

Ms. Paula Flowers, City Attorney
City of Mt. Juliet
2425 N. Mt. Juliet Road
Mt. Juliet, TN 37122

April 13, 2007

Dear Ms. Flowers:

I am writing you today to file a formal ethics complaint against Mt. Juliet Mayor Linda Elam for violating the City's ethics code, adopted as Ordinance 2006-41 on 9/25/2006.

I believe the Mayor has engaged in three serious violations of the City's Code of Ethics.

1. The City of Mt. Juliet code of ethics states in 13-1-108 states that "An official or an employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality."
 - a. The Mayor used her position and sought (by threats and intimidation directed towards the Zoning Administrator and the City Planner) to kill an anticipated condition or requirement on the Mt. Juliet Crossings commercial development being developed by her employer.
 - b. The Mayor used her position in an attempt to secure special consideration for Pulte homes to be allowed to begin construction of new homes in the DelWebb subdivision before their infrastructure was complete, contrary to the City's ordinances and policy.
 - c. The Mayor used her position to seek a waiver from staff on behalf of Mt. Juliet Commons from a condition which had been imposed by a vote of the City Commission and which city staff had no authority to grant.

At the meeting in January at which the Mayor sought a special privilege for Pulte homes, I spoke up in opposition to the Mayor's attempt. Ever since that time, the Mayor has been openly hostile towards me. I believe my resistance to the Mayor's unethical attempt led directly to the following violation of the City's code of ethics:

2. The City of Mt. Juliet code of ethics states in 13-1-106 that "An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law."
 - a. On April 9th, at a televised meeting of the Mt. Juliet City Commission, Mayor Linda Elam announced that the City had received another complaint against Public Works Director Hatton Wright by a Public Works Employee.
 - b. This announcement by the Mayor violates Section E Confidentiality of the City's Personnel Ordinance, which states that "To the fullest extent possible, the investigation will be conducted discreetly, confidentially and with all due regard to the persons involved. Care will be taken to ensure that all parties to the complaint are treated with dignity and respect. The complaint and the investigation will not be discussed with anyone other than those persons directly involved."
 - c. By naming Public Works Director Hatton Wright as the target of the complaint and discussing the complaint, the Mayor violated the Personnel Ordinance rule which specifically enumerates as one of the purposes of confidentiality, "to

protect the reputation of any employee who may be wrongfully accused of sexual harassment.”

- d. By publicly announcing and discussing the complaint, the Mayor’s actions may have the effect of discouraging other employees from reporting incidents of sexual harassment.
 - e. By publicly encouraging employees who might have disparaging information about Mr. Wright to come forward, the Mayor has discouraged those who might speak favorably about Mr. Wright from coming forward. Employees who might otherwise have spoken in defense of Mr. Wright now have an understandable fear of retribution and retaliation by the Mayor. The Mayor’s actions have polluted the atmosphere and made it impossible for there to be a fair and unbiased investigation of the allegations against Mr. Wright. The Mayor’s prejudicial actions against Mr. Wright were unethical and trampled on his due process rights to a fair and impartial hearing and his right to be presumed innocent until proven guilty.
3. The City of Mt. Juliet code of ethics states in 13-1-109 that “An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality’s charter or any ordinance or policy.”
- a. It has become increasingly clear that Mayor Linda Elam’s employment by Commercial Realty Services, a Tennessee developer with an active project in Mt. Juliet, has inhibited her performance of her duties as Mayor.
 - b. The Mayor has an affirmative duty to participate in the review and approval of all zoning changes (including PUD approvals) for the City. It has proved impossible for her to separate herself from the interests and preferences of her employer.
 - c. The Mayor has an affirmative duty to participate in the setting of city policy on development standards, including architectural and signage requirements. It has proved impossible for her to separate herself from the interests and preferences of her employer.

These charges are well-documented and carry with them an obligation for the City Commission to act to punish the Mayor by censure or removal from office. The Mayor may face other civil or criminal charges for her actions. If the City Commission fails to take any action, then each Commissioner may have civil or criminal liability for failing to address these unethical actions.

Sincerely,

 PUBLIC WORKS DIRECTOR
CITY OF MT. JULIET

Cc Governor Phil Bredesen
TBI Director Mark Gwyn
Bruce Androphy, Executive Director, Tennessee Ethics Commission
Tommy Thompson, Attorney General, District 15
Special Agent in Charge My Harrison, FBI Public Corruption Investigative Unit
State Senator Mae Beavers
State Representative Susan Lynn