CITY OF ALBUQUERQUE

LEGAL DEPARTMENT
(505) 768-4500

July 6, 1990

INTER-OFFICE CORRESPONDENCE REF:

TO: Sarah B. Kotchian, Director, Environmental Health Department

FROM: Adelia W. Kearny, Assistant City Attorney

SUBJECT: City of Albuquerque and County of Bernalillo Conflict of Interest Submissions

At the request of the Environmental Protection Agency, certified copies of the following are attached:

1. Sections 1-12-1 through 1-12-3, Public Boards, and Sections 2-3-1 through 2-3-13, Conflicts of Interest, Revised City of Albuquerque Ordinances, 1974; and Article XII, the Code of Ethics, from the City Charter; and

2. Bernalillo County Ordinance 85-3, the Code of Ethics.

The above ordinances and excerpt from the City Charter require the disclosure of all potential conflicts of interest by members of the Albuquerque-Bernalillo County Air Quality Control Board and meet the requirements of the Clean Air Act, Section 7428(a)(2), U.S.C.A.

CITY OF ALBUQUERQUE

By David S. Campbell
David S. Campbell
City Attorney

Dated: 7/6/90

Adelia W. Kearny
Adelia W. Kearny
Assistant City Attorney

AWK:ps
Attachments
3054Y
cc: Robert Harley, Chief Engineer

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

OFFICE OF THE CITY CLERK
(505) 768-3030

KAREN M. ACEVES
CITY CLERK

June 28, 1990

I, Karen M. Aceves City Clerk of the City of Albuquerque, New Mexico, a municipal corporation, hereby certify that Chapter 1 Article XII (Public Boards, Commissions and Committees, Chapter 2 Article III (Conflict of Interest) and Article XII (Code of Ethics) of The City of Albuquerque Revised Ordinance 1974, are true and correct copies of the original documents as maintained in the City Clerk's Office of which I am the Custodian.

Karen Aceves
City Clerk

June 28, 1990
Date

(Seal)

AN EQUAL OPPORTUNITY EMPLOYER

Section 5. TIME LIMITS. All veto authority of the Mayor shall be exercised within 10 days after presentation of the matter to the Mayor by the Council. The Council shall take action on any disapproved or altered ordinance, resolution or act at the next regularly scheduled meeting after return of the same to the Council by the Mayor. (Amended at Regular Municipal Election, October 7, 1975, as Proposition #3.)

Section 6. AUTHENTICATION. PUBLICATION. EFFECTIVE DATE. CODIFICATION.

(a) An ordinance shall be recorded and preserved by the City Clerk, authenticated by the signature of the presiding officer of the governing body and City Clerk, and bear the seal of the City. The ordinance shall be published one time either in its entirety or by title and general summary of the subject matter contained in the ordinance, whichever the Council elects to do.

(b) An ordinance shall not become effective until five days after it has been published, unless passed and approved as an emergency measure, in which event it shall become effective immediately following publication or at a subsequent date determined by Council.

(c) If the ordinances of the City are codified, it is not necessary to publish same in entirety. An ordinance, referring to the codification by title only and specifying one place in the City's municipal offices where the codification may be inspected during normal and regular business hours, may be published instead of the codification. (Article XI adopted at Special Election, February 26, 1974 as part of Proposition #3.)

ARTICLE XII. CODE OF ETHICS

Section 1. DECLARATION OF POLICY. The proper administration of democratic government requires that public officials be independent, impartial, and responsible to the people; that government decisions and policy be made in the best interest of the people, the community and the government; and that the public have confidence in the integrity of its government. In recognition of these goals, the following Code of Ethics shall apply to all officials of the City.

Section 2. DEFINITION. Whenever used in this article:

(a) The term, "Official" means the Mayor, all members of the Council, all members of boards, commissions and committees and all heads of departments, divisions and sections.

(b) The term "Governmental Body" means the City of Albuquerque and any of its boards, commissions and committees. (Amended by Ordinance Nos. 35-1975, 91-1980 and 24-1981; Amended at Regular Municipal Election, October 3, 1989, as part of Proposition #4.)

Section 3. BOARD OF ETHICS AND CAMPAIGN PRACTICES. The Board of Ethics and Campaign Practices shall be made up of seven members, who shall be chosen as follows: The Council shall appoint three members and the Mayor shall appoint three members. The six members so appointed shall select a seventh person to serve as Chairperson of the Board. Each member shall be a qualified elector of the City, and no member shall be an official or employee of the City.

All members shall serve terms of four years, and be eligible for reappointment for additional terms except that the initial Board shall have two members with terms of two years, two members with terms of three years, and two members plus the Chairperson with terms of four years. Thereafter, any vacancy for an expired term shall be filled by the authority who made the appointment of the member whose term has expired. Any vacancy shall be filled for an unexpired term by the same authority who made the original selection and appointment of the member vacating his or her position. Provided, however, that of the two positions, which were filled by appointment by the municipal judiciary, the position for which the term expired on July 31, 1980, shall be filled by appointment by the Council for a term expiring July 31, 1984, and upon expiration of that term, the Council shall appoint a member to serve a regular four-year term. The position for which the term expires on July 31, 1981, shall be filled by appointment by the Mayor upon the expiration of the term or the occurrence of a vacancy.

No violation of the Code of Ethics shall be found by the Board of Ethics and Campaign Practices except upon the concurrence of a majority of the Board. (Section 3 amended by Ordinance Nos. 35-1975, 77-1978, 91-1980 and 24-1981.)

Section 4. CONFLICT OF INTEREST.

(a) No official of the City shall knowingly:

1. Disclose or use confidential information concerning the property, government or affairs of the governmental body by which that official is employed or of which the official is a member without proper authorization in order to advance the private financial or other private interests of said official or others;

2. Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which the official has a private financial interest;

3. Represent private interests in any action or proceeding before the Governmental Body by which the official is employed or of which the official is a member or any appeal of a decision of such body;

4. Accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to the official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the Governmental Body by which the official is employed or of which the official is a member, including donors who are unidentified; provided, however, that this Subsection shall not be read as prohibiting an incumbent candidate for elective office from receiving duly disclosed campaign contributions in accordance with the provisions of Article XIII of this Charter.

(b) No member of the City Council shall, during the term for which he or she was elected, be appointed to or selected for any paid office or employment with the City, nor shall he or she within one year thereafter be appointed to any paid City office or employment which the City created, or the emoluments of which first were established or were increased during such term; nor shall any member of the City Council during the term for which he or she was elected nor within one year thereafter, be interested directly in any contract with the City, which was authorized by any law passed during such term. (Section 4 amended by Ordinance Nos. 35-1975, 29-1976 and 91-1980, 23-1988 and 33-1989.)

Section 5. DISCLOSURE.

(a) An official of the City who shall have any private financial interest in any contract or other matter pending before or within the Governmental Body of which the official is employed or of which the official is a member, shall disclose such private interest to the Governmental Body.

(b) Any Councillor who has a private financial interest in any matter pending before the Council shall disclose such private financial interest on the records of the Council and if such interest is direct shall be disqualified from participating in any debate, decision or vote relating thereto. Disclosure of an indirect private financial interest on any matter coming before the Council, including approval of a contract, shall not disqualify a Councillor from debating and voting on the matter unless (1) a majority of the remaining members of the Council determine that the Councillor who

discloses his private financial interest should not in propriety vote on the issue; or (2) the Councillor having a private financial interest voluntarily disqualified himself. (Section 5 amended by Ordinance Nos. 35-1975, 91-1980 and 24-1981.)

Section 6. USE OF PUBLIC PROPERTY. No official of the City shall use property, owned by any governmental body, for personal benefit, convenience or profit, except in accordance with policies promulgated by the Council.

Section 7. ENFORCEMENT.

(a) Any charge of violations of this Code of Ethics shall be brought before the Board of Ethics and Campaign Practices. Any private citizen may initiate such a charge in accordance with regulations established by the Board of Ethics and Campaign Practices.

(b) Should the Board find, after due hearing, that a violation has occurred, it may make a public reprimand or impose a fine of not to exceed $100.00 for each violation or do both.

(c) In addition to imposing such sanctions, or as an alternative thereto, the Board of Ethics and Campaign Practices may recommend to the Council that the violator be removed from office.

(d) The Council may, upon the recommendation of the Board of Ethics and Campaign Practices, and after due hearing of the charge, order the suspension or removal of an appointed or employed official, or the removal of an elected official; provided, however, that no official shall be removed or suspended except upon the concurrence of two-thirds of the Councillors qualified to vote thereon.

(e) An appeal may be taken from any findings and action of the Board pursuant to Subparagraph (b) of this Section, and from any order of the Council pursuant to Subparagraph (d) of this Section, to the District Court of the 2nd Judicial District, by filing Notice of Appeal in the said District Court within 5 days of the date of the action or order appealed from, and by filing with said District Court within 30 days a true transcript and record of the proceedings upon which said action or order is based. The hearing in the District Court shall be held on the said transcript and record only, and new testimony shall not be taken. (Section 7 amended by Ordinance Nos. 35-1975 and 24-1981.)

Section 8. INVESTIGATION

(a) The Board of Ethics and Campaign Practices may choose to ask for an investigation of allegations brought before it rather than simply hearing charges; to do this, it may temporarily employ or contract with investigators. No such investigation shall be undertaken unless it is specifically authorized and defined by the Board. For the purposes of this section, the term "allegations" means both any formal charges filed with the Board and other information raising a substantial question related to compliance with the Code of Ethics or the Election Code, which information at least six members of the Board vote to investigate. Such investigation may relate to violation of the Code of Ethics or the Election Code.

(b) In retaining an investigator, the Board of Ethics and Campaign Practices shall not be bound by procedures of the City of Albuquerque which would otherwise apply to selecting a contractor or employee. The Board shall adopt its own procedures, consistent with good administrative practices.

(c) All officials and contractors of the City of Albuquerque shall furnish the Board of Ethics and Campaign Practices or its investigator with requested information and records within their custody which are germane to an investigation authorized by the Board. Officials and contractors may be required to appear as witnesses in hearings concerning ethics or campaign practices charges heard by the Board. (Added by Ordinance No. 31-1989.)

Section 9. NON-WAIVER OF PENALTIES. Nothing herein set forth shall be construed to affect or otherwise diminish any penalties otherwise provided by law for violation of the matters set forth in this Code of Ethics, or shall prevent the Board of Ethics and Campaign Practices from bringing to the attention of the proper authority any alleged violation coming to its attention which may be subject to such other penalties. (Amended by Ordinance Nos. 24-1981 and 31-1989.)

Section 10. REGULATIONS. The Board of Ethics and Campaign Practices shall have the authority to establish reasonable rules and regulations for its conduct and for explanation and interpretation of the Code of Ethics. (Amended by Ordinance Nos. 24-1981 and 31-1989.)

Section 11. AMENDMENTS. The above Code of Ethics may be amended without requiring compliance with Article VI of this Charter by ordinance adopted by a majority of the entire membership of the Council plus two additional members thereof voting in favor of such amendment or amendments and said ordinance being otherwise governed by Article XI of this Charter. (Article XII adopted at Special Election, February 26, 1974 as part of Proposition #1; Amended by Ordinance Nos. 35-1975, 29-1976, 77-1978, 91-1980, 24-1981 and 31-1989.)