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March 28, 2009

Mr. Roger Scott
Chairman, Ethics Advisory Committee
One Technology Center
175 East Second Street
Tulsa, Oklahoma 741003

RE: Response to "Request for Ethics Opinion"

Dear Mr. Scott;

I have received and reviewed the "Request for Ethics Opinion", dated March 27, 2009, from the City Attorney, Ms. Deirdre Dexter. In this request, the City Attorney has determined that I have violated the *City Ethics Ordinance No. 21084, Section 600 and Section 603* and therefore, should be removed from my position as a member of the Ethics Advisory Committee, even though the Mayor has already named a replacement for me. Ms. Dexter bases this assertion on a past *Ethics Advisory Opinion EAC-2006-2*, dated March 7, 2006.

Ms. Dexter contends that a Personal Interest between former District 3 City Councilor, Roscoe Turner and myself, was the basis for an examination by the Committee held last fall concerning the use of the Mayor's airplane in providing current District 3 City Councilor David Patrick a return flight to Tulsa for his vote on the ballpark. She provides as proof of this personal interest, several *Tulsa World* political articles and website information where I have supported Mr. Turner over Mr. Patrick in past election campaigns.

I have supported Mr. Turner in the past and until a more qualified candidate announces for District 3 City Council I will support him in the future. In addition to supporting him in the past, I also ran against him in the spring 2000 elections. Since my appointment to this committee, I have had few conversations with Mr. Turner on any matter, and in particular, business of the Ethics Advisory Committee, until January of this year. I will address those details further in this letter. I did support Mr. Turner in the 2008 City elections, by providing him with a small cash donation and two locations for his yard signs. Mr. Turner and I have had no discussions concerning the business of this committee except for official visits he made to scheduled Ethics Advisory Committee meetings. At these early meetings that Councilor Turner attended, I made it clear that I was one of his supporters.

In as far as this particular request is concerned, I do not believe I violated the actual letter or spirit of the ordinance. In fact, I do not believe this request is even related to my performance. Additionally, I must note that at the time of discussion, Mr. Patrick did not object to my participation knowing of my support for Mr. Turner. To review the nature of the question concerning Mr. Patrick's use of and the offering by the Mayor of her aircraft for transportation, I will explain what led me to bring the matter to the Committee's attention. The guiding principle behind my participation as a member of the Ethics Advisory Committee is found within the last sentence of the first paragraph of *Section 600* of the Ordinance. It reads in part "...such individuals shall not use their public positions for personal gain nor should they act in such a way as to give an appearance of any impropriety." I have interpreted this statement to indicate that all actions by Public Officials should be transparent to the citizens we serve so a bond of trust is developed and maintained through our actions.

On July 19, 2008, shortly after the City Council voted to support a plan to provide for the construction and operation of the downtown ballpark, the *Tulsa World* published a story concerning the Mayor providing her personal aircraft for use by City Councilor David Patrick to fly from Colorado to Tulsa in order to cast his vote on the plan. While reading the story, I noted the Mayor had consulted with the State Ethics Commission and the City Attorney had consulted with Mr. Lee Slater, an attorney who specializes in state ethics laws. I wondered why the Mayor had not consulted with the City of Tulsa Ethics Advisory Committee. After reading the story, I wondered if this action was in violation of the Ethics Ordinance. In the following days, I heard from various friends and family members, listened to discussions on different radio stations, and read on several websites the same sort of concern. After realizing that I was not the only one questioning the ethics of this matter, and under the Ethics Advisory Committee's "*Procedure for Advisory Opinions, Item 5, 'The EAC may consider and issue advisory opinions on relevant ethical questions or matters on its initiative...'*", I requested that Mr. Roger Scott, Chairman of the Ethics Advisory Committee, place this item onto our August 5, 2008 agenda. In my request, I wrote Mr. Scott that I had no issue with the Mayor, Councilor Patrick or the ballpark, only whether Section 605 A of the ordinance had been violated. Neither at that time nor since have I had any conversation with Mr. Turner concerning this issue. Prior to the August meeting, the Committee received from Ms. Dexter an email providing a copy of Mr. Slater's opinion and an inquiry from Auditor Woods concerning the use of the Mayor's aircraft in other instances for members of the City Council.

At our August 2008 meeting, the issue was discussed and the committee as a whole decided to pursue the matter. Eventually, after discussions with the Mayor and Councilor Patrick, the Committee at a special meeting on September 16, 2008, determined that no violation had occurred. I seconded the motion made by Mr. Billiam and voted with the Committee that no violation had occurred.

The gist of Ms. Dexter's assertion is should I have recused myself from this matter because of Opinion *EAC-2006-02*? In *EAC-2006-02*, the Committee determined since Mr. Mautino was a retired employee of American Airlines it "*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 a potential to impair objectivity or judgment.” As any knowledgeable political observer would attest to, there is limited loyalty and allegiance to any specific politician. Even though I am a supporter of Mr. Turner at this moment, my support could evaporate for any number of reasons. Election results show this limited loyalty and allegiance as current office holders are routinely defeated for reelections and new candidates elected. If support for a certain candidate by a public official were a test for misconduct within the guidelines of the *Ethics Ordinance*, many public officials would fall into violation including the Mayor’s appointed replacement for me.

In spite of what Ms. Dexter writes in stating that she is trying to avoid any appearance of this request being driven by politicians, I believe this is politics at its worst. By introducing politics into the Ethics Advisory Committee, it destroys the ability of this Committee to remain above the politics of governing and further erodes the trust of our fellow citizens in our city government. Ms. Dexter writes in her request that there is an issue concerning whether I should be replaced by the City Council. A replacement has been named for me and has been on the Council Committee meeting agenda on at least three occasions. On all occasions, Councilor Henderson and others have placed a hold on these agenda items. I met Mr. Henderson for the first time last year at one of our meetings and have talked with him once since, as will be explained in this letter.

I will provide what information I have on this matter, which is extremely limited. Following our November meeting, Mr. Scott approached Mr. Billiam and I to inquire if we were interested in being reappointed. Based on the relationship that each of us has developed over the years working together, Mr. Scott wanted for each of us to serve another term. After a month of reflection, I told Mr. Scott I was interested in serving another term and asked how would I apply for reappointment. He informed me I should write a letter to the Mayor requesting reappointment and he also would write a letter urging my reappointment. I believe a similar gesture was extended to Mr. Billiam but he choose to decline. In hindsight, I should have also declined. On January 6, 2009, I received a letter from the Mayor responding to my request by rejecting my reappointment. I accepted this answer because we serve at the pleasure of the Mayor and Council. Ten days later, I again received the same letter but with a different date from the Mayor.

At our January meeting, I was informed by Tony Mayes the Mayor had sent her nominee to replace me to the Council. On January 19, 2009, I received a call from Roscoe Turner telling me several city councilors were unhappy because I was not being reappointed. I questioned why, but received no further information. On January 20, 2009, the Ethics Advisory Committee met with the Mayor and TMUA and I informed Mr. Scott about the second letter and the call from Mr. Turner. On January 21, 2009, I received a call from Hillary Parkhurst, in the Mayor’s office, offering me a position on the Building, Housing and Fire Prevention Appeals Board. On January 22, 2009, Mr. Scott sent another letter to the Mayor asking that her decision to replace me be reconsidered. After consideration, on January 26, 2009 I declined the appointment to the

Building, Housing and Fire Prevention Appeals Board citing potential conflict of interests that would prevent me from effectively hearing appeals from firms I had worked with for 26 years.

On February 17, 2009, the Mayor's nominee was placed on the agenda of the Urban and Economic Development Committee Meeting of the City Council. Prior to the meeting, the item was pulled from the agenda. Not knowing who to contact, I called Mr. Turner to seek the possible reasons for this delay. Later in the day, Mr. Turner returned my phone call and informed me the Council was not ready to proceed on the appointment. On February 24, 2009, I received a call from Councilor Henderson requesting I call Mr. Scott and request he email the other councilors a message indicating that I should be reappointed. I called Mr. Scott and agreed with his assessment that this action would be inappropriate. The Mayor's appointee was once again placed on hold.

On March 2, 2009, the Mayor's appointee was once again placed on the agenda and Councilor Henderson moved to have the appointment placed on hold until April 1, 2009. The Council concurred. On March 3, 2009, I received a call from Mr. Turner wherein he informed me Councilor Henderson had the votes of six councilors who were against replacing me. I was shocked at this news because other than business conducted within the confines of the Ethics Advisory Committee, I believed that I was unknown to the Councilors with the exception of Councilors Henderson and Patrick. On March 5, 2009, a reporter with *Fox23 News* who had attended that particular committee meeting, called me to discuss the ongoing hold of the Mayor's appointee. The reporter informed me that certain councilors had mentioned issues surrounding me that needed to be discussed. Since the Council first pulled the Mayor's appointee from the agenda, I have gained no information about these issues. In addition, there has been no effort on my part to request the Council to become involved in the Mayor's right to replace me.

From the Council's first hold on the Mayor's appointee, it appears to me there may be issues between the Council and the Administration that go far beyond whether I should or should not serve on the Ethics Advisory Committee. The proof of this contention is the filing of these bogus ethical allegations against me. Further, the suggestion that Chairman Scott recuse himself because of his proper efforts to request that a member of his committee be reappointed is preposterous. It is also apparent to me that these false allegations made in such an obvious political manner threaten the independence the Ethics Advisory Committee was granted under law and has gained through its action.

I will be at the April 7, 2009, meeting to answer any and all questions the Committee has for me. I will, of course, not participate in any discussion concerning this matter.

Sincerely,

Michael R. Slankard