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Subject: Teri Adams vs Evan Taniguchi
Date: June 6, 2023 at 10:01 PM
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In dealing with nonprofits, whose foremost stated goals and missions aren't financial, few conflicts of interest are direct. An individual representing a nonprofit can achieve a benefit that is not personal via any prospective benefit that could be conferred upon a nonprofit they represent. If a person's vote confers a benefit to their nonprofit, that presents the appearance of impropriety.

The Zilker Park Vision plan is an extremely controversial plan to guide the restoration and development of Zilker park for the next 50 years. An overt planning process involving the city of Austin parks department, or PARD, and a vendor, Design Workshop, as lead consultant, began in February 2021. The city and the consultant were required to conduct public engagement, however, this outreach failed to connect with the vast majority of Austinites.

During the two year vision planning process, a group of nonprofit stakeholders with an interest in Zilker park came together. This group of 16 stakeholder organizations included park concession operators. They called themselves the Zilker Collective Impact Working Group, which I will refer to as the Collective for short.

Collective members banded together to advocate for items in the Zilker Park Vision Plan benefiting their individual organizations. These projects comprise the bulk of the proposals we see in the vision plan, specifically: the parking garages, the land bridge, the new hillside theater, new bridges over Ladybird Lake and Barton Creek, and a new welcome center.

One of the most controversial items in the Zilker Park Vision plan is the inclusion of a nonprofit partnership to steward Zilker Park. This aspect of the vision plan was never revealed during public engagement. It appeared without public vetting in the deliverable after two years of planning. Why was that?

I am extremely concerned about the projects in the vision plan and the inclusion of a nonprofit partner for Zilker park. I went to the Design Commission meeting on March 27, 2023 expecting to be able to provide citizen communication, but the chair of the design commission called for a special meeting because two commissioners were to recuse themselves, and with those recusals, the commission lost quorum. The chair announced there would be a special meeting of the Design Commission called for the Zilker Park Vision Plan.

One of the recusing commissioners was an employee of the consultant, Design Workshop. The other was Evan Taniguchi. At the time, the nature of his need to recuse was not clear. A few days later on April 3rd, the Collective announced itself as a new nonprofit, Zilker351, and Mr Taniguchi was announced as a founding member of the board of directors.

So imagine my surprise when I walked into the special called Design Commission meeting on April 13 to find Mr Taniguchi seated. The chair was also surprised. When he arrived, she said, "Mr Taniguchi, are you recused on this matter?" To which he replied, "No I am not." Mr Taniguchi proceeded to participate in discussion and voted to recommend the Zilker Park Vision Plan for adoption by city council.

In accordance with city code sections 2-1-24 and 2-7-64, Mr Taniguchi indicated on the attendance sign in sheet that he had a conflict of interest on March 27 and recused himself, but on April 13, his attendance sheet declares no conflict of interest on the same issue, and he publicly stated he did not have a conflict of interest to disclose.

The question before you is, is Mr Taniguchi's interest as a public official and a board member of Zilker351 remote and incidental, or could it be substantial? City code 2-7-63 (A) states a city official may not participate in a vote on a matter affecting a natural person, entity, or property in which that official has a substantial interest.

According to PARD guidelines on partnership configurations, partnership A applies to non profit public partnerships that combine the assets of the public and private sectors to build, renovate, maintain, and program parks. Partnership A criteria requires an organizational review that includes, in alignment with Council resolution 20120405-052, Park Master Planning resolution, the existence of a master plan, capital improvement plan, ecological restoration plan, visioning plan, interpretive plan, or similar planning document. The document must exist in order to begin the formal partnership review process. In the case at hand, the Zilker Park Vision plan is the document that must exist for the umbrella nonprofit Zilker351 to embark on a review process to achieve Partnership A status.

Criteria for a Partnership A, such as Zilker351 is pursuing, includes a minimum 7 year history of collaboration with PARD, or the city of Austin, and a minimum of 5 years of proven philanthropic fundraising related to specific master plan projects, operational items, maintenance, and/or program activation.

If partnership A status is achieved, nonprofit partners are given exclusive rights to fundraise for named park space, including on-site signage recognition and exclusive right to promote the park. They may independently lead capital improvement projects. They have signage branding opportunities and are given the opportunity to realize earned revenue through operating and administering concessions, programming, special events, and other revenue opportunities.

City code 2-7-63 Subsection B states, a city official who serves as a member of the board of directors of a nonprofit entity may not participate in a vote or decision regarding funding by or through the city for the entity.

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The vision plan document Mr Taniguchi voted to recommend must exist in order for the nonprofit Mr Taniguchi represents to be allowed to embark on the path towards fundraising, leading capital improvement projects, and generating revenue through programming and special events. This is why Mr. Taniguchi recused himself when this first came to the Design Commission on March 27th. His interest in the Zilker Park Vision plan and the capital projects it contains is indeed conflicted as a board member of Zilker351.

State statutes regulating conflicts of interest for officers of municipalities and cities section 171.009 states, "it shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other re-mune-eration from the nonprofit corporation or other nonprofit entity."

Thus, being on the board of a nonprofit would not prevent someone from being a city commissioner. Board members of nonprofits are typically volunteers. However, it would be impossible to say without looking at the bylaws and books of Zilker351 what money is coming in and where it's going. These documents are not available to the general public.

I believe that as a representative of Zilker351, Mr Taniguchi should have recused himself from the Design Commission consideration of the vision plan to avoid the appearance of impropriety. He declined to do so, and then went even further, sending letters to members of the parks board prior to their vote on May 20 that read, in part: "Aside from being a board member of Zilker351, a new nonprofit organization created to help steward Zilker Park, I strongly support the zilker metropolitan park vision plan on several other fronts."

He goes on to advance the projects favored by the collective member organization, zilker botanical garden conservancy, of which he is a founding member, and goes on at length about the virtues of parking garages, stating, "As an architect/urban planner I happen to have expertise in parking facilities, which I shared at the recent Design Commission meeting." He ends by saying "please join me in supporting the Zilker Metropolitan park vision plan."

The conflict of interest Mr Taniguchi has in this matter relates to the prospective benefit to the organization he represents, Zilker351, which requires the existence of a vision planning document. Without the Zilker Park vision plan, they have no opportunity to realize earned revenue through city contracts. This makes Mr Taniguchi's interest in the Zilker park vision plan distinguishable from the general public.

This matter should go to a full hearing so that witnesses may be called to testify under oath to Mr. Taniguchi's participation in the collective. Specifically Laura Massengale and the principle consultant, Claire Hempel, should testify under oath to Mr Taniguchi's level of participation in advocating for aspects of the vision plan during the planning period. I am prepared to enter into evidence minutes of the February 9th 2023 Zilker351 board of directors meeting for which Mr Taniguchi is listed as in attendance, which states, "in general terms, the board discussed the likely functions of Zilker351, such as creating community among the Zilker Park groups and park users, fundraising for vision plan elements, and centralizing communications between the Zilker Park collective Impact working group organizations and PARD. For now, there is no plan or intention to assume park management and operations."

This "for now" is a clear indication that later, they do intend to assume park management and operations. Mr Taniguchi should not have used his position on the Design commission to argue for elements in the zilker park vision plan nor should he have voted to recommend it. His interest in the passing of the vision plan for zilker park is of substantial interest to the non profit organization he represents as a member of the board of directors.

There are reasonable grounds to believe violations of city codes section 2-7-63 subsection B and section 2-7-64 subsections A and B may have occurred. Further, as there are only 6 members of the ethics committee present tonight, I ask you to consider that when you vote and allow this matter to receive a hearing before a fully seated board.