

6-3-21 Summary of Panel Thoughts on Recommendations to consider

The EDRP has consulted experts in development and campaign contributions, (a) and having reviewed best practices in other cities across the country (d)¹

General:

- We should keep in mind that accused non-compliance with existing laws is why our Panel exists. Writing a lot more laws will not keep a determined wrong doer from trying to secretly pocket bribes. (Tim)
- Ask Paul Nick and others for comments on recommendations. Mr. offered to consult with other cities to see what advice they might have on what the EDRP is proposing. (Guy)
- Review best practices in other cities across the country. (Guy)

Ethics Office:

The City should establish an Ethics Office/ create the position of Ethics or Good Government Officer. This officer will report to the city manager. The duties of the Ethics officer would include oversight of:

- Compliance and reporting re. existing requirements for ethical conduct, training, disclosures

Code of Conduct: After review of top municipal ethics code, such as that of the City of Chicago, the City Manager's office should establish a Code of Conduct for all city employees and appointees who engage in the development process (NOTE: can code cover city council?) as well as developers (g), lobbyists, and people who act on their behalf. (Verna)

- Address how an elected official interacts with Boards and Commissions involved in development issues. (Tim)
- Prohibit attempts to privately influence decision makers who will be conducting quasi-judicial hearings and making decisions based on those hearings (Tim)
- State reporting requirements when violations of the Code of Conduct occur/come to the attention of an employee
- Re. Developers;
 - State expected behavior on the part of developers and consequences for not meeting this standard (h)
 - Require Developers to report breaches of the Code of Conduct to the City Manager
- **City Council should establish rules that govern interaction with developers/city contractors. (f)**
 - Said rules should include Requiring a council member or staff to report an offer of something of value in connection with a development project or public contract
- Elected officials should sign a pledge of behavior/code of ethics. (Dan, Tim, Bernadette) It should be signed at their first meeting (Tim)
- Code of conduct examples:
 - Chicago 2-156-005, see page 4:
<https://www.chicago.gov/content/dam/city/depts/ethics/general/Ordinances/GEO-2019-color%20through%20June%202020.pdf> According to Paul Nick, the Chicago code

¹ The City should consult finance experts to the extent it feels necessary in addressing issues with respect to the development process. (a)

of conduct has been used as a model, see page 5 of the Paul Nick March 20, 2021 memo to AMT.

- Los Angeles <https://ethics.lacity.org/wp-content/uploads/2017/10/CityCodeofEthics.pdf>
- A Code of Ethics should remind officials that it is not proper for elected officials or their staff (or anyone else for that matter) to attempt to privately influence the decision makers who will be conducting quasi-judicial hearings and making decisions based on those hearings.

Confidential Whistleblower Hotline: A hotline for any person to report any unethical conduct, and any inappropriate request or demand from any public servant, elected or otherwise.

- The hotline shall be operated under the auspices of the city manager’s office, whose designee will take action on the complaint and report back to the caller on action taken where possible.
- There should be a hotline. There also should be a whistle blower program, see, for example, Ohio Rev. Code 4113.52. I asked the Solicitor for more information on whether a local ordinance is needed for a whistle blower program in light of R.C 4113.52. (Guy)
- With regard to a confidential tip line to take allegations of unethical activity, our firm has for many years operated a national anti-hazing hot line currently sponsored by some 50 national fraternities and sororities. We usually take roughly 150 reports each year either via recorded phone call on a dedicated hot line or via email (we took fewer during the year of Covid). I would be happy to discuss, with whomever is appropriate, how it works, its benefits and how it can be misused. (Tim)
- **NOTE FROM ANN S.:** The City’s Internal Audit department does have a hotline for both citizens and employees to report suspected wrongdoing. It is neither well utilized nor well publicized. It does allow callers to choose not to disclose their identity, but if it is disclosed it becomes a public record.

Training: The City shall require at least annual ethics and “good government” training and education for all employees and elected officials and their staff. (Dan, Guy, Tim, Alicia) **City Employees should also be required to take the training** (Guy)

Candidates for public office must also take this training. (Tim) This year that should happen as soon as possible given we are entering the heat of the campaign season. City staff should offer that no later than within a week of the Board of Election certifying the candidates. I believe that will happen on August 16th. (Tim)

Attendance data shall be publicly available.

Such training shall periodically include, as applicable:

- All relevant requirements and expectations
- Best practices
- Benefits of ethical behavior
- Ethics (Dan)
- Campaign finance and reporting requirements, lobbying regulations
- Interaction with developers and constituents
- Reporting of compliance with training requirements

- Role of Council in development and Managers January 26, 2021 memo “Charter Analysis and Updated City Administration Policies (Guy)
- Training for elected officials should be within 30 days of being elected. (Dan)
- Elected officials should sign a pledge of behavior/code of conduct. (Dan, Bernadette)
We should endorse as required the Manager’s “Council Onboarding and Informational Sessions” described in her January 26, 2021 memo. (Guy)
- Elected officials frequently have interns and volunteers working in their offices. Should it be provided to them as well? (Tim)

A training process required/available for new developers as well as legislative staff. (Bernadette) It could include:

- Throughout the year training offered if interested in land/projects. Important to market and allow agencies to know this is available and available opportunities to participate. (Bernadette)
- Trainings could additionally be for experienced developers as well for any updates that may have been in place – which includes planning, zoning. (Bernadette)
- DO and DON'TS including the appropriate/inappropriate contact with legislators and the importance to understand our City Manager form of government. (Bernadette)

Require Disclosure/Reporting of campaign contributions/ gifts/ items of value to city council member/ candidates/ mayor by Developers or Contractors²:

- **Greater transparency regarding donations (Alicia)**
 - during the pendency of a proposal by the city, or within the previous two years.
 - disclosure of contributions if an elected official is voting on a development deal. (Dan)
 - Including all the political accounts they control on the City’s searchable web site on which their council or mayoral accounts are also posted. That should be done simultaneously with filing wherever and whenever else they may be required to file. (Tim)
 - Developers should be required to report contributions to elected officials/ candidates for city office, or any of the political accounts they control which contributions reports shall be kept in a local, searchable separate data base. (f)
 - Ideally donations should be recorded and accessible in real time. (Verna) (Guy) Although real time reporting is expensive (Guy)
 - As developers reach out to the City to begin a project, contributions could be researched by the Economic Development office. (Bernadette)
 - The application for the project should ask these questions (Bernadette)
 - We need more discussion about requiring certain contributions to be reported and posted between statutorily required filing dates. Contributions from Who, How Who is defined, Of what amount, How quickly that would have to be done and would the requirement apply to only elected officials or candidates as well, are all questions I still have. (Tim)
- **Create an “active developer” list in coordination with the Economic Development and Planning Departments. The list would be maintained by those departments. (Bobbi)**

² Should we decide not to recommend barring or limiting of campaign contributions, we should report that we considered. (h)

- Council should work with the administration to develop the criteria for the triggers that make someone an “active” developer. For example, after the initial application for incentives/when entering into negotiations with an administrative official about incentives or when applying for a use variance in the zoning code
- The administration should also look to best practices from around the country to find the most commonly used parameters for who counts as a “developer” for this purpose (i.e. the CEO?, any C-Suite execs?, spouses?)
- This should include subcontractors and development partners, not just the primary
- City Councilmembers and the Mayor should not be allowed to solicit any type of campaign contribution from anyone on the active developer list
- Upon entering the “active developer” list, developers should be given a Dos/Don’ts document for interacting with elected officials that they must sign off on
- Council should work with the administration to set up the parameters for how long after “official” legislative action is taken (i.e. vote on incentives or zoning change) the “active” status remains
- This list should be publicly available on the city’s website and when someone rolls off the “active” developer list, the developer should be placed on a separate “archive” section. This paired with a searchable database of political contributions should provide the public with a significant amount of disclosure.

Limits on Contributions:

- Limiting contributions by developers with projects that are pending or ongoing with the City. Some cities have best practices that imposed limitations for a particular time period for pending and ongoing projects. (Verna, Alicia)
- Some cities limit or prohibit campaign contributions from entities doing business with the city. Los Angeles, Chicago and San Francisco are examples. Other cities prohibit business with the city if campaign contributions made. Philadelphia is an example. (Ask me if you want citations.) One of these approaches should be recommended. I prefer prohibiting business with the city if campaign contributions are made. This would deter potential developers from being financially involved in the political process. (Guy)
- City council should enact an ordinance modeled after Ohio Rev. Code 3517.13 to provide similar restrictions on the award of contracts where approvals, such as development incentives, zoning changes, etc. leading to a contract award, must be voted on by council, notwithstanding that council may not have authority to award the contract. (Guy)
- If the panel does not support restrictions on entities doing business with the city who make political contributions to council candidates, then I support the Landsman proposal requiring immediate disclosure of contributions from anyone with business before the City. (Guy)

Developer/ Contractor/ Lobbyist Acknowledgement of guidelines/requirements for dealing with city council/administration

This should include:

- The City’s Code of Conduct/ Requirements for Reporting inappropriate behavior
- Review and Enforcement shall be by the Ethics Officer/City Manager
- Requiring the developer/contractor/lobbyist to acknowledge in writing receipt of requirements re. expected behavior and agreement to abide by an ethics and/or code of conduct. (Guy)

Community approval of projects: (Bernadette)

- Community approval prior to even coming forth to the City with a development project.
- More active community input as the lack of input has created a real distrust in our city.
 - Citizens, community councils, business councils

Economic development process:

- The process should be streamlined and additional bureaucracy should be avoided. (Bernadette)
Changes should be made to:
 - Encourage new developers
 - Educate developers and public officials and staff on the process
 - Avoid confusion of developers
 - Have City Administration providing reports from request that go to Economic Development, who provides reporting to City Council.
 - Provide a contact person from Economic Development staff that developers can contact rather than calling elected officials.
- Council should not be involved in negotiating or brokering development deals. We should endorse Dave Mann's December 2020 motion calling for the separation of council from the negotiation of development agreements. His motion is a blueprint for how council members and the city administration should handle development deals. An important part of the Mann motion is the recommendation for ethics and criminal penalties. (Guy)
- We should endorse the Manager's recommendations for a "Constituent Affairs Function" as described in her January 26, 2021 memo. (Guy)
- As we discussed last Thursday the City already has a wealth of data about development incentives. Once the new census data is available, broken out by census tracts and blocks, both sets of data should be merged and analyzed. Some of that can be done by city staff but having an outside independent review would be valuable. Where and how many did the incentives produce new housing units of any type? Where and how many did the incentives produce low income units? Do each set of incentives have a goal that can be articulated? It may be that Andrew Garth mentioned was done that helped to reach the latest agreement with the Board of Education regarding property tax abatements provides a good start on this. It would be interesting to see that.

Re. City Charter and Development Contracts: The City shall review and report Implement a charter review of the branches of government

(b)(c)The City shall review the efficacy of development incentives, real property tax exemptions for accomplishing the city's goals, and establish an objective basis for evaluating developments and setting council policy.

- I think b. and c. are beyond the expertise and resources of the panel. These issues are probably best undertaken by academic or professional economists who have the appropriate expertise and resources. See, for example, the attached study by the Metropolitan Policy Program entitled "Examining the Local Value of Economic Development Incentives." This study was released in 2018 and includes Cincinnati. (Guy)

(e)After the current forensic audit of indicted council members is completed, City Council should examine whether any additional review is needed to study possible links between campaign contributions and development contracts and budget accordingly.

- The forensic audit should not be limited to the alleged activities of persons charged with misconduct related to development activities. (Guy)