

BILL PURCELL
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

June 11, 2007

MARILYN S. SWING
METROPOLITAN CLERK
205 METROPOLITAN COURTHOUSE
P.O. BOX 196321
NASHVILLE, TENNESSEE 37219-6321
PHONE: (615) 862-6770
FAX: (615) 862-6774
metro.clerk@nashville.gov

Tennessee Ethics Commission
SunTrust Bank Building
201 4th Ave N Suite 1820
Nashville, TN 37243

RE: METROPOLITAN NASHVILLE ETHICS LEGISLATION

Dear Sirs:

The Metropolitan Council of Nashville and Davidson County, at its meeting of June 5, 2007, enacted Ordinance No. BL2007-1382 captioned as follows:

An ordinance amending Title 2 of the Metropolitan Code of Laws to implement standards of conduct for Metropolitan Government elected officials, employees, and members of boards and commissions.

A copy of the legislation is enclosed for your records, pursuant to Tennessee Code Annotated § 8-17-104.

If I may be of further assistance, please feel free to contact me.

Very truly yours,

Marilyn S. Swing
Metropolitan Clerk

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2007 JUN 11 AM 10:58

enclosure

TENNESSEE
ETHICS COMMISSION

Mayor Bill Purcell
Ms. Sue Cain
Mr. Donald W. Jones
Mr. Jon Cooper

RECEIVED
ETHICS COMMISSION
2007 JUN 11 AM 11:33

Amendment No. 5

To

Ordinance No. BL2007-1382

Mr. President:

I move to amend Ordinance No. BL2007-1382 by amending Section 3 by amending the new Code Section 2.222.030 by amending the Annual Disclosure Statement and Annual Benefit Reporting Statement by deleting the following notary provisions:

Sworn to and subscribed before me this
____ day of _____, 20__.

Notary Public

My Commission Expires: _____

and, substituting in lieu thereof the following new provisions:

Signature of Witness

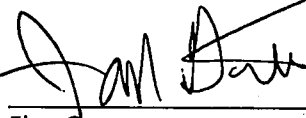
Date

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ETHICS COMMISSION

INTRODUCED BY:



Jim Gotto
Member of Council

ADOPTED: MAY 15, 2007

2007 JUN 11 AM 11:33

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Amendment No. 4

To

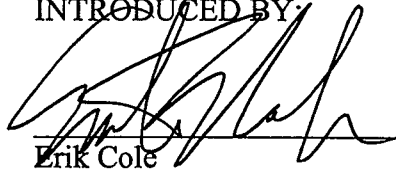
Ordinance No. BL2007-1382

Mr. President:

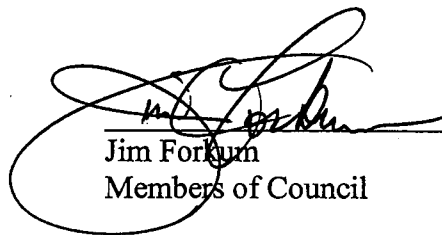
I move to amend Ordinance No. BL2007-1382 by amending Section 3 by amending the new code section 2.222.020 by adding the following provision at the end of subsection q.(3).:

“(v). A member of a Metropolitan Government board or commission who is a licensed attorney from representing or appearing on behalf of the private interest of another, provided the client’s interests are not adverse to or pertain to the board or commission the attorney serves on.”

INTRODUCED BY:



Erik Cole



Jim Forkum
Members of Council

ADOPTED: MAY 15, 2007

Amendment No. 3

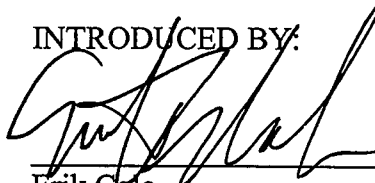
To

Ordinance No. BL2007-1382

Mr. President:

I move to amend Ordinance No. BL2007-1382 by amending Section 2 by deleting the phrase "Chapter 2.70, 'Ethical Standards for Members of Boards and Commissions'", and substituting in lieu thereof the phrase "'Chapter 2.72, 'Ethical Standards'".

INTRODUCED BY:



Erik Cole
Member of Council

ADOPTED: MAY 15, 2007

Amendment No. 2

To

Ordinance No. BL2007-1382

Mr. President:

I move to amend Ordinance No. BL2007-1382 by amending Section 3 as follows:

A. By amending the new Code section 2.222.010 by deleting the definition for "employee", and substituting in lieu thereof the following new definition:

"Employee" means any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the Metropolitan Government of Nashville and Davidson County.

B. By amending the new Code Section 2.222.030 by amending the Annual Disclosure Statement by deleting item number 5 and substituting in lieu thereof the following new item number 5:

5. Do you or your spouse hold any paid or unpaid position with any for-profit entity, non-profit entity, labor group, or educational or other institution which you have not already listed on this form?

Yes No

If Yes:

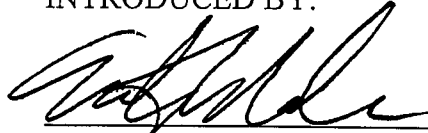
Person:

Position:

Entity:

C. By amending the new Code Section 2.222.040 by deleting the phrase "elected official of member", wherein it appears in subsection B.1., and substituting in lieu thereof the phrase "elected official or member".

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Erik Cole", written over a horizontal line.

Erik Cole
Member of Council

ADOPTED: APRIL 17, 2007

Amendment No. 1

To

Ordinance No. BL2007-1382

Mr. President:

I move to amend Ordinance No. BL2007-1382 by amending Section 3 by amending the new Code Section 2.222.020 by adding the following provision as a new paragraph at the end of subsection s.:

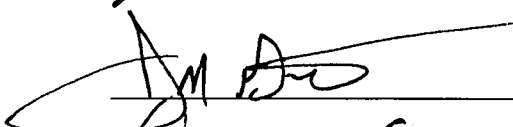
“Notwithstanding the foregoing provisions to the contrary, employees shall not accept gratuitous food or beverages furnished by an individual, entity or organization that (1) is currently performing services or has performed services in the past for the Metropolitan Government for compensation; (2) is seeking to enter into a contractual relationship with the Metropolitan Government to perform services for compensation; (3) currently has a matter pending with the Metropolitan Council or other Metropolitan board or commission; (4) has had a matter pending with the Metropolitan Council or other board or commission in the past; or (5) is likely to have a matter pending with the Metropolitan Council or other board or commission in the future.”

INTRODUCED BY:



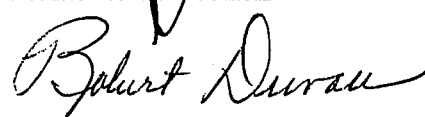
John Summers







Members of Council







ADOPTED: APRIL 3, 2007

An ordinance amending Title 2 of the Metropolitan Code of Laws to implement standards of conduct for Metropolitan Government elected officials, employees, and members of boards and commissions.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Title 2 of the Metropolitan Code of Laws be and the same is hereby amended by deleting Article 2 of Chapter 2.04 "Standards of Council Conduct, Disclosure of Interests, and Enforcement", in its entirety.

Section 2. Title 2 of the Metropolitan Code of Laws be and the same is hereby amended by deleting Chapter 2.70, "Ethical Standards for Members of Boards and Commissions", in its entirety.

Section 3. Title 2 of the Metropolitan Code of Laws be and the same is hereby amended by adding the following new Chapter 2.222:

Chapter 2.222
STANDARDS OF CONDUCT, DISCLOSURE OF INTERESTS, AND ENFORCEMENT

2.222.010. Definitions for Standards of Conduct

For the purposes of this Chapter:

(1) "Anything of value" includes any financial benefit, or other item that is pecuniary or compensatory in value to a person, including, but not limited to, any valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, fringe benefit, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these items will be conferred in the future.

(2) For purposes of the foregoing definition, the following do not constitute part of "Anything of Value:"

(a) payment by a governmental entity of salaries, compensation, employee benefits, or authorized reimbursement of actual and necessary expenses; or payment by an employer or business other than a governmental entity of salaries, compensation, employee benefits, or authorized reimbursement of actual and necessary expenses, when

the payment is unrelated to an employee's status as a public official or employee and is not made for the purpose of influencing, directly or indirectly, the official action or decision of any such employee; or

(b) fees, expenses, or income, including those resulting from outside employment which are permitted and reported in accordance with applicable law; or

(c) anything if received for the lawful exchange of consideration unrelated to the employee's position with the Metropolitan Government that is at least equal in value to the item or act conferred or performed; or

(d) campaign or political contributions that are received and reported in accordance with state law; or

(e) hospitality extended for a purpose wholly unrelated to the official business of any governmental entity; or

(f) non-cash awards of nominal or trifling value publicly presented in recognition of public service; or

(g) gifts or other tokens of recognition presented by representatives of governmental entities or political subdivisions acting in their official capacities; or

(h) anything of value, regardless of the value, when the item of value is offered to a governmental entity, is accepted on behalf of the governmental entity, and is to remain the property of the government entity; or

(i) commercially reasonable loans made in the ordinary course of a lender's business in accordance with prevailing rates and terms, and which do not discriminate directly or indirectly against or in favor of an employee because of such individual's status as a Metropolitan Government employee; or

(j) complimentary copies of trade publications; or

(k) reasonable compensation for a published work that did not involve the use of a governmental entity's time, equipment, facilities, supplies, staff, or other resources, if the payment is arranged or paid by the publisher of the work; or reasonable compensation of a published work that did involve the use of a governmental entity's time, equipment, facilities, supplies, staff, or other resources, if the payment of the compensation to the public official or employee is lawfully authorized by a representative of the governmental entity who is empowered to authorize such compensation; or

(l) any payment, gift, or other transfer of value which is unrelated to and does not arise from the recipient's position as a Metropolitan Government employee, and if the activity or occasion for which it is given does not involve the use of a governmental

entity's time, equipment, facilities, supplies, staff, or other resources in any manner or degree that is not available to the general public; or

(m) anything received as a devise, bequest, or inheritance; or

(n) gifts received that are unrelated to a person's position as a Metropolitan Government employee

(o) food and/or beverages that would not be prohibited under section 2.222.020(s)(2).

(3) "Belief" or "Believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(4) "Direct Interest" shall have the same meaning as defined in T.C.A. 12-4-101, et seq. and 6-54-107, et seq.

(5) "Employee" means any official, whether elected or appointed, officer, employee, or any member of a board or commission of the Metropolitan Government.

(6) "Indirect Interest" shall have the same meaning as defined in T.C.A. 12-4-101, et seq. and 6-54-107, et seq.

(7) "Material" or "Materially" means something that a reasonable person would consider important in assessing or determining how to act in a matter.

(8) "Reasonable" or "Reasonably" when used in relation to conduct by an employee denotes the conduct of a reasonably prudent and competent public servant.

(9) "Source" means an individual, entity, or group of individuals or entities reasonably believed by the employee to be affiliated for purposes of contact with the employee. A registered lobbyist shall be a "Source" separately as well as deemed affiliated with each of the lobbyist's clients.

(10) "Value" means the nominal face amount of the customary charges paid or assessed for the same product, access, or service by non-employees, exclusive of sales taxes, gratuities paid to others, and (as to charitable fund raising events) the deductible portion of the nominal cost.

2.222.020. Standards of Conduct

Employees:

a. Shall not accept or solicit, for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the discharge of their official duties;

b. Shall not accept or solicit bribery;

c. Shall promptly report to the district attorney or other investigative authority any attempts made to bribe the employee or any other employee;

d. Shall not accept or solicit any cash of any amount, other than in compliance with election campaign laws and fully reported pursuant to same, irrespective of the intent of the payor, if such payment or solicitation is in any way directly or indirectly related to the employee's position in the Metropolitan Government;

e. Shall not accept or solicit Anything of Value as herein defined, except for the acceptance of food and/or beverages that would not be prohibited pursuant to subsection s. of this section;

f. Shall not accept or solicit any promise of any benefit, direct or indirect, to himself, family members, or his employer (if the employer is other than the Metropolitan Government) which the employee believes or should reasonably believe was intended to influence action taken in the employee's official capacity;

g. Shall not receive or use for personal purposes any property, services or funds of Metropolitan Government unless authorized by law;

h. Shall not use for personal gain, or for the gain of any family member or employer, information pertaining to Metropolitan Government which is not a matter of common knowledge, or use his or her position to secure information about any person or entity for any purpose other than the performance of official responsibility;

i. Shall not use their Metropolitan Government positions improperly to secure unwarranted privileges or exemptions for themselves, relatives or others, provided, however, that this provision does not preclude employees from acting in a manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;

j. Shall not participate in making or influencing any Metropolitan governmental decision or action in which they know that they have any material financial interest distinguishable from that of the public generally or from that of other Metropolitan officers or employees generally;

k. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person;

l. Shall not use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions;

m. Shall not violate the direct or indirect conflict of interest, consulting, lobbying, or any other requirements of state law existing or which may be adopted regulating the conduct of municipal or county officials or employees;

n. Shall not provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, action, or determination from the Metropolitan Government. This restriction does not apply to Members of the Metropolitan Council or Members of Metropolitan Government boards and commissions if the employment is the Member's primary source of income and if the Member discloses his or her interest and complies with this Code and state law with regards to conflicts of interest;

o. Shall not accept other employment or engage in outside activities which might impair their independent judgment in the performance of their public duty;

p. Shall not personally participate in a decision in a matter if the employee is in negotiation concerning or has an arrangement concerning prospective employment with a person or organization which has a financial interest in a matter under consideration by or within the jurisdiction of the Metropolitan Government. For purposes of this subsection, the term "decision" shall mean a decision, approval, disapproval, recommendation, investigation or rendering of advice, and the term "matter" shall include but not be limited to a matter, proceeding, application, request for ruling or determination, contract or claim which involves the Metropolitan Government.

q. Shall not personally represent or appear in behalf of the private interest of another before the Metropolitan Council, or any board or department of the Metropolitan Government; or, if the represented person's interest is adverse to that of the Metropolitan Government, represent any person:

- (1) In any quasi judicial proceeding involving the Metropolitan Government; or
- (2) In any judicial proceeding to which the Metropolitan Government is a party;
- (3) Provided, that nothing in this subsection shall preclude:

(i). An employee from speaking or appearing without compensation before the Council or any board or department on their own behalf;

(ii). An employee from representing his or her personal interests consistent with state law and this Code;

(iii). An employee from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding;

(iv.) An employee who is a lobbyist registered pursuant to Chapter 2.196 of the Metropolitan Code from representing or appearing before the Metropolitan Council, or any board or department of the Metropolitan Government on behalf of the interests of the person(s) or organizations(s) for which the employee is lobbying.

r. If Disclosure Statements are required to be filed by the employee in accordance with this chapter, shall not fail or refuse to file in a timely manner all Disclosure Statements and Reports, which Statements and Reports shall include all material information reasonably required to be included and shall not omit any material information reasonably necessary to make such reports complete and meaningful;

s. If related in any way, directly or indirectly, to being an employee:

(1) shall not accept promotional or hand-produced items of a Value in excess of Twenty Five Dollars (\$25.00) received from a single Source in any calendar year; and

(2) shall not accept meals, beverages, food, free or discounted admissions, tickets, access to events or travel expenses from any single source of an aggregate Value in any calendar year in excess of One Hundred Dollars (\$100.00), provided that an employee may accept from the sponsoring organization, on behalf of himself and a guest, free or discounted admissions, tickets or access of a face value in excess of One Hundred Dollars (\$100.00) if the event is generally recognized as an annual fund raising benefit sponsored by a non-profit organization.

2.222.030. Disclosure

A. In an effort to advance the favorable opinion of the public in the integrity of government, the disclosure requirements contained in this section shall apply to the following employees: (1) the Mayor; (2) all employees in the Mayor's office, including the members of the Mayor's cabinet; (3) the Metropolitan Council Office; (4) the holders of all elected offices authorized or created by the Metropolitan Charter; (5) all directors, executive directors, assistant directors, and associate directors of Metropolitan Government agencies, boards, and commissions, but not including Nashville Electric Service, the Metropolitan Nashville Airport Authority, the Metropolitan Development and Housing Agency and the Metropolitan Transit Authority.

B. Annual Disclosures

1. On or before sixty (60) days following adoption of this Ordinance and thereafter on or before January 30 of each year, each employee included in subsection A of this section shall file with the Metropolitan Clerk an Annual Disclosure Statement setting forth the information requested therein as of and for the year ended December 31 of the preceding year, with said Disclosure Statement to be personally signed by the employee and attested as being

true to the best of that employee's information and belief. In completing the Disclosure form, the employee should recognize that the purpose of the Disclosure is to alleviate reasonable concerns, justified or not, of the public concerning possible conflicts and influences upon the employee's exercise of his or her official discretion. In situations involving ambiguity as to the application of the requested information to the facts of an employee's situation, the Disclosure Statement should be completed in all material respects, reasonably consistent with this intent.

2. Each employee shall amend his or her current Disclosure Statement within thirty (30) days of the occurrence of any material change to the disclosures.

4. All Disclosure Statements filed pursuant to this Section, and Amendments thereto shall be maintained by the Metropolitan Clerk, readily available to the public.

5. The Annual Disclosure Statement shall require the information set forth in the following form:

ANNUAL DISCLOSURE STATEMENT

NAME: _____ POSITION/OFFICE _____

This Annual Disclosure Statement is submitted in compliance with Section 2.222.030 of the Metropolitan Code for the year ended December 31, _____.

Use additional sheets of paper as necessary.

1. **List all sources of your income for the preceding calendar year.**
Gifts from family members and relatives by blood or marriage need not be disclosed.

Sources:

2. To the best of your knowledge, list all sources of income for your spouse for the preceding year.

Gifts from family members and relatives by blood or marriage need not be disclosed.

Sources: _____

3. Do you or your spouse presently have a financial interest of at least 5% (five percent) of any business with operations, offices, or interests in the Metropolitan Nashville area?

____ Yes ____ No

If Yes:

Yourself or Spouse: Business name and address: Percent of the interest, if known:

4. Do you or your spouse have a direct or indirect financial interest in any real property located in Davidson County, including your primary residence? Indirect interests indicate interests of greater than 5% in Real Estate Investment Trusts, other trusts in which you hold a beneficial interest in excess of 5% and other legal entities whose primary business is real estate related.

____ Yes ____ No

If Yes:

Name and address of the real property: _____

5. Do you or your spouse hold any position* with any for-profit entity, non-profit entity, labor group, or educational or other institution, which position is not disclosed above as a source of income?

**These include positions from which no value is received.*

____ Yes ____ No

If Yes:

Person:

Position:

Entity:

6. Do you or your spouse have a financial interest in, or are you or a family member a party to, any litigation involving the Metropolitan Government?

____ Yes ____ No

If Yes, describe each: _____

7. Do you or your spouse have any* debts, guarantees, or endorsements of debts aggregating over \$5,000 owed to any one creditor?

**Excluding liabilities owed to a family member or relative by blood or marriage, and excluding loans from established financial institutions made in the ordinary course of business on usual and customary terms.*

____ Yes ____ No

If Yes, describe each: _____

8. Do you or your spouse have any debts in excess of \$5,000 which are secured by a guarantee or collateral of any individual other than a family member or a relative by blood or marriage?

_____ Yes _____ No

If Yes, describe each: _____

The information provided herein is, to the best of my knowledge and belief, true and complete.

Signature of Council Member

Date

Sworn to and subscribed before me this
_____ day of _____, 20__.

Notary Public

My Commission Expires:

C. **Annual Benefits Disclosures.** In addition to the foregoing, each employee included in subsection A of this section shall file a Benefits Report, in form and substance as attached below, with the Metropolitan Clerk on or before sixty (60) days following adoption of this Ordinance, and thereafter on or before January 30 of each year for the year ended December 31 of the preceding year, of Anything of Value received by the employee during the preceding year. Said report is to be personally signed by the employee and attested as being true to the best of that employee's information and belief. The Benefits Report shall be, exclusive of the following:

1. All donations in connection with political campaigns made and reported in compliance with Tennessee election laws;

2. Food and/or beverages of a nominal value furnished by individuals or organizations simultaneously to all similarly situated employees.

ANNUAL BENEFIT REPORTING STATEMENT

EMPLOYEE NAME: _____

For the year ending December 31 ____ (year).

Use additional sheets of paper as necessary.

Instructions:

List Anything of Value you have received, as defined in Chapter 2.222 of the Metropolitan Code of Laws, since your last Quarterly Reporting Form was submitted.

- a. *Benefit type may be described by reference to the following abbreviations:*

M = Meals, food, and beverage items

A = Admissions, tickets to events, or other access (including parking)

T = Travel expense

O = Other (describe)

- b. *For purposes of this report, the Member is not required to list those items set forth in Section 2.222.030 C 1 and 2.*

| Source: | Date: | Benefit Type and Description: | Value: |
|---------|-------|-------------------------------|--------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

The information provided herein is, to the best of my knowledge and belief, true and complete.

Signature of Employee

Date

Sworn to and subscribed before me this
____ day of _____, 20__.

Notary Public

My Commission Expires: _____

2.222.040 Board of ethical conduct.

A. Creation, continuing jurisdiction, organization, and membership:

1. There is created the board of ethical conduct, sometimes hereinafter referred to as the "board." The board shall consist of five members, who shall have been residents of the area of the Metropolitan Government for not less than two years prior to appointment and shall continue such residency as a qualification for membership. No voting member shall be an official or employee of the Metropolitan Government or any other government. The members of the board shall serve for terms of three years each, except of the members first appointed, who shall serve for terms as provided below. The presence of four members shall be required to constitute a quorum for the board to conduct business. The president pro tem of the council shall be an ex officio, non-voting, member of the board.

2. One member each of the board shall be selected by the following organizations:

- League of Women Voters of Nashville.
- Nashville Area Central Labor Council.
- Napier-Looby Bar Association.
- Nashville Area Chamber of Commerce.
- Nashville Bar Association.

Upon the selection of the member of the board by the above named organizations, the organization shall file with the metropolitan clerk evidence of the selection.

3. Any vacancy due to any cause shall be filled for the unexpired term in the same manner as the original appointment. A vacancy shall be deemed to exist upon the occurrence of any one or more of the following conditions:

- (a) If a member moves their permanent residence out of Davidson County; dies or resigns or for any reason refuses to serve during the period for which they were appointed; or
- (b) If the member becomes a member of the council, an official, or employee of the metropolitan government or any other government or a candidate for public office; or
- (c) If a member fails to attend and participate in three consecutive meetings (provided said meetings were not held in the same week) or fails to attend at least two-thirds of all meetings of the board held within a calendar year, provided that said board meets at least three times during the calendar year.

4. The board shall elect from its membership a chairperson and vice-chairperson who shall each be selected for one-year terms. The metropolitan clerk or designee shall serve as the custodian of

its records and minutes and shall act as the board secretary. The metropolitan attorney shall furnish legal assistance to the board.

5. The board, in addition to such other duties as may be assigned to it by ordinance, shall have the following duties and responsibilities:

(a) To establish and make public the procedures and rules governing its internal organization and the conduct of its affairs; and

(b) To maintain records of its investigations, inquiries and proceedings; and

(c) To render advisory opinions; and

(d) To conduct an investigation and make recommendations about any member's conduct as provided below.

6. The council board of conduct shall replace and supersede the council board of conduct created pursuant to Substitute Ordinance No. BL2005-659, as amended, ("hereinafter the "board of conduct");

7. The board shall have continuing jurisdiction over all matters heretofore referred to the board of conduct;

8. The incumbent five members of the board of conduct, having been selected by the organizations charged with the selection of board members, shall become the five members of the board selected by the five listed organizations, to hold office for the balance of their respective terms on the board of conduct.

B. Advisory opinions:

1. Any Metropolitan Government elected official or member of any Metropolitan Government board or commission may request, in writing, an advisory opinion of the board regarding any matter relating to conduct or compliance of future activities with the standards set forth herein. The right to request advisory opinions shall be limited to such Metropolitan Government elected officials or members of boards or commissions. Said written request for an advisory opinion shall be delivered to the metropolitan clerk as secretary of the board, who will promptly deliver the same to the chair of the board.

2. The board may seek from the requesting member clarification of the request, but all such requests and clarifications shall be in writing. The advisory opinion of the committee of the board shall be delivered within thirty days of the date of receipt of the request by the metropolitan clerk, unless that period is extended by the requesting member.

3. When a member has requested and received an advisory opinion and his or her conduct is in compliance with the conduct deemed acceptable in the advisory opinion, that advisory opinion shall thereafter be considered prima facie evidence that the conduct of the member does not violate these standards of conduct. In making the determination of the weight to be given to the

advisory opinion the board will take into account the degree to which the request for the advisory opinion and the response accurately described the activity or conduct which subsequently formed the basis of the complaint. No such advisory opinions shall have other force of law.

C. Procedures for evaluations and hearing of complaints regarding conduct:

1. Complaint procedures:

(a) Any person may submit a complaint alleging that any one or more Metropolitan Government elected officials or members of a Metropolitan Government board or commission have violated the standards of conduct.

(b) The complaint must be signed by the complainant and notarized, and must contain the following:

i. Complainant's legal name and current mailing address;

ii. Names of person or persons who committed the alleged violation;

iii. Summary of the facts giving rise to the complaint; and,

iv. Explanation of why those facts constitute a violation of the standards of conduct.

(c) The complaint must be filed with the metropolitan clerk. Upon receipt, the clerk will provide a copy of the complaint to the person or persons named therein, the director of law, and to the members of the council board of conduct.

(d) Additionally, upon receipt of a complaint, the clerk shall provide the complainant and the named persons with a copy of the complaint procedures and hearing procedures of this Code. As used in these sections, unless otherwise noted, to "provide" is to send by U.S. Mail or to hand-deliver.

(e) The department of law will evaluate the complaint, applying the law of the standards of conduct to the facts alleged in the complaint, and shall undertake an investigation as may be deemed necessary, to determine if such complaint alleges facts, which if proven true, could be deemed to be a violation of the standards set forth in this chapter. Within fourteen calendar days from its receipt of the complaint, the department of law will issue a report concluding whether the facts alleged in the complaint, if true, would give rise to a violation of the standards of conduct, and recommending either that the complaint be dismissed or a hearing be held on the complaint. The department of law shall provide its report to the chair of the board of conduct, and shall file it with the clerk.

(f) After receiving the department of law's report, the chair of the council board of conduct shall call a meeting of the board, which meeting is open to and noticed to the public. The clerk shall also provide notice of the meeting to the director of law, the complainant, and the persons named in the complaint.

(g) At the board's meeting, the board shall evaluate the department of law's report, and may accept or reject the department of law's recommendation. The board may decide to dismiss the complaint or call for a hearing on the complaint.

(h) Whether or not the board holds a hearing on the complaint or dismisses the complaint, it shall issue a decision in writing. Any decision shall require the affirmative vote of at least four members of the board. If a hearing is to be held, the decision will not be issued until after the hearing is held. The decision shall be filed with the clerk, and provided to the complainant and to the person or persons named in the complaint.

(i) Once a complaint has been received by the members of the board, and until a written decision has been issued by the board, no member of the board shall participate in any communication regarding the allegations or merits of the complaint, outside of the board's public meetings or hearings, except as contemplated by these procedures.

2. Hearing procedures:

(a) If the board of conduct calls for a hearing on a complaint, the hearing shall be conducted as follows:

i. The hearing shall be noticed to and open to the public, in accordance with these procedures.

ii. Notice of hearing shall be provided to the complainant and to the members or officials named in the complaint (together, the "parties").

iii. The parties may, but are not required to, submit material to the board. If a party does wish to submit such material to the board, the party must file the material with the clerk, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. The clerk shall provide a copy of the same to the board members and the department of law.

iv. The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the board at the hearing. Each party has the right to the assistance of legal counsel. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

v. All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses will be subject to cross-examination. Each party must file with the clerk a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the board may permit such an unnamed witness to be called by a party if, in the board's judgment, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

- vi. Board members may ask questions of any party, counsel, or witness at any time during the hearing.
- vii. The board may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party.
- viii. The board may continue a hearing to a later date.
- ix. The director of law or a metropolitan attorney shall be present during the hearing to advise the board.

3. Action of the board:

- (a) If, after a hearing, the board decides that a Metropolitan Government elected official or member of a board or commission violated the standards of conduct, then the board shall take one or more of the following actions, as decided by affirmative vote of at least four of its members:
 - i. Recommend to the council that the elected official or member of the board or commission be censured;
 - ii. Recommend to the violating elected official or member of a board or commission resign his or her respective position;
 - iii. Refer the matter to the district attorney general for appropriate action; and/or,
 - iv. Refer the matter to the director of law with a request that appropriate civil action be instituted by the metropolitan government for restitution or other relief.

2.222.050 Sanctions.

Upon receipt of a recommendation from the board that an elected official or member of a board or commission be censured by the council, the chairman of the rules-confirmations-public elections committee shall file a resolution with the metropolitan clerk providing for censure of the member, which resolution shall be adopted by an affirmative vote of twenty-one members. Said resolution may also provide for the removal of the censured member of council from any or all committees of the council and removal as chairman of a committee of the council, and/or provide for referral of the matter to other authority as appropriate.

2.222.060 Enforcement.

Complaints regarding violations by employees, other than elected officials or members of boards or commissions, of the standards set forth in this chapter shall be made to the appointing authority. Decisions of the appointing authority regarding violation of the standards of conduct set forth herein by employees within the classified service may be appealed to the Civil Service Commission in accordance with the Civil Service Rules adopted pursuant to Section 12.06 and 12.07 of the Metropolitan Charter.

Section 4. This Ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:



Erik Cole



Rip Ryman

~~Carl Burch~~

~~Members of Council~~

ORIGINAL

METROPOLITAN COUNTY COUNCIL

Bill No. BL2007-1382

2007 FEB 27 PM 3:13

FILED
METROPOLITAN
CLERK

AN ORDINANCE AMENDING TITLE 2 OF THE METROPOLITAN CODE OF LAWS TO IMPLEMENT STANDARDS OF CONDUCT FOR METROPOLITAN GOVERNMENT ELECTED OFFICIALS, EMPLOYEES, AND MEMBERS OF BOARDS AND COMMISSIONS.

Introduced & DEFERRED **MAR 6 2007 - MAR 20 2007**

AMENDED & Passed First Reading **APR 3 2007**

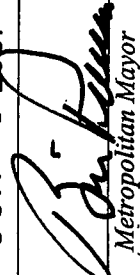
Amended **APR 17 2007**

DEFERRED **APR 17 2007**

AMENDED & Passed Second Reading **MAY 15 2007**

Passed Third Reading **JUN 5 2007**

Approved **JUN 8 2007**

By  Metropolitan Mayor

Advertised

Effective Date