

Governing Ethically: *Understanding Your Influence*



TML Newly Elected City
Officials' Workshop

July 29 & August 12, 2021

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City of Richardson, Tx.

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Congratulations

- We applaud....
 - Your recent **willingness** to submit yourself to voters' consideration
 - Your **concern** for your community
 - The **time** you will commit
 - The **energy** you will expend for quality decision-making
 - The recognition of information gathering as an important component of **quality decision-making**
-

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Your ethical journey thus far...



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Your Application for Ballot Place & Your Election Statement...

Application For Ballot Place

"I, (name), of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the Constitution and laws of this state. I have not been finally convicted of a felony for which I have not been pardoned or had my full rights of citizenship restored by other official action. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code.

I further swear that the foregoing statements included in my application are in all things true and correct."

Election Statement

I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

I am aware of the nepotism law, Chapter 573.

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Your Oath of Office...



- I, ____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of: Member, Place ____, City of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

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Possible Names for Your Position...



- "Public Servant"** Texas Penal Code, Chs. 36 & 37
- "Municipal Officer"** Tex Local Govt. Code Ch. 145
- "Local Public Official"** Tex LGC Ch. 171
- "Local Government Officer"** Tex LGC Ch. 176
- "Public Official"** Texas Govt. Code Ch. 573

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Another Name for Your Position... *"Trustee"*

Trustee

- Trustees have certain **duties** (some of which are fiduciary). These include the duty to:
 - carry out** the expressed terms of the trust instrument,
 - the duty to **defend** the trust,
 - the duty to **prudently invest** trust assets,
 - the duty of **impartiality** among the beneficiaries,
 - the duty to **account** for their actions and to keep them **informed** about the trust,
 - the duty of **loyalty**, the duty not to delegate,
 - the duty **not to profit**,
 - the duty **not to be in a conflict** of interest position
 - the duty to **administer** the trust in the **best interest** of the beneficiaries.
-

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It's a Jungle Out There...

- Conflicts of Interest
- Bribery/Kickbacks
- Illegal Gifts & Services
- Campaign Ethics
- Fraud
- Nepotism
- Influence Peddling
- Dishonest Record Keeping
- Misuse of Government Resources
- Misuse of Authority or Status of Office



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“Wrong-doing”

- ❑ The mere accusation of wrong-doing can harm reputations, drain morale, hamper the ability to attract and retain top talent, and impair the delivery of public service.
- ❑ In an ethical mire - you are off message and off mission!



- ❑ *It's easier to stay out than to get out....*

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Real Topic: Public Trust



- ❑ To earn and safeguard **public trust**, public officials and agencies must not only comply with laws and regulations but adhere to higher standards than normally expected or required.
- ❑ “Wrong-doing” is often an **ethical rather than a legal concept**.

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Exhibit A: Rank Rationalization:
N.Y. State Sen. George Washington Plunkitt
Tammany Hall, ~1905

- ❑ In one of his speeches, quoted in *Plunkitt of Tammany Hall*, he describes the difference between dishonest and honest graft: for dishonest graft one worked solely for one's own interests, while for honest graft one pursued the interests of one's party, one's state, *and* one's personal interests all together.
- ❑ "I seen my opportunities and I took 'em."
- ❑ **"I only practice *honest graft*"**



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But..but...Justifications

- ❑ *"I've got it coming to me..."*
- ❑ *"No one will ever find out..."*
- ❑ *"After all, everyone else is doing it..."*
- ❑ *"This is the best deal for the organization..."*
- ❑ *"It had to be done..."*
- ❑ *"I can still be objective..."*
- ❑ *"If it's legal and permissible, it's okay..."*



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“Secrecy is a 5 second headstart...”

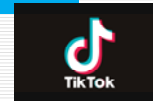


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Amped-Up Observers/Feedback

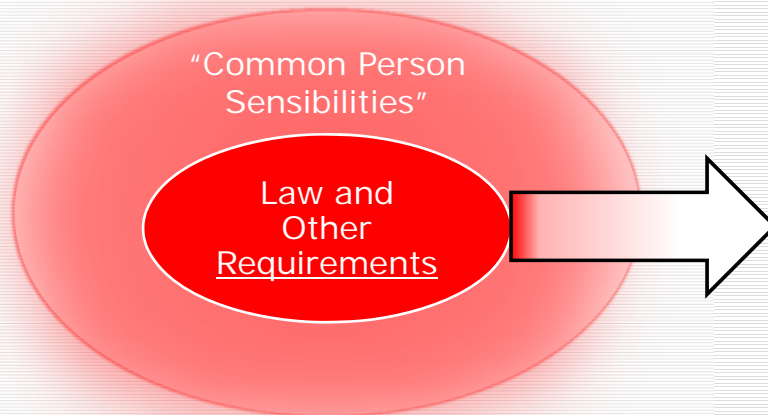
- Traditional Media
- “Investigative Media”
- Video/Broadcast Meetings
 - Now required for cities 50,000 or over
- Cell & Video Observers
- Blogs, Apps & Searches

The Dallas Morning News



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"Mapping" Ethical Guidance: *What would most people think?*

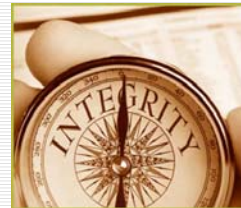


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"...And the laws of this state": Sources for Guidance

□ Some relevant State Laws

- **Penal Code – Ch. 36 & 37** – Gifts, Honoraria, Bribery, Impersonations & Govt. Record Falsifications
- **Local Govt. Code, Chap. 145** – Financial Statements
- **LGC, Chap. 171** – Conflicts of Interest
- **LGC, Chap. 176** – Family & Employment Relationship Disclosures



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Sources for Guidance

(more)

Relevant State Laws

- **Texas Govt. Code, Ch. 573** – Nepotism*
- **TGC, Ch. 255** – Election Code
- **TGC, Ch. 441** – Record Retention
- **TGC, Ch. 551** – Open Meetings...(& training obligation)
- **TGC, Ch. 552** –Public Information...(Possible training obligation)

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Sources for Guidance

(more)

Relevant State Laws

- **TGC, Section 2252.908**, – Disclosure of Interested Parties in Contracts



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Sources for Guidance

(more)



- City Attorney/Legal Counsel
- Texas Municipal League & Publications
- Texas Ethics Commission & Advisory Opinions
 - 512-463-5800 or www.ethics.state.tx.us
- City Charter
- City Ordinances, By-Laws, Codes of Conduct, Rules of Procedure

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Examine these closely...

- Your campaign finances
- Your travel & hospitality activities
- Gifts & honoraria
- Sponsorships
- Your land-use actions
- Your purchasing & contract actions
- Use of public equipment and facilities
- Sometimes, even your presence*



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Local Code of Conduct

- ❑ Local ordinance(s) that further establishes local standards and obligations
- ❑ Code will repeat/supplement and not contradict state laws
- ❑ *Ethics codes **don't**... make people ethical, ...make bad people good, or ...make people with poor judgment wise.*
- ❑ *But **they can** help define what's right, instill an ethical culture, and establish standards of conduct in areas not governed by law.*

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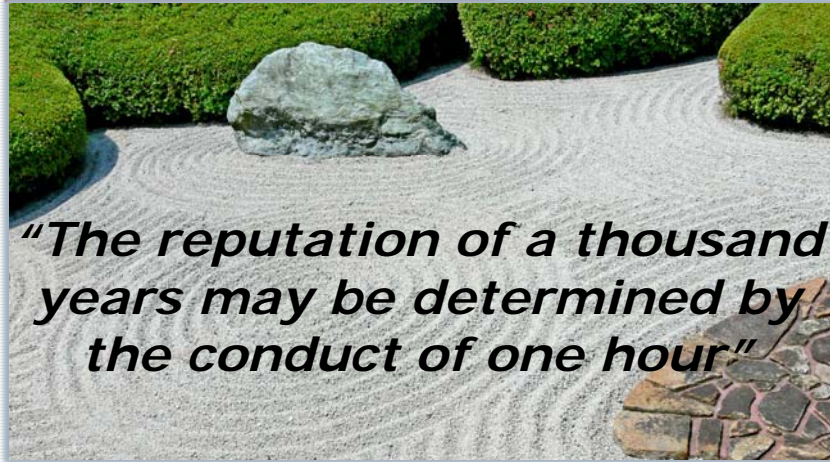
Staff's Ethical Behavior

- ❑ Staff conduct controlled in Personnel Policies
- ❑ City Manager – Texas and/or International City Management Associations Code of Ethics
- ❑ Finance Directors, City Secretary, Engineers, Accountants, Purchasing Agents, etc. have professional codes
- ❑ **Hire/Support** professionalism



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Japanese Proverb:



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Summary & Closing Thoughts

- Place public interest over all other considerations including personal or private interests.
- Make decisions on the merits, free from partiality, prejudice, or conflicts of interest.
- Conduct government openly, efficiently, equitably, and honorably.
- Observe the letter and spirit of the law.
- Avoid appearances of impropriety or unethical conduct.
- A topic for TML today...and for a long past...

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Athenian Oath (excerpt)



...that thus, in all these ways, we will transmit this city not only not less, but greater, better, and more beautiful than it was transmitted to us.

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**Thank You &
Best Wishes for an Effective Term**

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