, which appears to be the same issue raised by Mr. Slankard's actions in bringing the matter before the Committee, discussing the matter and involving himself in the vote on the issue. Irrespective of the outcome of that vote, it appears that the Ethics Code was violated and, therefore, an opinion of the Committee is being requested. Specifically, the Committee is being asked to determine whether Mr. Slankard should have complied with §603, whether his failure to do so resulted in a violation of the Ethics Code and whether that violation would or should result in Mr. Slankard's removal from the Ethics Advisory Committee pursuant to §609.

I appreciate the Ethics Advisory Committee's prompt attention to this matter.

cc w/encl: Rev. McCutchen
 Jeff Tracy (*via e-mail*)
 Jacci Walker (*via e-mail*)
 Don Wiruth (*via e-mail*)
 Judge Tom Brett (*via e-mail*)

ETHICS ADVISORY OPINION
EAC-2006-02

FILED
CITY CLERK
2 25 PM '06

Question

Is it a conflict of interest or violation City's Ethics Ordinance No.21084 if a City Councilor participates in discussions and actions related to providing a funds or benefit to a Company, when the Councilor is a former employee of the Company and receives a pension from the Company Retirement Fund?

ELMER
CITY CLERK

Background

On January 25, 2006 James S. Mautino, District 6 Councilor filed a Disclosure of Potential Conflict of Interest (Disclosure) with the City Clerk. The potential conflict of interest is indicated in the disclosure to be Financial in nature and involves City Council Item 05-1778-6 "Adding hangers at Tulsa International Airport for American Airlines to the proposed Third Penny renewal including, but not limited to, lease terms, rental rates..." (Item) As part of the filing, Councilor Mautino, requested an opinion from the Ethics Advisory Committee regarding any possible conflict.

Councilor Mautino is a duly elected City Official.

Councilor Mautino is a former employee of American Airlines (American) and is currently retired from American. He receives a monthly pension from the American Airlines Retirement Fund (Retirement Fund). Councilor Mautino is of the understanding that the current issue related to building temporary hangers at Tulsa International Airport (TIA) to be leased to American will not impact the Retirement Fund.

Since the issue is not believed to impact the Retirement Fund, Councilor Mautino has indicated his intent to participate in discussions and actions related to the Item until he becomes aware of a conflict.

On February 3, 2006 a copy of the Disclosure was provided to the Committee by the Secretary along with the Agenda for the regularly scheduled meeting on February 7, 2006. The request for an Opinion was taken up under Agenda Item 4. At the request of a Committee member, the Committee agreed to fast track the request for an Opinion, in anticipation of the Item being before the Council in the near future, by calling a special meeting for February 16, 2006.

After briefly reviewing the Disclosure and determining from the Alan L. Jackere, City Attorney, that no point of law was involved, the chairman appointed member, Don Wiruth, to draft an advisory opinion for the Committee's review at a special meeting called for February 16, 2006.

Discussion

Section 600 of the City's Ethics Ordinance No. 21084 establishes the general policy that City officials should be independently impartial... and that no City Official should have any interest, financial, personal, or organizational, direct or indirect,...that is in conflict with the proper discharge of their duties in the public interest...nor should they act in such a way as to give an appearance of any impropriety.

Section 603. of the City's Ethics Ordinance prohibits City officials from participating in any business in which they have a related personal, financial, or organizational interest. The possibility, not the actuality, of a conflict shall govern.

Section 607. A. of the City's Ethics Ordinance requires that City officials must disclose all personal, organizational, or financial interests where they...have a financial interest in a business that is receiving City funds, directly or indirectly, through a business agreement with the City or a City contractor.

The following sections provide definitions:

Section 601. **Financial Interest** in an official action exists when the action may result directly or indirectly in a financial gain or loss accruing to the City official...to a greater extent than could reasonably be expected to accrue to the general public. Financial interest in a company,...or other entity exists when the City official ... owns... a five percent (5%) or more share of the company,...or other entity and the value of such share exceeds Five Thousand Dollars (\$5,000.00)

Section 601. **Personal Interest** means a direct or indirect interest, matter, or relationship not shared by the general public which could be reasonably expected to impair the City official's objectivity or independence of judgment.

As a former employee and current retiree of American, Councilor Mautino has a relationship with American which could reasonably be presumed to include loyalty and allegiance to a former employer. This relationship would not be shared by the general public and could reasonably be expected to have the potential to impair objectivity or judgment.

As a retiree of American, Councilor Mautino receives a monthly pension from Retirement Fund. The Retirement Fund will not be impacted by any action related to American. As a result a monthly pension paid to Councilor Mautino by Retirement Fund is independent of American.

Opinion

There does not appear to be a violation of Section 603 of the City's Ethics Ordinance related to Financial conflict for the following reasons: (1) Councilor Mautino does not hold a financial interest in American; (2) the Retirement Fund is separate from American; (3) that

which might benefit American will not impact the Retirement Fund; (4) Councilor Mautino's pension is from the Retirement Fund.

However, there would be a violation of Section 600 as prohibited by Section 603 of the City's Ethics Ordinance related to Personal conflict for the following reasons: (1) As a former employee and current retiree of American there is a relationship with American; (2) the relationship creates the potential for the appearance of impairment of objectivity or independence of judgment.

Advisory Opinion EAC-2006-02 adopted this 7th day of March 2006, by a unanimous vote.


Chairman


Secretary

Turner deserves another term

by: Staff Reports
Wednesday, January 21, 2004

I was heartened to learn that Roscoe Turner is running for city councilor for the Third District. Even though I have opposed Turner in the past for this same office, I enthusiastically support his effort this time.

After getting to know Turner, I have come to realize that he performs his job in a manner keeping with the original intentions of the city charter. He sees the position of city councilor as one that provides accountability to the people of his district concerning the actions of the administration.

He has shown his willingness, when required, to oppose administration decisions, unlike many who have worn the title of councilor, especially the current representative of the Third District.

I feel certain that if Turner had been in office last summer, the lights on our expressways would have never been turned off and our comprehensive plan would never have been placed in jeopardy.

I encourage all voters in the Third District to support Turner on Feb. 3 as we begin the process of taking back City Hall for the citizens.

Michael R. Slankard, Tulsa

Letters should be addressed to Letters to the Editor, Tulsa World, Box 1770, Tulsa, Okla., 74102, or send e-mail to letters@tulsaworld.com.

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For Synna Patrick

by: World Editorial Writers
Saturday, October 31, 1998

Siblings share record of public service

It is not always safe to assume that members of the same family share similar traits. But in the case of the Patrick family, all indications are that Synna Patrick is a good choice to succeed her two civic-minded brothers who both served as District 3 city councilor.

In a winner-take-all election, Ms. Patrick, 52, faces fellow Democrats Larry Kirkpatrick and Roscoe H. Turner, and Republicans Dave Cuenod Jr., Randall L. Reese and Michael R. Slankard in the Tuesday election.

Two other candidates, Robert Mayes and William Runk, withdrew from the race but not in time to have their names kept off the ballot.

The special City Council election was called when David Patrick resigned the District 3 post to run for the state House District 77 seat. David Patrick was elected to his first two-year council term in 1996 and re-elected in March.

He was the second Patrick to hold that post, having succeeded brother Mike, who was electrocuted in 1993 at a job site.

Both Patrick brothers were known for their good nature and ability to quickly grasp complex issues, in addition to their obvious dedication to their community. Sister Synna seems to share many of the same traits.

She is co-owner with her brother of Patrick Enterprises. She graduated from Rogers High School and attended Oklahoma State University.

She has been active in the Dawson Property Owners Association and also has served as a member of the city Sales Tax Overview Committee, an important panel that oversees the spending of city sales-tax funds and also serves as a good training exercise in many aspects of city government.

Ms. Patrick's major goals if elected would be to upgrade the city's infrastructure and to revitalize older neighborhoods by working with neighborhood associations. She also wants to improve residential streets.

Based on her family's long history of community involvement, her own civic activities to date and her stated goals if elected, Synna Patrick is the best choice to fill the City Council District 3 post.



Endorsements for Roscoe Turner



Councilor Turner is a man for the people and by the people. He is a strong advocate for his constituents and he has a proven track record of doing the right thing for District 3 and the City of Tulsa.
 - *Richie Anderson, 100 Black Men Coalition of Tulsa - District 3 resident.*



Councilor Turner is to be applauded for his participation in the life of his church, his community and his political party.
 - *Elaine Dodd, former Tulsa County Democratic Party Chairman*



Rarely has a public officeholder provided the Party with as much support by his presence and work as Roscoe Turner.
 - *Gary Allison*



Since the citizens of District 3 first elected Roscoe Turner, he has relentlessly worked to put the needs of District 3 and of neighborhoods all over the city above the wants of the midtown ruling elite. At this critical juncture in our City's history, we must send to City Hall leaders who will resist the desperate onslaught on fairness and equality by the privileged few. Roscoe's integrity and determination along with his proven record necessitate his return to the Tulsa City Council.
 - *Mike Slankard - District 3 resident*



On behalf of our North Tulsa County Neighborhood Association, we encourage those who reside within District #3, within the City of Tulsa, to support and re-elect Councilor Roscoe Turner. We have witnessed time and again how he stands up for the people. Most definitely, he is citizen sensitive and strives to represent District #3, as well as Tulsa as a whole, with integrity. Accountability and honesty are high priorities for Councilor Turner. He is not afraid to take on challenges and face adverse situations. Tulsa has benefited by having Councilor Turner and for a healthy, positive and productive future, Tulsans need to keep him in the role of City Councilor!
 -*North Tulsa County Neighborhood Association*

Vote for Roscoe Turner

Two years ago, Tulsa almost made a terrible mistake.

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City Council candidates respond to issues

by: World's own Service
Saturday, January 22, 2000

The Tulsa World asked Tulsa City Council candidates to provide biographical information. The candidates also were asked to answer the following questions, with a 150-word limit:

1. If elected, what would be your goals and how would you go about accomplishing them?
2. City of Tulsa elected officials' salaries have not changed since 1990. The annual salary for a city councilor is \$12,000, while the city auditor and mayor are paid \$49,000 and \$70,000, respectively. Do you believe those salaries should be increased? If so, by how much?
3. On what areas of city government would you like to see more emphasis? Less emphasis?

The winners of the Feb. 1 Democratic and Republican District 3 primaries will face off in the March 14 general election.

Name: David Patrick

Age: 48

Party: Democrat

Address: 5712 E. Tecumseh St.

Occupation: Owner of Patrick's Auto Service Center

Education: Will Rogers High School

Prior Political Service: City councilor from 1996 to 1998

1. My main priority has always been sanitary sewers, flooding and the improvement of neighborhoods. The completion of the Port Road extension would spur the development just west of the airport. It would become a new industrial zone.
2. Being councilman was never about money. To me it gives one the opportunity to make a difference in your own city. If a pay raise is warranted, it should be compared to other cities that are approximately the same size as our city and run with the same type of government.
3. I would like to see more emphasis put on the ability to qualify for building permits. The process should become more user friendly. I don't want to diminish Tulsa's enthusiasm by putting less emphasis on any department.

Name: Roscoe Turner

Age: 67

Party: Democrat

Address: 3415 E. Haskell St.

Occupation: Retired

Education: Tennessee State University

Prior Political Service: City councilor since 1998-1999

1. My goal when elected as District 3 City councilor will be to continue to push for the needed repairs in the district's infrastructure and to continue projects that will enhance the quality of life for District 3 residents. I intend to work diligently to see that these and additional projects will be completed as promised.

2. Having cast my vote supporting the council consensus asking for an independent entity to research the question concerning compensation for the elected officials, I still support this action.

3. More emphasis needs to be on the neighborhoods. Neighborhoods are the backbone of the city, followed closely by small business, which kept Tulsa going when the bottom fell out of the oil business. Furthermore, all areas of city government are important and must be supported.

Name: Arlin Hopper

Age: 68

Party: Republican

Address: 840 N. 91st East Place

Occupation: Retired

Education: Central High School, Kansas City, Mo.

Prior Political Service: None

1. Get the most bang for the buck! Meet all the personnel responsible for getting the job done and implement lots of non-partisan participation to accomplish the same. Work in a responsible manner and cooperate as I have all my life.

2. Yes! A councilor should received 35 percent of the auditor's salary, which equals \$17,150 annually.

3. More emphasis that affect our daily well-being. Less emphasis on projects that cost too much and do nothing but spend tax money.

Name: Michael R. Slankard

Age: 48

Party: Republican

Address: 7868 E. King St.

Occupation: Owner of Slankard Plastering Services

Education: Northeastern State University

Prior Political Service: None

1. I will pursue policies that allow District 3 neighborhoods to flourish again by making infrastructure maintenance a plan, not an accident. The abundance of neglected rental properties must be eliminated. By utilizing a combination of private sector expertise/nonprofit agencies and available public monies, they can become single-family homes again. I will work with the council and administration to develop ongoing maintenance plans and to establish pilot programs for home ownership.

2. Many elected officials forget their choice to serve the public was voluntary. Therefore, I would not support an increase for elected officials that surpasses the formula for cost-of-living adjustments for other city employees.

3. Place more emphasis on maintaining and improving our infrastructure in existing neighborhoods, rather than on new development infrastructure. City use of "imminent domain" for private developments must cease.

Name: John L. Westbrook

Age: 19

Party: Republican

Address: 1226 N. Sandusky Ave.

Occupation: None

Education: Bishop Kelley High School 1998

Prior Political Service: None

1. Cut taxes and serve my constituents' needs. Set up community-based think tanks all throughout my district.

2. No, the burden would be on the taxpayer, and I believe in cutting taxes not raising them.

3. City councillors -- more. Mayor -- less.

District 3 precincts: 7, 8, 10,
11, 12, 16, 17, 18, 19, 11,
12, 16, 17, 18, 19, 20, 22,
24, 25, 26, 27, 28, 29, 38,
39, 40, 752, 757.

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As a past challenger to District 3 City Councilor Roscoe Turner, I enthusiastically support his bid for re-election. Those of us who have lived in District 3 for years can remember that until 1998 the city consistently passed us over for interests to the south and east. Since Councilor Turner's election in 1998 he has successfully fought City Hall for equality with the remainder of the city. Because of these efforts, long-overdue infrastructure needs are finally moving forward in our neighborhoods.

The Tulsa World and Councilor Turner's primary opponent believe that governing should be without controversy and that all the participants should just get along and not question or disagree with the administration and other councilors. Unfortunately, that attitude by District 3's past councilors allowed for our share of city funding to go elsewhere and for our district to suffer dramatically. Controversy? Not to the residents of District 3. Just good representation -- finally.
Michael R. Slinkard, Tulsa