



February 14, 2019

Council Member Deborah Armintor  
Council Member Paul Meltzer  
215 E. McKinney  
Denton, Texas 76201

**Advisory Opinion**

Advisory Opinion No. 19-002: Pertaining to Voting on the Selection of a UNT Facility as a Polling Location

Council Members Armintor and Meltzer;

Pursuant to Section 2-278 of the Ethics Ordinance, a panel of the Board of Ethics has considered your request and has rendered the opinion given below. The members of the panel were Jesse L. Davis, Ron Johnson, and Don Cartwright.

I. Question Presented

The question presented is, *“Do Council Member Armintor and Council Member Meltzer have a Conflict of Interest when voting on the selection of a University of North Texas (UNT) facility as a polling location for City Elections?”*

The Panel first notes that the City of Denton Texas Code of Ordinances Chapter 2: Administrations Article XI (hereafter “the Ethics Ordinance”) does not use the term “conflict of interest,” other than in the title of Sec. 2-273(a)(1), “Conflicts of Interest.” Rather, the Ethics Ordinance defines the terms “Conflicting Interest” and “Pending Matter,” and mandates the following:

“It shall be a violation of this Code for a city official to knowingly deliberate regarding a pending matter for which the city official currently has a conflicting interest.” *Ethic Ordinance Sec. 2-273(a)(1).*

II. Conflicting Interest

The Ethics Ordinance, Section 2-269(a)(3), defines a “Conflicting Interest” to include, “[a] stake, share, equitable interest, or involvement in an undertaking in the form of... [r]eceipt of more than six hundred dollars (\$600.00) in gross annual income from a business entity, as evidenced by a W-2, 1099, K-1, or similar tax form.” Furthermore, “[a] city official is considered to have a conflicting interest if the city official’s relative has a conflicting interest.”

In simple terms, if a City Official is employed by an entity, or their relative (including a spouse) is employed by an entity and makes more than \$600 a year, the City Official has a conflicting interest in that entity. The Panel is given to understand that Council Member Armintor is employed by UNT, and that Council Member Meltzer’s spouse is employed by UNT, and that both

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UNT employees receive more than \$600 per year. Therefore, the Panel determines that under the Ethics Ordinance **both Council Members Armintor and Meltzer have a conflicting interest in UNT.**

### III. Pending Matter

The question presented thus becomes, *“is voting on the selection of a University of North Texas (UNT) facility as a polling location for City Elections deliberation on a pending matter?”*

The Ethics Ordinance, Section 2-269, defines “Deliberations” as “[d]iscussions at the dais; voting as a member of the board or commission; or presentations as a member of the audience before any city board or commission; conversing or corresponding with other city officials or staff. This term does not apply to a general vote on a broad, comprehensive, or omnibus motion, such as approval of the city budget.” Thus the Panel concludes that **to vote on polling locations would be to deliberate on polling locations.**

More to the point, the Ethics Ordinance, Section 2-269, defines a “Pending Matter” as, “[a]n application seeking approval of a permit or other form of authorization required by the city, state, or federal law; a proposal to enter into a contract or arrangement with the city for the provision of goods, services, real property, or other things of value; a case involving the city that is (or is anticipated to be) before a civil, criminal, or administrative tribunal.”

The Panel has reviewed an email from Chief of Staff Rachel Wood, dated February 11, 2019, which describes how the City would go about securing a polling place at UNT for City elections. The Panel understands that the City has an annual contract with Denton County for administrative services associated with elections. Under this contract, the County covers upfront any rental or facility fees associated with a polling location. The County later invoices the City for all or a portion of the fees, depending on how many entities poll at that locations (cities, school districts, etc.). Denton County is ultimately responsible for selecting polling locations, although they do work closely with each polling entity. It is the Panel’s understanding that Denton County, not the City, contracts with each polling location directly. Simply put, the City contracts with the County, which contracts with the polling location. The Panel finds that this relationship between the City and a polling location constitutes “a contract or arrangement with the city for the provision of goods, services, real property, or other things of value.”

The Panel also understands that Denton County enters into a contract with each polling location, regardless of whether the location charges a rental fee. Therefore, the designation of a polling place at UNT for City elections requires a contract or arrangement with UNT. Even if the City is not a direct party to a contract with a polling location, the relationship described above would still constitute at least an “arrangement” with the City. As a result, the Panel concludes that **the selection of a UNT facility as a polling location for City Elections is a pending matter.**

### IV. Conclusion

Considering the forgoing, **the Panel finds that it would be a violation of the Ethics Code for Council Members Armintor and Meltzer to knowingly deliberate on the selection of the selection of a UNT facility as a polling location for City Elections.**

The Panel further notes that such conduct would be violation only if committed knowingly, and not by mistake or sincere misunderstanding. In relation to the original question, the Panel

cautions that the Ethics Ordinance prohibits more than merely voting. The Ethics Ordinance prohibits those with a conflicting interest from deliberating, which includes discussions at the dais, voting, presentations before any city board or commission, and conversing or corresponding with other city officials or staff.

*\*\*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.\*\**

Respectfully,

  
Jesse L. Davis  
Chair, Board of Ethics  
City of Denton