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MEMORANDUM

TO: Mayor and Council
FROM: David M. Berman, City Attorney
DATE: March 2, 2026
SUBJECT: Campaigning and Electioneering

In anticipation of the May 2, 2026, elections, as a proactive measure, we provide the following memorandum regarding campaigning at city events and public places. This is intended as general guidance that might hopefully avoid issues during the election season, but each situation must be reviewed on its individual facts and on a case-by-case basis; this memo does not, therefore, cover all possible scenarios. A best practice is, when in doubt, seek guidance and ask for an opinion from the Texas Ethics Commission, <https://www.ethics.state.tx.us/>.

The issues typically addressed during election seasons are when and where people may engage in campaigning or electioneering, and where the lines are drawn between political speech protected by the First Amendment, the Texas Election Code, and the City's Code of Ethics. These lines are not always clear. And it may under certain circumstances make a difference if the person engaged in the activity is an incumbent member of the city council instead of a citizen candidate: the Code of Ethics and prohibitions against the use of public facilities apply to incumbent members of the council, and not always to nonincumbent citizens.

Traditional Public Forums. Any person may engage in political speech in traditional public forums, which include city parks, sidewalks, and outside entrances to public buildings or facilities. People may carry a sign, distribute brochures, flyers, and electioneering literature, and may engage people in conversation. They may wear a hat, shirt, or button containing political messages and may hand out signs and materials, but may not set up a table or other improvement to display electioneering materials. However, if the city allows other persons or organizations to set up tables, the city cannot distinguish between election purposes and other purposes, and tables should then not be prohibited. People may not post political signs or literature in city parks. People may post signs on city property, but the city can impose reasonable restrictions to prevent hazards or damage. For example, political signs may not be placed on street medians, in locations that impair the visibility triangle at intersections, or on city signposts or the sides of city buildings. The use of private property, as opposed to city property, is relatively unrestricted.

Public Meetings. People may wear a political hat, shirt, or button and carry a political sign into public meetings, including council meetings, provided they do not disrupt the meeting. However, the Code of Ethics provides that members of the city council shall not engage in political campaigning at city meetings or within city buildings. They shall also not use public resources for

political campaigning. City council and board members are free to express their opinions about public issues on the agenda, but they must not make campaign speeches at council or board meetings promoting their or another's candidacy, nor may they urge residents to vote for them or another through words, signs, buttons, or other means during duly noticed meetings of the City Council or city boards or commissions.

Electioneering/Candidacy. To protect the City's neutrality and avoid any appearance of endorsement, candidates for City Council, including sitting Councilmembers who announce candidacy, should not request or stage photographs with City staff (or in City work areas) for campaign purposes. Under Texas law, public funds and governmental resources, including employee time, City facilities, equipment, uniforms, and vehicles, may not be used to create or disseminate political advertising or campaign communications. In addition, Texas Ethics Commission guidance specifically cautions that public officers are prohibited from using government resources, such as an office in a government building or other resources within the officer's custody or control, to create photographs, videos, or other communications for political advertising. Accordingly, the City's standard practice should be to maintain a clear separation between official City business and campaign activity, including directing staff to decline campaign-related photo requests; avoiding campaign photos that include City employees in uniform or on duty; and avoiding campaign photos in restricted/non-public City spaces or featuring City equipment. This approach is intended to preserve public trust, maintain legal compliance, and ensure that City staff are not placed in a position that could be perceived as supporting or opposing a candidate.

City Employees. The Code of Ethics provides that city councilmembers shall not solicit, request, or encourage employees while on duty to engage in political activities. While the employee is off duty, council members should avoid electioneering or campaigning with city employees. Internal personnel policies may limit employees' political activities, and candidates must be mindful of placing the employee in conflicting situations. And because of the city's council-manager form of government, it is good practice to avoid transactions with employees, particularly when it may appear that an incumbent is giving orders to personnel under the supervision of the city manager.

City Events. While attending a city event or a city-sponsored event, people may distribute political signs and electioneering literature and engage people in conversation. They can wear a hat, shirt, or button and hand out signs and materials, but may not set up a table or other improvement to display electioneering materials unless the city allows other persons or organizations to do so.

City Council Meetings. It is common for people to seek to express support for or opposition to a candidate during the public forum part of formal council meetings. Since the podium at a council meeting is regarded by the First Amendment as a public forum (and no one would question the public's right to speak in favor of or opposition to a measure, such as a contemplated bond election, instead of a candidate's campaign), there is an arguable constitutional right to express support for a candidate. However, because this privilege is often abused, limitations are commonly imposed by cutting off the microphone while allowing the person to continue until the speaker's time has expired. An explanation or warning against campaigning is often appropriate.

City Facilities. In general, the use of city facilities by incumbents should be avoided. Current members of the city council may not rent or use city facilities for the purpose of campaigning since it may be an ethics violation as well as a violation of the Election Code. Arguably, if the facilities are available for rent or use by other persons or organizations for First Amendment purposes, the same use (under the same terms and conditions) by an incumbent should not be prohibited, but the appearance of impropriety and the argument that public expense is incurred in support of a political measure can be raised. Nevertheless, the Code of Ethics prohibits the mayor or councilmembers from contracting with the city (the free use and/or renting of city facilities constitutes a contract), but the ethical prohibition would not apply to another person or organization from renting or using a city facility.

Town Hall Meetings. Town hall meetings, which are sponsored by the city, supported by city staff, and held at city facilities or other locations, should not be used by the councilmember who holds the town hall meeting to engage in electioneering for that councilmember or for other candidates for city council. The Code of Ethics prohibits a councilmember from using city supplies, personnel, property, equipment, or facilities (whether tangible or intangible) for any purpose other than the conduct of official city business, unless otherwise provided for by law, ordinance, or city policy. The Texas Election Code contains substantially the same prohibition.

If a councilmember uses a town hall meeting for the purpose of electioneering or allows another person or candidate to use a town hall meeting for that purpose, that councilmember could be subject to an ethics complaint, which ultimately involves a subjective determination by the council. As an example, a councilmember could be in violation of the Code of Ethics were he/she to hold a town hall meeting and then turn the meeting over to another person who then engages in electioneering. However, it is not a violation of the Code of Ethics for a councilmember to express his/her views on public business or policy, or on an issue that he/she intends to support or oppose.

If during a town hall meeting, citizens are allowed to speak, they may express their views on city business and policy, which may include support or opposition for a candidate or other political measure, and they should not be prohibited from doing so. But there is a delicate balance between public input on a candidacy or political measure and a councilmember's use of city facilities for electioneering. People attending town hall meetings may wear a political hat, shirt, or button and may carry a political sign and distribute electioneering materials, provided they do not disrupt the meeting.

Should there be questions regarding the foregoing, or if we can provide any further information, please do not hesitate to let us know.



David M. Berman

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CAMPAIGNING AND POLITICAL ACTIVITY GUIDANCE

DO'S AND DON'TS DURING ELECTION SEASON

1. Traditional Public Forums (Parks, Sidewalks, Outside Public Buildings)

DO	DON'T
Engage in political speech in traditional public forums (parks, sidewalks, outside entrances).	Post political signs or literature in city parks.
Carry signs, distribute brochures, and speak with residents.	Place signs on street medians, in visibility triangles, on city signposts, or on the sides of city buildings.
Wear campaign hats, shirts, or buttons.	Install tables, tents, or other improvements unless such structures are allowed equally for all groups.
Post signs on private property consistent with applicable laws.	Damage or alter city property when placing materials.

2. Public Meetings (Including Council Meetings)

DO	DON'T
Wear political apparel and carry signs into meetings if not disruptive.	Disrupt or interfere with the orderly conduct of the meeting.
Express opinions on public issues on the agenda.	Deliver campaign speeches promoting candidacy during official meetings.
Speak during public comment consistent with meeting rules.	Urge residents to vote for or against a candidate during official City meetings.
Respect time limits and procedural rules.	Use signs, buttons, or remarks to convert official meetings into campaign events.

3. Electioneering and Use of City Resources

DO	DON'T
Conduct campaign activities on personal time using personal resources.	Use public funds, staff time, City facilities, equipment, vehicles, or uniforms for campaign purposes.
Maintain a clear separation between official duties and campaign activities.	Stage campaign photographs with City staff, especially while staff are on duty or in uniform.
Use private locations for campaign media and materials.	Use City offices, restricted work areas, or City equipment to create campaign advertising.
Seek guidance if uncertain about compliance.	Create any appearance of City endorsement.

4. City Employees

DO	DON'T
Respect that employees report to the City Manager in a council-manager form of government.	Solicit, request, or encourage employees while on duty to engage in political activities.
Avoid placing employees in politically sensitive situations.	Campaign with employees in a manner that may create perceived pressure or endorsement.
Ensure interactions with employees remain professional and related to official business.	Use supervisory authority or influence for campaign-related purposes.

5. City Events and City – Sponsored Events

DO	DON'T
Wear political apparel and distribute materials if not disruptive.	Set up tables or campaign displays unless equally permitted for all organizations.
Engage residents in conversation.	Use City sponsorship or branding to imply campaign support.
Follow the event rules applied uniformly to all participants.	Use City-funded events as campaign platforms.

6. City Facilities

DO	DON'T
Ensure any facility use complies with City policy and ethics rules.	Rent or use City facilities for campaign purposes if doing so violates the Code of Ethics.
Recognize that private individuals may rent facilities under neutral policies.	Use official positions to gain preferential access to facilities.
Avoid even the appearance of impropriety.	Enter into contracts with the City for campaign-related use of facilities if prohibited by ethics rules.

7. Town Hall Meetings (City – Sponsored)

DO	DON'T
Discuss public policy and official City business.	Use a City-sponsored town hall meeting for electioneering.
Allow citizens to express views during public comment.	Turn over a City-sponsored meeting to another candidate for campaign purposes.
Maintain neutrality in City-hosted events.	Use City staff, property, supplies, or equipment for campaign advocacy.
Distinguish between policy discussion and campaign promotion.	Convert City-sponsored meetings into campaign events.