

MEMORANDUM

NOV 08 2007

TO: City Council

FROM: Edwin Rutan, City Attorney 
Boyd Ferguson, Senior City Attorney 

DATE: November 8, 2007

SUBJECT: Resolution Regarding Determination of Nonapplicability for Mayor Anderson

Salt Lake City Code Section 2.44.080 contains restrictions on the solicitation and receipt of gifts by Salt Lake City officers and employees, and Section 2.44.080B prohibits a City officer or employee from seeking, soliciting, or receiving any gift for the purpose of addressing or dealing with matters not involving official City business.

Salt Lake City Code Section 2.44.180(B) authorizes the City Council to grant to the mayor (or vice versa for individual Council members) a determination of nonapplicability of the restrictions on gifts in Section 2.44.080.

In a letter to the City Council dated October 30, 2007 (copy attached), Mayor Ross C. Anderson requested from the City Council a determination of nonapplicability with respect to certain soliciting of contributions to for an organization soon to be incorporated ("HumanKind") that would be involved in education and advocacy on human rights and climate change issues.

In his letter Mayor Anderson said that the determination of nonapplicability would apply only to (1) contributions to a non-profit organization dedicated to working on human rights and climate change issues; and (2) contributions from foundations, corporations, or persons who do not currently, and are not likely to, have any business dealings with Salt Lake City Corporation or any financial interest in any matters involving Salt Lake City Corporation. Mayor Anderson also said that while he is mayor he would not solicit or receive any funds on behalf of HumanKind from any person or entity doing, or likely to do, business with Salt Lake City Corporation. Mayor Anderson also noted that he will be in office only for another two months, providing further insulation against any risk of improper influence

In his letter Mayor Anderson said that he contemplated being on the board of HumanKind, serving as an officer, and working full-time as a compensated employee of HumanKind.

City Code City Code Section 2.44.180(B) provides that a determination of nonapplicability must be in writing and may be given only upon a determination of *each* of the following requirements:

1. the gift was not given with the intent to influence official action;
2. there exists no substantial likelihood that the gift will influence official action; and
3. the giving of the determination of nonapplicability will not be detrimental to the interests of the City.

If the Council believes that the request fails one or more of these requirements, the request must be denied.

Attached are two versions of a resolution of the City Council addressing these issues. One version grants Mayor Anderson's request and one version denies it. Paragraph 3 of the version denying the request contains a blank in which the Council may identify why it concluded, if that were the case, that one or more of the requirements listed above were not satisfied.

HB_ATTYY-#2396-v1-Transmittal_memo_for_determination_of_nonapplicability_for_Mayor_Anderson.DOC



ROSS C. "ROCKY" ANDERSON
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR

October 30, 2007

Dear Members of the City Council:

I am writing to seek a determination of non-applicability, pursuant to Salt Lake City Corporation Ordinance Section 2.44.180B, of the prohibition against seeking or receiving "any gift for the purpose of addressing or dealing with . . . matters not involving official city business." Section 2.44.080B. My request is in connection with contributions I hope to solicit and receive for a non-profit organization dedicated to education and advocacy on human rights and climate change issues.

As you know, from the beginning of my term as mayor, I have imposed a strict ban on any gifts to all city employees. I strongly believe that no personal gifts should be received by any elected officials from anyone who does, or seeks to do, business with any governmental entity over which the elected officials have any authority.

I am asking for a determination of non-applicability, which would apply only to (1) contributions to a non-profit organization dedicated to working on human rights and climate change issues; and (2) contributions from foundations, corporations, or persons who do not currently, and are not likely to, have any business dealings with Salt Lake City Corporation or any financial interest in any matters involving Salt Lake City Corporation.

I am requesting the determination of non-applicability in order that I can make initial requests for funding for an organization that will soon be incorporated. If trademark issues can be resolved, the name of the organization will be HumanKind Education Fund, Inc. ("HumanKind").

Although I have been able to spend only a very limited amount of time in the formation of HumanKind (hence the fact that it is not even incorporated at present), I am hoping to have everything in place, including some initial funding, so that I can commence work immediately after I leave office on January 7, 2008. A delay in obtaining seed funding will set the effort back significantly.

I contemplate being on the board, serving as an officer, and working full-time as a compensated employee of HumanKind. All contributions will go directly to HumanKind for the purpose of grassroots education and advocacy on human rights and climate change issues. Also, while I am mayor, I will not solicit or receive any funds on behalf of HumanKind from any person or entity doing, or likely to do, business with Salt Lake City Corporation.

Section 2.144.180B provides that a determination of non-applicability shall be in writing and shall only be given upon a determination that:

- (1) the gift was not given with the intent to influence official action;
- (2) there exists no substantial likelihood that the gift will influence official action; and
- (3) the giving of the determination of nonapplicability will not be detrimental to the interests of the City.

Because I would not be soliciting (or accepting) contributions during my tenure as Mayor from people or businesses doing business with Salt Lake City or likely to do so, each of these conditions will be satisfied. Moreover, the fact that I will be in office only for another two months provides further insulation against any risk of improper influence.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Ross C. Anderson", with a long horizontal flourish extending to the right.

Ross C. Anderson
Mayor

RESOLUTION NO. _____ OF 2007
GRANTING A DETERMINATION OF NON-APPLICABILITY
PURSUANT TO SALT LAKE CITY CODE SECTION 2.44.180

WHEREAS, Salt Lake City Code Section 2.44.080 contains restrictions on the solicitation and receipt of gifts by Salt Lake City officers and employees, and Section 2.44.080B prohibits a City officer or employee from seeking, soliciting, or receiving any gift for the purpose of addressing or dealing with matters not involving official City business;

WHEREAS, Salt Lake City Code Section 2.44.180(B) authorizes the City Council to grant to the Mayor a determination of nonapplicability of the restrictions on gifts in Section 2.44.080;

WHEREAS, in a letter to the City Council dated October 30, 2007 (a copy of which is attached hereto), Mayor Ross C. Anderson requested a determination of nonapplicability with respect to certain soliciting of contributions to an organization soon to be incorporated ("HumanKind") that would be involved in education and advocacy on human rights and climate change issues;

WHEREAS, in his letter Mayor Anderson said that the determination of nonapplicability would apply only to (1) contributions to a non-profit organization dedicated to working on human rights and climate change issues; and (2) contributions from foundations, corporations, or persons who do not currently, and are not likely to, have any business dealings with Salt Lake City Corporation or any financial interest in any matters involving Salt Lake City Corporation, and that while he is mayor he would not solicit or receive any funds on behalf of HumanKind from any person or entity doing, or likely to do, business with Salt Lake City Corporation; and

WHEREAS, in his letter Mayor Anderson said that he contemplated being on the board of HumanKind, serving as an officer, and working full-time as a compensated employee of HumanKind;

THEREFORE, BE IT RESOLVED by the City Council of Salt Lake City, Utah, as follows:

1. Based on Mayor Anderson's representations, the City Council hereby determines that the gifts anticipated by Mayor Anderson will be gifts of money. However, because such gifts have not yet been given, it is currently impossible to describe their estimated value.
2. Based on Mayor Anderson's representations, the City Council hereby determines, with respect to any gift received by Mayor Anderson as described above and in his letter to the City Council, that: (a) the gift would not be given with the intent to influence official action; (b) there exists no substantial

likelihood that the gift would influence official action; and (c) the giving of this determination of nonapplicability will not be detrimental to the interests of Salt Lake City.

3. The City Council makes such determinations because: (a) the gifts will relate to Mayor Anderson's activities with HumanKind rather than to his mayoral functions; (b) the Mayor's fundraising would involve only contributions from foundations, corporations, or person who do not currently, and are not likely to, have any business dealings with the City or any financial interest in any matters involving the City; (c) while he is mayor, Mayor Anderson will not solicit or receive any funds on behalf of HumanKind from any person or entity doing, or likely to do, business with the City; and (d) Mayor Anderson will be in office only for another two months, providing further insulation against any risk of improper influence.

4. Pursuant to Salt Lake City Code Section 2.44.180B, the City Council hereby grants the determination of nonapplicability requested by Mayor Anderson.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2007.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM:



SENIOR CITY ATTORNEY

RESOLUTION NO. _____ OF 2007
DENYING A REQUEST FOR A DETERMINATION OF
NON-APPLICABILITY PURSUANT TO
SALT LAKE CITY CODE SECTION 2.44.180

WHEREAS, Salt Lake City Code Section 2.44.080 contains restrictions on the solicitation and receipt of gifts by Salt Lake City officers and employees, and Section 2.44.080B prohibits a City officer or employee from seeking, soliciting, or receiving any gift for the purpose of addressing or dealing with matters not involving official City business;

WHEREAS, Salt Lake City Code Section 2.44.180(B) authorizes the City Council to grant to the Mayor a determination of nonapplicability of the restrictions on gifts in Section 2.44.080;

WHEREAS, in a letter to the City Council dated October 30, 2007 (a copy of which is attached hereto), Mayor Ross C. Anderson requested a determination of nonapplicability with respect to certain soliciting of contributions to an organization soon to be incorporated ("HumanKind") that would be involved in education and advocacy on human rights and climate change issues;

WHEREAS, in his letter Mayor Anderson said that the determination of nonapplicability would apply only to (1) contributions to a non-profit organization dedicated to working on human rights and climate change issues; and (2) contributions from foundations, corporations, or persons who do not currently, and are not likely to, have any business dealings with Salt Lake City Corporation or any financial interest in any matters involving Salt Lake City Corporation, and that while he is mayor he would not solicit or receive any funds on behalf of HumanKind from any person or entity doing, or likely to do, business with Salt Lake City Corporation; and

WHEREAS, in his letter Mayor Anderson said that he contemplated being on the board of HumanKind, serving as an officer, and working full-time as a compensated employee of HumanKind;

THEREFORE, BE IT RESOLVED by the City Council of Salt Lake City, Utah, as follows:

1. Based on Mayor Anderson's representations, the City Council hereby determines that the gifts anticipated by Mayor Anderson will be gifts of money. However, because such gifts have not yet been given, it is currently impossible to describe their estimated value.
2. The City Council hereby determines, with respect to any gift described above and in Mayor Anderson's letter to the City Council, that Mayor Anderson has failed to satisfy the City Council that: (a) the gift would not be given with the

intent to influence official action; (b) there exists no substantial likelihood that the gift would influence official action; or (c) the giving of a determination of nonapplicability would not be detrimental to the interests of Salt Lake City.

3. The City Council makes the determination described in Paragraph 2 because _____.

4. Pursuant to Salt Lake City Code Section 2.44.180B, the City Council hereby denies Mayor Anderson's request for a determination of nonapplicability.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2007.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM:



SENIOR CITY ATTORNEY