



MEMORANDUM

DATE: October 7, 2024
TO: Board of Ethics
FROM: Madison Rorschach, City Auditor
SUBJECT: Advisory Opinion Responses Report

Background

In accordance with the Board of Ethics Rules of Procedure Section C. Advisory Opinions, information on Advisory Opinion requests should be reported to the Board of Ethics at the next regular meeting. Specifically, the Rules of Procedure outline the following timelines to guide the City Auditor in how to process an Advisory Opinion request:

Timeline for Request Submission	Assigned To
More than Ten Business Days	Three-Member Panel of the Board
More than Five Business Days	Special Counsel
Less than Five Business Days	Provide Information on Prohibitions

As a reminder, Advisory Opinion panels issue written guidance to City Officials regarding how the Code of Ethics applies (if at all) to a particular situation or behavior and may contain conclusions and/or recommendations.

During September 2024, the City Auditor received one request for advice on interpreting the Ethics Ordinance's prohibitions within the 10-day time frame needed for a Panel of the Board of Ethics to issue the opinion. As such, the issued Advisory Opinion is attached for the Board of Ethics' consideration, discussion, and potential direction.¹

Provided Responses

1. 24-002 Solar Program Rate Deliberations (Mayor Gerard Hudspeth)

¹ It should be noted that it is an affirmative defense to a Complaint that the Respondent relied upon an Advisory Opinion given certain conditions.



Board of Ethics

215 E. McKinney St., Denton, TX 76201 • (940) 349-7228[Address (Ex.
215 E. McKinney St., Denton, TX 76201)]

September 11, 2024

Mayor Gerard Hudspeth
City of Denton
215 E. McKinney Street
Denton, Texas 76201

Advisory Opinion

Advisory Opinion No. 24-002: Pertaining to a request received August 30, 2024, from Mayor Hudspeth concerning potential conflict of interest and improper use of influence applicability and recusal recommendation.

Mayor Gerard Hudspeth –

Pursuant to Section 2-278 of the Ethics Ordinance, a panel of the Board of Ethics convened on September 11, 2024, to deliberate on your request received August 30, 2024, concerning potential conflict of interest and improper use of influence applicability and recusal recommendation and has rendered the opinion given below.

The members of the panel were Panel Chair Annetta Ramsay, Member Patricia Reinke, and Member David Zoltner.

Background Information: On August 30, 2024, the City Auditor received an Advisory Opinion request from Mayor Gerard Hudspeth regarding a potential conflict of interest and improper use of influence applicability. According to the Mayor, he currently has solar panels on his home and is being paid by Denton Municipal Electric (DME) for power (by proxy). Based on the current Ethics Ordinance, should Mayor Hudspeth recuse himself from voting on the rate.

Questions Presented: Based on the received request, the Board of Ethics was requested to answer the following questions:

1. Does Mayor Hudspeth's participation in the City of Denton's solar program create a Conflict of Interest, per the Ethics Ordinance?
2. Would Mayor Hudspeth participating in Deliberations on an item involving the City of Denton's solar program be considered improper use of influence, per the Ethics Ordinance?

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service

Answers:

1. Does Mayor Hudspeth's participation in the City of Denton's solar program create a Conflict of Interest, per the Ethics Ordinance?

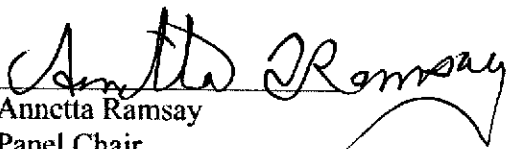
The Advisory Panel considered Denton Ethics Ordinance Section 2-273, Prohibitions, (a) Conflict of Interest, (3) Definition of Conflict of Interest, Conflicting Interest subsections (A)-(F) and found that there was no Conflict of Interest pursuant to the Denton Ethics Ordinance Section 2-273(a) Conflict of Interest.

2. Would Mayor Hudspeth participating in Deliberations on an item involving the City of Denton's solar program be considered improper use of influence, per the Ethics Ordinance?

The Advisory Panel considered Denton Ethics Ordinance Section 2-273, Prohibitions, (e) Improper Influence (2) grant any special consideration, treatment, or advantage to any citizen, individual, business organization, or group beyond that which is normally available to every other citizen, individual, business organization, or group and found that there would be improper influence if Mayor Hudspeth Participated in the deliberations regarding a "Value of Solar Study."

Conclusion

The Advisory Panel recommended that Mayor Hudspeth recuse himself from any deliberations regarding a "Value of Solar Study."


Annetta Ramsay
Panel Chair
City of Denton Board of Ethics

***This opinion pertains only to the relevant sections of the City of Denton Ethics Ordinance. It is not intended as legal advice and does not absolve any party of obligations that may exist under other applicable law (e.g., Texas Local Government Code Chapter 171). All parties are encouraged to consult competent legal counsel concerning their obligations under the law. ***