

**Testimony of Shelley L. Tomkin
Chair of the Ward 3 Democratic Committee
before the DC Council
Committee on Government Operations
Chairman Muriel Bowser
October 26, 2011**

I want to thank Chairman Bowser and the D.C. Council Committee on Government Operations for holding this hearing today on the topic of government ethics reform. These hearings and the legislative proposals that are being considered at this hearing send an important message to the public at large that the D. C. Council is serious about addressing the need for ethics reform in how our local government does business in order to restore the public's confidence in its elected representatives.

I am testifying as Chair of the Ward 3 Democratic Committee on behalf of that ward committee today. As a grassroots organization that strives to promote good government practices, the Ward Three Democratic Committee constituted a government ethics reform task force that met and conducted research over the summer. The outcome of that effort was a government ethics reform resolution that passed the full Ward 3 Democratic Committee at our September 15th meeting. This testimony is based upon the tenets of that resolution that addresses some of the areas covered in the legislative proposals under discussion today.

The Ward Three Democratic Committee's efforts were motivated by the desire that the Democratic Party apparatus in Ward 3 and in D.C. at large be part of the

solution to restoring public confidence in our elected officials. We were tired of reading news reports that portrayed our local government as a negative role model and weary of watching local residents turn away from voting and from participation in civic and political life by what many considered to be a culture of corruption in our local governance.

I wish to stress that the resolution we passed was not intended to target any current elected official whether under investigation or not. Nor should the resolution be construed as constituting draft legislation. Instead it is intended to communicate a series of five general principles to be applied in evaluating these various ethics reform proposals that are now before the D.C. Council.

I would now like to review these principles and have attached the resolution text to this testimony for the record. All five of these items endorsed by the Ward Three Democratic Committee are also put forth in similar, but not identical form in the some of the legislative proposals being considered here today.

The first principle is that clearly stated, unified, and comprehensive codes of conduct and regulations governing transparency and public disclosure, conflict of interest, and misuse of public funds and property be enacted into law.

Government ethics matters are currently scattered among multiple laws, codes, and regulations. These include District conflict of interest statutes, (Title 1 of the D.C. Official Code), ethics code of conduct regulations (Title 6B of the D.C. Code of Municipal Regulations), and federal

criminal statutes applicable to District officials (Title 18 of the U. S. Code). One body of law covering this area should bring these matters together under one statutory umbrella. Moreover, there are many gaps in current law that call into question the boundaries of acceptable behavior for D.C.'s elected officials. These gaps should be addressed.

The second principle is that strong sanctions and appropriate civil and criminal penalties for noncompliance with these codes and regulations be enacted to deter public corruption in our local governance.

The third principle is that one independent ----and I stress the word "independent" entity should be created to investigate, enforce, and levy penalties on public officials who do not comply with the ethics codes of conduct and regulations and to refer cases to the District of Columbia Attorney General and/or the U.S. Attorney for the District of Columbia. Here again current process and statutory authority allows for multiple ethics review bodies that create confusion as to which office is responsible for reviewing individual ethics violations. As of now, there are at least ten separate and uncoordinated oversight entities with some (often overlapping) authority to review and to take some action regarding ethics violations for District officials.

We recommended the creation of a D.C. Ethics Office headed by an ethics counsel but did not specify further details on the selection process in the resolution. It is the

“independence” of the ethics office that would be significant for us in evaluating draft legislative proposals.

While there appeared to be relatively uniform support for the aforementioned principles among Ward Three Democratic Committee delegates, there were two additional clauses in our resolution that did engender a considerable amount of debate.

First, was the position that outside employment should be disallowed for D.C. Councilmembers. This part of the resolution was grounded in two concerns; first, in order to effectively represent their constituents, coupled with the fact that D.C. Council members must have adequate time and energy to assume both municipal and state functions, the Council position should be a full-time position. This position is bolstered by the facts that the offices of Mayor and Council Chair are full-time and exclude outside employment and that among similar municipal city council salaries, our Council members’ salaries of \$125,000.00 per annum are among the highest in the United States.

Second, significant obligations stemming from outside employment can create the real or perceived potential for conflicts of interest between Council members employers’ interests and the public interest and their constituents’ interests.

While elimination of outside employment for Council members prevailed in our resolution vote, there was a significant level of debate in the Ward Three Democratic Committee on this topic.

The minority view that opposed this clause of the resolution was that the elimination of outside employment for Council members would shrink the pool of qualified candidates to run for the Council and would drive away current Council members who maintain significant outside employment. Saying that-- there were suggestions of how these concerns could be addressed legislatively such as moderate increases in Council members' salaries and/or exemptions for current Council members for one or two upcoming terms. Another compromise might be to place this recommendation up for consideration in a referendum for the citizens of the District of Columbia to decide.

The final recommendation in our resolution was the elimination of constituent service funds for Council members. The genesis of this recommendation was the negative public reactions caused by the barrage of media reports that have reported that these constituent service funds originally intended to help needy D.C. residents, have in practice come to serve largely as slush funds for the Council members that in effect breach campaign contribution limits. Research has yielded findings that in many cases the funds have "NOT" been directed toward the requirements of needy constituents, but instead toward the self-promotional needs of the Council members. Here, also there was some dissent among our membership. A minority of our delegates believed that in lieu of eliminating the constituent service funds, legislation should be crafted that strictly limits the use of these funds for their originally intended purposes that do in many instances play important roles in assisting D.C. residents during times of emergency or need.

That concludes my testimony. I thank you for this opportunity to testify today on this significant topic.