

**FILED**

SEP 07 2011

BEFORE THE ARKANSAS ETHICS COMMISSION

ARKANSAS ETHICS  
COMMISSION

BY

*[Signature]*

Case No. 2011-CO-003

**In Re: Jill Dabbs  
Respondent**

**FINAL ORDER**

Came for a public hearing on August 19, 2011, the complaint filed in this matter against the Respondent, Jill Dabbs, and based upon due consideration of the testimony and other evidence presented at that hearing and the applicable law, the Arkansas Ethics Commission (hereinafter the "Commission") hereby makes the following findings of fact and conclusions of law:

1. The Commission has jurisdiction over this matter pursuant to Ark. Code Ann. § 7-6-218.

2. The Respondent is a citizen of the State of Arkansas and currently holds the office of Mayor of Bryant. The Respondent was elected during the 2010 election cycle and took office on or about January 3, 2011.

3. The Commission is charged with enforcing Ark. Code Ann. § 21-8-304(a) which, at all times relevant to this case, provided, in pertinent part, as follows:

No public official...shall use or attempt to use...her official position to secure special privileges or exemptions for...herself or...her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom...she has a substantial financial relationship that are not available to others except as may be otherwise provided by law.

4. The term "special privileges or exemptions" is defined in § 400(p) of the Commission's Rules on Conflicts to mean "a particular benefit or advantage unfairly

extended to a person beyond the common advantages of others or the unjustified release of a person from a duty or obligation required of others.”

5. On March 17, 2011, the Commission received a complaint against the Respondent in her capacity as Mayor of Bryant. The essential allegation of the complaint was that, upon assuming office as the Mayor of Bryant in January of 2011, the Respondent “fired [Shayne] King the [Human Resources] Director” and, during the interim time period before a new HR Director was hired, “misus[ed] city funds by authorizing and receiving a salary increase for herself and the City Clerk without City Council approval.”

6. On March 24, 2011, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify her that an investigation was being commenced concerning the allegation of the complaint. The letter went on to state that the focus of the investigation would be whether or not her conduct, as alleged in the complaint, violated Ark. Code Ann. § 21-8-304(a).

7. On April 21, 2011, staff presented the preliminary results of its investigation to the Commission and was instructed to complete the investigation. In addition, the Commission directed that staff expand the scope of the investigation to include the issue of whether or not the Respondent violated Ark. Code Ann. § 21-8-304(a) by securing a contract with the City of Bryant on behalf of the Respondent’s daughter’s swim team for that team’s use of the city swimming pool during the summer of 2011. On April 21, 2011, the Commission sent the Respondent a letter, via first class mail, notifying her of these matters.

8. On June 24, 2011, the Commission considered the results of staff's investigation and determined, by a vote of 3-0, with Commissioners Dumas and Minix not present, that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 21-8-304(a) by using her position as Mayor to secure a salary increase without obtaining approval from the City Council. The finding of probable cause was supported by evidence gathered during the course of the investigation which reflected that the Respondent benefited from a salary increase which she requested be made without the City Council's approval shortly after taking office in January of 2011.

9. With respect to the salary increase requested by the Respondent and given to the City Clerk, the Commission concluded that said matter fell outside the scope of Ark. Code Ann. § 21-8-304(a) because there was no evidence that the two were related to each other within the first degree or had a substantial financial relationship. Accordingly, the Commission did not make a finding of probable cause and, going forward, that issue was no longer a part of the case.

10. With respect to the contract which the Bryant Barracudas secured for the use of the city's swimming pool during the summer of 2011, there was no evidence that the Respondent played any role in drafting or negotiating the terms of that contract. Accordingly, the Commission did not make a finding of probable cause and, going forward, that issue was no longer a part of the case.

11. On June 27, 2011, the Commission sent the Respondent a letter, via first class mail, notifying her of the Commission's finding of probable cause with respect to the issue of whether or not she violated Ark. Code Ann. § 21-8-304(a) by using her position as Mayor to secure a salary increase without obtaining approval from the City

Council. In accordance with the Commission's Rules of Practice and Procedure, said letter contained a written Offer of Settlement proposing the issuance of a Public Letter of Caution based upon an agreed finding that the Respondent had committed an unintentional violation of Ark. Code Ann. § 21-8-304(a). The Respondent was given ten (10) days to either accept the written Offer of Settlement or request a public hearing before the Commission.

12. By letter dated July 8, 2011, the Respondent's attorney, Steven R. Smith, notified the Commission that the Respondent was requesting that the matter be set for a public hearing. At that point, the Commission was no longer bound by the terms of the Offer of Settlement.

13. On July 15, 2011, the Commission sent the Respondent's attorney a letter, via first class mail, confirming receipt of the Respondent's request for a public hearing. In addition, that letter gave notice that a public hearing would be held on August 19, 2011. Said letter contained a separate written notice providing the information required in Ark. Code Ann. § 25-15-208(a)(2).

14. The Respondent appeared with her attorney at the public hearing which was held on August 19, 2011. Said hearing was conducted in accordance with Ark. Code Ann. § 25-15-213.

15. Testimony and other evidence presented at the public hearing reflected that the Bryant City Council held a special meeting on September 30, 2009. At that meeting, the Bryant City Council approved and adopted a compensation policy, entitled "Compensation Policies Generally", which set the salaries of elected officials on the basis

of an annual study, entitled "JESAP Report", prepared by a management consulting services firm know as the "Johanson Group".

16. Under the terms of the City of Bryant's Compensation Policy, salaries may not be adjusted above the maximum limits recommended in the JESAP Report without obtaining prior approval from the City Council.

17. Based upon the JESAP Report which was in effect at the time the Respondent took office on or about January 3, 2011, the base salary prescribed for the Office of Mayor was \$62,480.00. Under the terms of the Compensation Policy, the Respondent qualified for a 5% increase above that amount based upon her level of education, bringing the maximum amount she was entitled to be paid to \$65,604.00 which was, in fact, her starting salary.

18. The Compensation Policy contained provisions allowing 5% increases based upon other factors but the Respondent did not qualify for any additional increases.

19. Although there was conflicting testimony as to when the Respondent became aware of her starting salary and of the City's Compensation Policy, the Commission found the testimony of Shayne King to be the most credible. Ms. King, who was the City's Human Resources Director until January 3, 2011, testified that she went over both of those matters with the Respondent in a meeting held on November 19, 2011.

20. On or about January 24, 2011, the Respondent instructed a city employee, Cindy Phelps, to raise her salary as Mayor from \$65,604.00 to \$71,032.00 which was the maximum amount budgeted for the position of Mayor. Ms. Phelps was an employee in the accounting department who was filling in while the payroll clerk was on leave.

21. The salary change was entered into the City's payroll system (known as "Incode") on January 28, 2011, and it became effective for the pay period which began on February 4, 2011.

22. The Respondent instructed Cindy Phelps to change her salary from \$65,604.00 to \$71,032.00 without obtaining prior approval from the City Council.

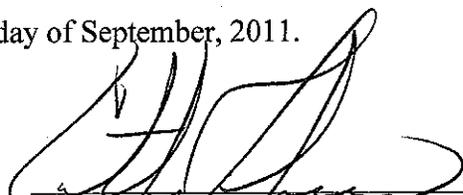
23. The Respondent's salary increase constituted a special privilege within the meaning of Ark. Code Ann. § 21-8-304(a) and §§ 400(p) and 402(a) of the Commission's Rules on Conflicts.

24. Based upon the facts and the law, the Commission found, by a vote of 5-0, that the Respondent violated Ark. Code Ann. § 21-8-304(a) by using her position as Mayor of Bryant to secure a salary increase to which she was not duly entitled.

25. With respect to the Respondent's violation of Ark. Code Ann. § 21-8-304(a), the Commission determined that the Respondent should be issued a Public Letter of Caution.

IT IS, THEREFORE, CONSIDERED, DECIDED and ORDERED by the Commission that the Respondent, Jill Dabbs, should be and is hereby found to have committed a violation of Ark. Code Ann. § 21-8-304(a) by using her position as Mayor of Bryant to secure a salary increase for herself without obtaining prior approval from the City Council and that the Respondent shall be issued a Public Letter of Caution.

IT IS SO ORDERED this 6 day of September, 2011.

  
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CATHERINE JOHNSON, Chairman  
Arkansas Ethics Commission