CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Office of the City Manager

AGENDA DATE: June 10, 2008

CONTACT PERSON/PHONE: Joyce Wilson, City Manager, 541-4071

DISTRICT(S) AFFECTED: All districts

SUBJECT: Discussion and Action under the City Manager's report of current events and issues, regarding issues and use of staff time pertaining to the requirement under the Ethics Ordinance that City Board and Commission members annually file an updated financial disclosure form or file a form advising there are no changes. Additionally, for Council's consideration, the introduction of an ordinance amending Title 2 (Administration and Personnel), Chapter 2.92 (Ethics), to amend Section 2.92.070, Subsection A, to eliminate the requirement that financial disclosure forms be filed annually by City board and commission members. The ordinance, if introduced, will be heard and considered at a public hearing on June 17, 2008.

BACKGROUND / DISCUSSION: The Ethics Ordinance was amended in 2002 to require that City Board and Commission members and the department heads and executive assistants to the Mayor annually file a financial disclosure form. This results in the need to annually, collect, track, file and report on more than 400 forms for the Board and Commission members, to include follow-up with those who do not timely file. Previously, the ordinance only required the filing of the financial disclosure form at the time of appointment. The provisions requiring the annual filing by the department heads and executive assistants to the Mayor remain in the ordinance.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one? The requirement for annual filing, in addition to the initial filing, was added to the City Code by Ordinance 15293, adopted November 18, 2002.

AMOUNT AND SOURCE OF FUNDING:

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

**********REQUIRED AUTHORIZATION**********

LEGAL: (if required)_____ **FINANCE:** (if required)_____

DEPARTMENT HEAD: _____

APPROVED FOR AGENDA:
CITY MANAGER: _____ **DATE:** _____

39876

ORDINANCE NO. _____

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AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.92 (ETHICS); TO AMEND SECTION 2.92.070, SUBSECTION A, TO ELIMINATE THE REQUIREMENT THAT FINANCIAL DISCLOSURE FORMS BE FILED ANNUALLY BY CITY BOARD AND COMMISSION MEMBERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

Section 1. That Section 2.92.070, Subsection A (Reporting Requirements) of the El Paso City Code is amended to read as follows:

Section 2.92.070 Reporting Requirements, Subsection A

A. Financial Disclosure

1. Each officer, excluding elected officials whose financial disclosure requirements are governed by city charter, and each department head and executive assistant to the mayor shall file with the city clerk, within 10 business days after the date of his or her appointment, selection or approval by the city council, a signed, sworn statement disclosing:

   a. Where, by whom and in what specific capacity that person is employed or self-employed;
   b. Membership on boards of directors of corporations, whether organized for profit or not;
   c. Partnership interests;
   d. The name and address of any business in which the person has a financial investment, and in the case of mutual funds and other similar pooled investments, the name of the fund or investment. For purposes of this subsection, a financial investment shall not include funds on deposit with financial institutions such as checking and savings accounts, investments in United States savings bonds, and similar investments that earn simple, compounded or money-market interest rates;

   unless the person has previously been appointed to a position that requires the filing of a financial disclosure form and the person already has a current financial disclosure form on file with the city clerk.

2. Each person submitting a statement of financial disclosure required under this section shall utilize a form provided by the city clerk.

3. No person submitting such a statement of financial disclosure must indicate therein the extent of financial involvement in any investments.

4. Each department head and executive assistant to the mayor shall thereafter file with the city clerk a signed and sworn financial disclosure statement, between June 1 and June 30 of each year while employed by the city, or at any other time in which the person has made changes in financial investments which cumulatively total more than 35% of the person's total investments. Those department heads and executive assistants to the mayor who have no changes to report regarding the information required to be reported, may, in lieu of filing a complete financial disclosure form, file a short form annual report, provided that they have filed a complete

financial disclosure form within the previous five years. The city clerk shall, no later than August 15th of each year, prepare reports for the Mayor which note whether each executive assistant to the Mayor has filed the required financial disclosure statement, and for the City Manager which note whether each department head has filed the required financial disclosure statement, as of the date of each report.

5. Each officer subject to this section shall thereafter file with the city clerk a signed and sworn financial disclosure statement at any time in which the person changes his primary employment or has made changes in financial investments which cumulatively total more than 35% of the person's total investments.

6. Each candidate for elective office, and each candidate for a department head or executive assistant to the mayor position shall be provided with a notice of financial disclosure requirements at the time of application for such office or employment.

7. The following types of boards are exempt from the financial disclosure requirements of this chapter:

a. boards whose regulation is pre-empted by federal or state law;

b. boards expressly exempted by the city council for reasons to be stated by the city council upon granting such exemption.

8. In the event that a board member fails to file his or her financial disclosure statement by the deadlines calculated under subsection A 1 above, the following actions will be taken:

a. In the event that the board member is a member of the Civil Service Commission, the city clerk shall prepare and send a notice of the failure of the Civil Service Commission member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the Civil Service Commission member from office in accordance with section 6.1-10 of the City Charter.

b. In the event that the board member is a member of the Zoning Board of Adjustment, the city clerk shall prepare and send a notice of the failure of the Zoning Board of Adjustment member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the Zoning Board of Adjustment member from office in accordance with section 211.008, Texas Local Government Code.

c. In the event that the board member is a member of the Public Service Board other than the Mayor, the city clerk shall prepare and send a notice of the failure of the Public Service Board member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the Public Service Board member from office in accordance with the applicable removal provisions contained in any pertinent ordinance adopted by the City of El Paso for the issuance of water or sewer revenue bonds.

d. In the event that the board member is a member of the El Paso Housing Finance Corporation, the Industrial Development Authority, or other similar corporation organized pursuant to state law, the city clerk shall prepare and send a notice of the failure of the board member to file a financial disclosure statement to each member of the city council for their review and consideration regarding the possible removal of the board member from office in accordance with the applicable removal provisions contained in any Articles of Agreement or by-laws of the corporation or statutory provisions.

e. In the event that the board member is a member of any other city board subject to the requirement of this section, that board member shall be deemed removed

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from office without action or review by the city council. The city clerk shall prepare and send a notice of the removal to the board member and to the city council member who had appointed the board member. The removal shall be effective on the date that the notice is deposited in the United States mail or if not mailed, upon delivery to the board member.

9. The removal provision established in subsection A 8 e for the failure of a board member to file a financial disclosure statement shall be in addition to and shall be controlling over any other city ordinance or city council resolution that establishes procedures for the removal of board members.

Section 2. Except has herein amended, Title 2 (Administration and Personnel) shall remain in full force and effect.

PASSED AND APPROVED this _____ day of June 2008.

CITY OF EL PASO

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Elaine S. Hengen
Senior Assistant City Attorney

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