

**CITY OF BIRMINGHAM  
BOARD OF ETHICS AGENDA  
MAY 15, 2015 – 8:30 AM  
151 MARTIN, BIRMINGHAM  
CONFERENCE ROOM 202**

**I. CALL TO ORDER**

Sophie Fierro-Share, Chairperson

**II. ROLL CALL**

Laura M. Pierce, City Clerk

**III. APPROVAL OF MINUTES**

A. Approval of minutes of September 28, 2012.

**IV. NEW BUSINESS**

A. Discussion regarding Food for Thought: Tips on Good Governmental Practices seminar.

**V. ADJOURN**

*NOTICE: Individuals requiring accommodations, such as mobility, visual, hearing, interpreter or other assistance, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice), or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.*

*Las personas que requieren alojamiento, tales como servicios de interpretación, la participación efectiva en esta reunión deben ponerse en contacto con la Oficina del Secretario Municipal al [\(248\) 530-1880](tel:248-530-1880) por lo menos el día antes de la reunión pública. (Title VI of the Civil Rights Act of 1964).*

**CITY OF BIRMINGHAM  
BOARD OF ETHICS MINUTES  
SEPTEMBER 28, 2012 – 8:00 AM  
151 MARTIN, BIRMINGHAM  
CONFERENCE ROOM 203**

**I. CALL TO ORDER**

Jim Robb, Chairperson, called the meeting to order at 8:01 AM.

**II. II. ROLL CALL**

Present: Ms. Fierro-Share  
Mr. Robb  
Mr. Schrot

Also Present: Clerk Broski, Assistant City Manager Valentine

**III. APPROVAL OF MINUTES**

Mr. Schrot made the following revision to page one:

"Mr. Valentine explained that he is currently an auxiliary with the United States Coast Guard."

**MOTION:** Motion by Robb, seconded by Schrot:  
To approve the minutes of August 16, 2012 as amended.

**VOTE:** Yeas, 3  
Nays, None  
Absent, None

**IV. NEW BUSINESS**

**A. Review of Advisory Opinion 2012-02: Joe Valentine**

Mr. Schrot reviewed the draft opinion. Mr. Valentine clarified that the Auxiliary Police Chief does not approve individuals in the auxiliary program.

The Board made the following amendment to the advisory opinion:

"The Police Auxiliary has its own police chief. Mr. Valentine has received the endorsement ~~approval~~ of this individual to volunteer as an Auxiliary Police Officer."

**MOTION:** Motion by Robb, seconded by Fierro-Share:  
To adopt the Advisory Opinion 2012-02 as amended.

**VOTE:** Yeas, 3  
Nays, None  
Absent, None

The Board recessed at 8:19 AM.  
The Board reconvened at 8:23 AM.

Mr. Robb reported that he presented Government Ethics to the Oakland County Building Officials Association.

**B. Election of new Chairperson**

**MOTION:** Motion by Schrot, seconded by Robb:  
To appoint Sophie Fierro-Share as chairperson.

**VOTE:** Yeas, 3  
Nays, None  
Absent, None

<b>V. PUBLIC COMMENT</b>
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<b>VI. ADJOURN</b>
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The meeting adjourned at 8:44 AM.

Laura M. Broski  
City Clerk

Informational Seminar for  
City Boards, Commissions  
and Employees

R.S.V.P. is not required, but  
appreciated.

City Clerk's Office:  
Lbroski@bhamgov.org or  
248.530.1880

# FOOD FOR THOUGHT TIPS ON GOOD GOVERNMENTAL PRACTICES

*Informational Seminar for  
City Officials and Employees  
Thursday, December 1, 2011*

*Sponsored by the City of Birmingham Board of Ethics*

First session: 4:00 PM—5:30 PM      Location: Municipal Building  
Repeated: 7:00 PM—8:30 PM      151 Martin, Birmingham, MI 48009  
Commission Room #205

- **Open Meetings Act & Freedom of Information Act**, presented by Tim Carrier, City Attorney
- **Parliamentary Procedures and Roberts Rules of Order**, presented by Coco Siewert, Professional Registered Parliamentarian
- **Ethics in Government**, presented by the Board of Ethics members: Sophie Fierro-Share, James D. Robb, John J. Schrot, Jr.

Location: Municipal Building  
151 Martin, Birmingham, MI 48009  
Commission Room #205

City of Birmingham  
151 Martin, P.O. Box 3001  
Birmingham, MI 48012

Phone: 248.530.1880  
Fax: 248.530.1080  
web: [www.bhamgov.org](http://www.bhamgov.org)





**BOARD OF ETHICS  
FOOD FOR THOUGHT SEMINAR - 2011  
IMPORTANT POINTS**

**OPEN MEETINGS ACT & FREEDOM OF INFORMATION ACT:**

- Consider all meetings subject to the Open Meetings Act.
- Consider all documents subject to Freedom of Information Act.

**VALUE OF USING BASIC PARLIAMENTARY PROCEDURE:**

- Allows a body to accomplish its objectives while expediting business and maintaining order.
- Using motions focuses discussion and results in decision making.

**UNDERSTANDING THE DIFFERENCE BETWEEN VALUES AND ETHICS:**

- Ethics address correct or proper behavior and provide standards of conduct to use to make decisions.
- Seeks to avoid subjectivity by using a rigorous, systematic, logical process to determine which course or courses of action are ethical.
- Ethics are related to, but not identical with, values and morals.

**ETHICAL PRINCIPALS IN GOVERNMENT:**

- Avoid even appearance of violation of principles
- By following rules, you affirm public's confidence in integrity of government, and avoid administrative, civil, or criminal penalties

**THE ETHICS ORDINANCE:**

- Public trust: Individually, we do not own the city's property. We hold and use it in trust for the people.
- For employees: our public office does not entitle us to receive anything except for our authorized wages, benefits, and reimbursable expenses.
- For volunteers: our public office does not entitle us to receive anything except for that which the general public is entitled.



TIPS ON GOOD  
GOVERNMENTAL PRACTICES

## **FOOD FOR THOUGHT**

December 1, 2011

## **PROGRAM**

- **Open Meetings Act & Freedom of Information Act**  
presented by Tim Currier, City Attorney
- **Parliamentary Procedures & Roberts Rules of Order**  
presented by Coco Siewert, Professional Registered Parliamentarian
- **Ethics in Government**  
presented by Board of Ethics members Sophie Fierro-Share, John J. Schrot, Jr., and James D. Robb



## FOOD FOR THOUGHT

### OPEN MEETINGS ACT & FREEDOM OF INFORMATION ACT

PRESENTED BY TIM CURRIER

## OPEN MEETINGS ACT

- *"All meetings of a public body shall be open to the public."*
- *"All decisions of a public body shall be made at a meeting open to the public."*
- *"All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public" unless as otherwise specified in the act.*

## PUBLIC BODY

- **Definition.** “Public Body” means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function.

## DECISION

- **Definition.** “Decision” is defined by Section 2 of the OMA to mean a determination, action, vote or disposition upon a motion, proposal, recommendation, resolution, ordinance, bill, or measure on which a vote is required and by which public policy is formulated.
- **Decision v Deliberation.** Michigan Court of Appeals has defined “deliberations” as exchanging affirmative or opposing views, debating a matter, or engaging in discussion about a matter.



## **EXAMPLES OF PERMISSIBLE GATHERINGS**

- *Conferences and Workshops*
- *Presentations by Groups*
- *Social Gatherings*
- *Political Matters*

## **EXAMPLES OF ILLEGAL MEETINGS**

- *Informal Meetings*
- *Misuse of Technology*

## **E-MAIL**

- *Sequential Communications*
- *Real-Time Chat or Instant Messaging*
- *Two-Way Communications*
- *Distributing E-mail Information*
- *Existing Restrictions and Policy Guidelines*

## **MEETINGS AND TECHNOLOGY**

- *Telephone conference call (1977 OAG 5183)*
- *Interactive Television (1995 OAG 6835)*
- *Telephone conference calls (Goode v Department of School Services, 143 Mich App 756 (1985))*

## FREEDOM OF INFORMATION ACT

- **"Public record"** means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software.

This act separates public records into the following 2 classes:

- (i) Those that are *exempt* from disclosure under section 13.
- (ii) All public records that are *not exempt* from disclosure under section 13 and which are subject to disclosure under this act.

## FREEDOM OF INFORMATION ACT

- **"Writing"** means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

**SUPREME COURT ORDER**  
***Detroit Free Press, Inc., et al v City of Detroit***  
**SC: 135841; COA 283526; Wayne CC 08-100214-CZ**

**Order**

February 27, 2008

135841 & (30)(11)(32)(35)

DETROIT FREE PRESS INC., and  
DETROIT NEWS,  
Plaintiffs-Appellants,

v

CITY OF DETROIT,  
Defendant-Appellee.

SC 135841  
COA 283526  
Wayne CC 08-100214-CZ

Michigan Supreme Court  
Lansing, Michigan

Chief Justice  
Michael F. Cavanagh  
Elizabeth A. Wyne  
Helen J. Kelly  
Robert D. Cowart  
Stephen J. Young, Jr.  
John J. Black, Jr.

On order of the Court, the motion for immediate consideration of the application for leave to appeal and the motion to file a brief amicus curiae are GRANTED. The application for leave to appeal the February 13, 2008 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The Wayne Circuit Court did not err in concluding that the Settlement Agreement (Deposition Exhibit 11) and the Notice of Rejection (Deposition Exhibit 10) were "public records," MCL 15.212(6), and subject to disclosure pursuant to the Freedom of Information Act, MCL 15.231, *et seq.* Plaintiff Detroit Free Press's FOIA requests were sufficiently specific, see MCL 15.233(1) and *Caldwell v Aetna*, 475 Mich 558, 572-573 (2006), and there is no FOIA exemption for settlement agreements. See, e.g., *Caldwell*, *id.* at 561. Moreover, a public body may not contract away its obligations under the FOIA. *Kear Co Dep'ty Sheriff's Ass'n v Kear Co Sheriff*, 403 Mich 351, 361 (2000). In addition, the circuit court did not abuse its discretion when it disclosed the non-disclosure provision in its previous order, and permitted, with one redaction, the disclosure of the deposition in question.

The motion for stay is GRANTED to the extent that the Wayne Circuit Court's February 5, 2008 order granting the motion to disclose is STAYED pending the return of the lower court record to that court. The motion to read this Court's record is GRANTED to the extent that this Court's file shall remain sealed until the release of documents as ordered by the trial court.

KELLY, J., concurs and states as follows:

I concur in the decision to deny leave to appeal. But I write separately to discuss the trial court's decision to disclose the deposition transcript.

Under MCR 2.411(C)(5) statements made during the course of mediation are confidential. In pertinent part, this rule provides:

(5) Confidentiality. Statements made during the mediation, including statements made in written submissions, may not be used in any other proceedings, including trial. Any communications between the parties or counsel and the mediator relating to a mediation are confidential and shall not be disclosed without the written consent of all parties . . .

Here, at numerous points during the deposition, attorney Michael Stiefel was specifically questioned about incidents that occurred during court-ordered facilitation. Because Stiefel's detailed recollection of events included "statements made during mediation" and "communications between the parties or counsel," I believe certain parts of the deposition involved confidential communications under MCR 2.411(C)(5). But the city of Detroit did not argue for the redaction of this testimony. Instead, it asked the trial court to exempt the entire deposition from disclosure. Because most of the deposition testimony does not fall within the parameters of MCR 2.411(C)(5), the trial judge properly decided not to exempt the entire transcript from disclosure. And because the city did not specifically argue for redaction, I conclude that the trial judge did not abuse his discretion in not ordering redaction *in specie*.<sup>1</sup>

<sup>1</sup> The trial court ruled that the confidentiality requirement of MCR 2.411(C)(5) is subject to the crime-fraud exception discussed in *People v Pascher*, 207 Mich App 698, 765-766 (1994). I do not rely on the crime-fraud exception to conclude that the judge did not abuse his discretion in ordering disclosure of the deposition transcript. Hence, I offer no opinion on the applicability of the crime-fraud exception here.



I, Charles R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the whole entered in the files of the Court.  
February 27, 2008  
John J. Black, Jr.  
Clerk

Q & A



# FOOD FOR THOUGHT

## **PARLIAMENTARY PROCEDURES**

PRESENTED BY COCO SIEWERT

# Q & A



# FOOD FOR THOUGHT

## **ETHICS IN GOVERNMENT**

PRESENTED BY  
SOPHIE FIERRO-SHARE,  
JOHN J. SCHROT, JR., AND  
JAMES D. ROBB



# FOOD FOR THOUGHT

## **UNDERSTANDING THE DIFFERENCE BETWEEN VALUES AND ETHICS**

PRESENTED BY SOPHIE FIERRO-SHARE

## COMMON TERMS USED IN THE DISCUSSION OF ETHICS

### ■ VALUES

- Are not synonymous with Ethics.
- Are beliefs, attitudes, or preferred conceptions about what is good or desirable.
- Provide direction for daily living.
- Can be “end goals” for a person's life.
  - i.e. Inner harmony, wisdom, love
- Can be a process a person uses to achieve their end goals.
  - i.e. politeness, honesty, self-control, ambition
- When values conflict, individuals prioritize (politeness and honesty)
- Can originate from personal, social, or governmental sources.

## COMMON TERMS USED IN THE DISCUSSION OF ETHICS

### ■ ETHICS

- Beliefs about what constitutes correct or proper behavior
- Standards of conduct an individual uses to make decisions.

### ■ MORALITY

- Involves the judgment or evaluation of an ethical system, decision, or action based on social, cultural, or religious norms.
- Often confused with ethics

## FRAMEWORK OF ETHICAL DECISION-MAKING

### ■ DECISION ANALYSIS

- Procedure to break-down a decision into manageable components so one can trace the sequence of events which might be the consequence of selecting one course of action over another.
- Provides an objective analysis to help make the best possible decision in a given situation, builds logic, rationality, and considers the potential outcomes for various decision paths.
- Attempts to shift the process of moral decision making from the arena of the personal and subjective to the arena of an intellectual process; characterized by rigor and systematization.

## ASSESSING ETHICAL THEORIES

### QUESTIONS WHEN ASSESSING ETHICAL THEORIES:

- Authoritative
  - Where does the theory turn to for validation of its basic assumptions?
- Distributive
  - Whose interests does the theory serve?
- Substantive
  - What is the theory's ultimate goal?



## ASSESSING ETHICAL THEORIES OTHER INDICATORS

ETHICAL THEORY MUST BE:

- Clear and easily understood
- Internally consistent
- As complete as possible
- Consistent with general daily experience and judgment

# Q & A



## FOOD FOR THOUGHT

### THE ETHICS ORDINANCE AND THE BOARD OF ETHICS

JAMES D. ROBB

## CODE OF ETHICS

- **HELPING TO PRESERVE PUBLIC TRUST IN THE  
INTEGRITY OF GOVERNMENT**

The City of Birmingham has declared that public office and employment are public trusts. For government to operate properly, each city official, employee, or advisor must earn and honor the public trust by integrity and conduct. All city officials, employees, and advisors must avoid conflicts between their private interests and the public interest and must not use public office for personal gain.

## **CODE OF ETHICS**

- PURPOSE:
  - ENHANCE PUBLIC TRUST
  - INFORM AND EDUCATE, NOT PUNISH
  - AVOID CONFLICTS OF INTEREST
- METHOD:
  - BOARD OF ETHICS
    - DETERMINES COMPLIANCE WITH CODE
    - EDUCATES THE PUBLIC ABOUT THE CODE

## **BOARD OF ETHICS MISSION STATEMENT**

- THE MISSION OF THE CITY OF BIRMINGHAM BOARD OF ETHICS IS:

To foster an environment where city officials, employees, and professional consultants work together with integrity, honesty, and mutual respect, such that decisions are made which honor the public trust and enhance the quality of life in our community.

## **MISSION, cont'd**

- To educate and inform the public about expected standards of conduct for city officials, employees, and professional consultants through resources such as the city's website and newsletter.
- To strengthen citizens' confidence in the integrity of their city officials, employees, and professional consultants.

## **MISSION, cont'd**

- To provide an easily accessible opportunity for all city officials and employees, professional consultants, and the public to ask for advisory opinions of the Board of Ethics with respect to the Ethics Ordinance.
- To address alleged violations of the Ethics Ordinance without delay and with due process and fidelity to the Ethics Ordinance.

## BOARD OF ETHICS

- OPERATIONAL PRINCIPLES:
  - APPLY ORDINANCE
  - WITHIN THE CONTEXT OF A CASE
  - UNDER THE RULES

## BOARD OF ETHICS

- **ETHICS ORDINANCE**

Through the [Ethics Ordinance](#), the city has established rules of conduct for city officials, employees, and advisors and has designed a process for determining whether their conduct conforms to or violates the ordinance. That process contemplates the involvement of all citizens, not just city officials, employees, and advisors, in monitoring the integrity of city government.

## BOARD OF ETHICS

- When there is a question or a complaint as to the applicability of any provision of the Ethics Ordinance to a particular situation, the city directs that question or complaint to the Board of Ethics. The Board of Ethics may conduct hearings and issue advisory opinions as applicable under the ordinance.

## BOARD OF ETHICS

- **Rules of the Board of Ethics**

The [Rules of the Board of Ethics](#) provide for three types of matters that may be referred to the board, depending on whose conduct is to be reviewed and who is requesting that review:

- Advisory Opinion
- Complaint
- Referred Question of Disqualification

## BOARD OF ETHICS

- Holds hearings
  - Gives notice to parties
  - Receives evidence – testimony and documents
  - Receives argument of the parties
  - Deliberates in public
  - Votes on decision, in public
  - Writes opinions that are published.

## Advisory Opinion

- City officials or employees, including consultants, advisors, contractors, and persons serving on advisory boards and commissions, may desire a determination of whether *their own conduct or anticipated conduct or the conduct of a person under their authority* conforms to or violates the Ethics Ordinance. They may seek that determination by requesting an advisory opinion from the Board of Ethics on the [advisory opinion request form](#). After a hearing at which the official or employee may appear, documents may be presented, and testimony taken, the board issues an opinion on the question presented

## Complaint

- City residents may desire a determination of whether the conduct of *city officials or employees* conforms to or violates the Ethics Ordinance. They may seek that determination by filing a complaint with the Board of Ethics on the [complaint form](#). After an evidentiary hearing at which the complaining party and the responding party must appear, documents may be presented, and testimony taken, the board issues a decision on the question presented.

## Referred Question of Disqualification

- The city commission and the city's various boards and advisory commissions may themselves desire a determination of whether *one of their members* should be disqualified, due to a disclosed conflict of interest, from discussion, deliberation, action, or voting on a particular matter. In that instance, the commission or board may refer the question to the Board of Ethics for a final determination as to the conflict in question and whether the official, commissioner, or employee must refrain from participation in the matter.



## BOARD OF ETHICS

### Contact Information

- To request an advisory opinion, file a complaint, or if you have any questions or comments regarding the Board of Ethics, please contact Laura Broski, City Clerk by email [lbroski@bhamgov.org](mailto:lbroski@bhamgov.org) or telephone at 248.530.1802.
- Ordinance, rules, decisions & forms available: [www.bhamgov.org/ethics](http://www.bhamgov.org/ethics)

## Q & A

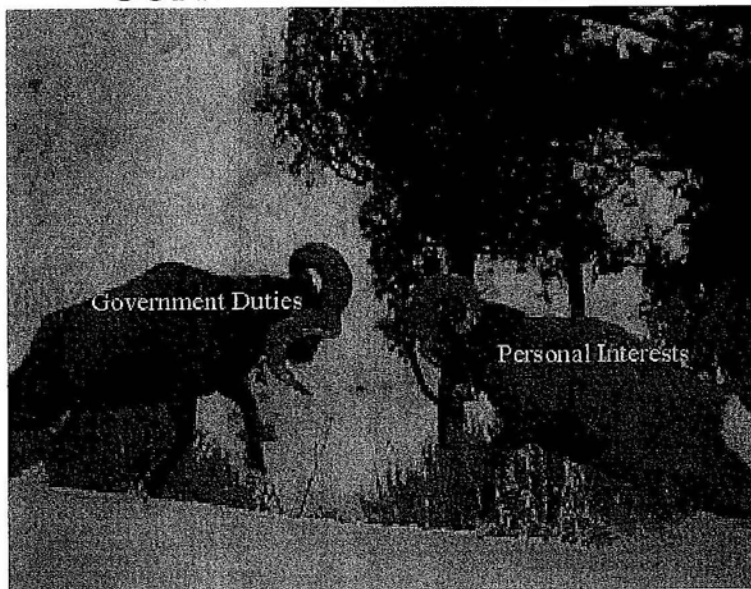


# FOOD FOR THOUGHT

## ETHICAL PRINCIPLES IN GOVERNMENT

JOHN J. SCHROT, JR

### CONFLICTS OF INTEREST



**How to Avoid the Headaches**

## **GENERAL PRINCIPLES OF THE STANDARDS OF CONDUCT**

- City officials subject to set of ethical principles.
- Detailed ethical rules derived from these principles.
- If ethical rules do not cover situation, come back to general principles for guidance in determining proper conduct.

## **CORE PRINCIPLES**

- OBJECTIVITY (§2-230, 2-324 a(9))
  - Place public's interest before private interest or outside obligation.
  - Choices need to be made on merits
- SELFLESSNESS (§2-321, 2-323 (1), (2), 2-324(a) (4), (5), (6), (7), (8) and (10))
  - No decisions to gain financial or other benefits for oneself, family or friends.

## CORE PRINCIPLES

- STEWARDSHIP (§2-320, 2-321, 2-324(a) (3) and (8))
  - Duty to conserve public resources against misuse and abuse
- TRANSPARENCY (§2-323(2), 2-324(a)(1))
  - Practice open and accountable government
  - Yet protect truly confidential information
- INTEGRITY (§2-320, 2-323, 2-324(a) (4))
  - No financial or other obligation to outside individuals or entities that might influence official duties

## FREQUENTLY ASKED QUESTIONS

- WHAT WILL THIS GUIDANCE/TRAINING DO FOR YOU?
  - Help recognize dangers (conflicts of interest)
  - Protection from inadvertent and possible career-ending violations (civil or criminal penalties).
  - Applying ethics rules can be complex
  - Learn to take a cautious approach
  - Learn to contact Board of Ethics for specific guidance

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHAT IS SO IMPORTANT ABOUT THIS GUIDANCE?
  - Learn to get ethics advice before involvement in potential conflict of interest
  - Orient yourself to a way of thinking that identifies potential ethics problems to determine whether you need to seek specific guidance before engaging in an activity
  - Focus on general ethical principles and their relation to real life situations
  - Avoid violations, fines, loss of job, or even imprisonment
  - Upholding the public's confidence in the integrity of city government

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHY AN ETHICS ORDINANCE?
  - To establish minimum standards of conduct while performing public duties
  - To remove doubts concerning violations of public trust and confidence, the impairment of independent judgment, and favoritism in the performance of public duties that can be created by outside or personal interest.

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHAT IS THE BASIC PURPOSE OF THE CITY'S ETHICS ORDINANCE?
  - To uphold the public's confidence in the integrity of the city's government

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHAT DO ETHICS HAVE TO DO WITH IMPROVING THE QUALITY OF THE PEOPLE WHO ARE CITY OFFICIALS?
  - To attract talented people to public service, government:
    - Must be respected for its honesty and integrity
    - Must make decisions on the merits
    - Must be untainted by consideration of private gain and rules of conduct during and after service are clear and complete

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHAT DO I DO IF I HAVE A CONFLICT OF INTEREST?
  - Disclose any interest that may be in conflict with official duties
  - Abstain from participation in any governmental discussions or actions on any issue where the interest may be affected
  - Let your supervisor, manager or board chair decide how to best resolve the conflict

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHEN DO I DISCLOSE AND POSSIBLY RECUSE MYSELF?
  - If about to take official action on matter you know is likely to provide financial gain to yourself, family, employer, business associates, clients, or interested business entity.
  - If a supervised employee, notify your supervisor about the possible conflict as soon as possible
  - If a board member, notify the members of the board of the conflict and excuse yourself

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- IS THERE A CITY POLICY BALANCE AS TO THE USE OF THE REQUIRED AFFIDAVIT AND DISCLOSURE STATEMENT (Section 3-326)?
  - Yes, between the risk of discouraging citizens from serving in public office by excessive disclosure requirements and the risk of public mistrust and cynicism by no disclosure or under-disclosure

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHY ARE THERE GENERAL GUIDELINES FOR THE USE OF CITY RESOURCES?
  - City officials have a duty to ensure proper stewardship of city resources
  - Resources under official control may not be used for private benefit or gain (e.g. Section 2-324 (a) (3))



## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHAT TYPES OF RESOURCES ARE COVERED UNDER THE ETHICS ORDINANCE?
  - All resources
  - For example, funds, facilities, tools, equipment, vehicles, consumable resources, city information, data bases, employee lists, employees and their time

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- IF I USE CITY RESOURCES, CAN I JUST REIMBURSE THE CITY OF THE USE?
  - No, reimbursing for personal use may result in personal benefit and may impose administrative burdens.
  - Reimbursing creates misperception that personal use is allowable as long as paid for

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- MAY I SEEK EMPLOYMENT OUTSIDE THE CITY WITHOUT RESTRICTION?
  - May not perform government duties that affect financial interests of outside entity if seeking employment with that entity
- IF I RECEIVE A GIFT AND DO NOT USE IT, OR I PASS IT TO A COLLEAGUE, HAVE I RECEIVED A GIFT?
  - See Section 2-326A – disclosure of the tender or receipt of any gift to the city official or member of immediate family exceeding \$50

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- CAN I ATTEND MEETINGS OF THE BOARD OF ETHICS?
  - Absolutely. They are open to the public, subject to the Open Meetings Act.
- WHAT IS THE PURPOSE OF A REQUEST FOR ADVISORY OPINION?
  - If you believe that a conflict of interest could be created by taking a certain course of action, then you should ask Board of Ethics for an advisory opinion.

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHO ACTUALLY ISSUES AN OPINION?
  - Upon submission of request to Board of Ethics for official determination, after review or hearing, the requester will receive a written opinion stating the board's opinion and reason(s) for that opinion (see Section 2-325 (b)).
  - Board of Ethics also receives complaints, conducts hearings thereon and issues written opinions.

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- WHAT IS THE EFFECT OF THE FILING OF A COMPLAINT?
  - A public hearing will be scheduled. (respondent might have a right to a closed hearing)
  - Within seven days after filing, a date for hearing is set
  - Board is impaneled to hear the case
  - An attorney may represent any party or witness
  - Evidence may be introduced
  - Board of Ethics will render a ruling by written opinion
  - See Section 2-325 (b) (1)

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- IF THE BOARD OF ETHICS HOLDS A PUBLIC HEARING FROM A COMPLAINT THAT I HAVE FILED, WHAT IS MY ROLE?
  - In most cases, the complainant will be a witness
  - Complainant will be asked to present evidence demonstrating that the respondent has violated the ethics ordinance.

## **FREQUENTLY ASKED QUESTIONS, cont'd**

- AS AN ALLEGED VIOLATOR OF THE ETHICS ORDINANCE, WHAT RIGHTS DO I HAVE?
  - Entitled to a public hearing before Board of Ethics
  - Entitled to be represented by an attorney
  - Entitled to submit evidence
  - Entitled to ask questions of all witnesses offered by complainant
  - Entitled to give opening and closing statement summarizing position

## FREQUENTLY ASKED QUESTIONS, cont'd

- DOES THE BOARD OF ETHICS HAVE THE POWER TO PENALIZE, AND IF SO, WHAT PENALTIES CAN THE BOARD ASSESS?
  - All findings of the board hearings are published and communicated to City Commission and the public, subject to the ethics ordinance.
  - After publication, City Commission responsible for imposing any sanction for a violation of ordinance on one of its members or any person appointed by it to any city board.
  - If removal of city official is necessary, city shall follow removal requirements under Michigan law.
  - City Manager responsible for imposing discipline for violation of ordinance on any city employee.
  - The board's power includes investigating complaints and conducting hearings under the due process procedures, but its power to penalize is limited to making findings and communicating same to the City Commission and the public.

## SCENARIO NO. 1

**You receive a ticket to a Jimmy Buffett concert. The day of the concert, you decide you never really liked Jimmy Buffett in the first place, and you decide not to go. You throw the ticket in the trash and watch American Idol at home on TV instead. According to the Ethics Ordinance, have you still received a gift, even if you did not make use of it?**

- ☐ Yes, I have still received a gift of a concert ticket.
- ☐ No, I did not technically receive any gift, because I did not go to the concert.

**Explanation:**

According to the Ethics Ordinance, a gift (i.e. something that you directly and personally receive, which includes an instance in which you accept the opportunity to partake of or utilize the item), is a "private gain" (i.e. any interest or benefit, in any form, received). In order to avoid receiving a gift, you must either return the ticket before the event or reimburse the donor for its full cost.

## SCENARIO NO. 2

You are a city employee and you also serve as a board member of a professional association. You are not paid for your work on the board, but certain benefits are routinely conferred upon officers. One benefit of being a board officer is free admittance to the association's annual convention. Would attending the convention - paid for by the association - be considered a "gift" to you under the Ethics Ordinance?

- \_\_\_\_ Yes, this is a gift per the Ethics Ordinance because I am directly and personally receiving something of value.
- \_\_\_\_ No, this is not a gift per the Ethics Ordinance because my work on the board constitutes consideration for the value of the convention.

**Explanation:**

Benefits routinely conferred upon officials are not gifts since the individual's work as an association officer serves as full consideration for these benefits. This satisfies the requirement that a gift has not been given if consideration of equal or greater value is given in return.

## GENERAL ETHICAL PRINCIPLES

DO	DO NOT
Place loyalty to the Constitution, City Charter, the laws, and ethical principles above private gain	Use nonpublic information to benefit yourself or anyone else
Act impartially to all groups, persons and organizations. Treat everyone the same.	Solicit or accept gifts from persons or parties that do business with or seek official action from the city (unless permitted by an exception)

## GENERAL ETHICAL PRINCIPLES

DO	DO NOT
Give an honest effort in the performance of your duties.	Make unauthorized commitments or promises that bind city and do not represent personal opinions as that of the city
Protect and conserve city property	Use city property for unauthorized purposes or personal use
Disclose waste, fraud, abuse corruption and other illegal or unethical behavior to appropriate authorities	Take jobs or hold financial interests that conflict with your government responsibilities

## GENERAL ETHICAL PRINCIPLES

DO	DO NOT
Fulfill in good faith your obligations as citizens and pay your taxes	Take actions that give the appearance that they are illegal or unethical
Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap	Use your public office for private gain or to receive special treatment for yourself or anyone else, or even imply that you can affect city action for the benefit of another
Keep confidential city information that is confidential	Engage in outside activities or employment that conflict with your official duties

## GENERAL ETHICAL PRINCIPLES

DO	DO NOT
	Seek special privileges
	Show favoritism.
	Use your position to unfairly hurt anyone else's chances of making or receiving what they are entitled to receive.
	Represent anyone else before a Birmingham City body, City staff or Court on a particular matter involving the City of Birmingham, whether you receive compensation or not.

## WHAT IS THE BOTTOM LINE?

- Ask yourself if reasonable person who knew the facts would think ethical principles had been violated
- Avoid even appearance of violation of principles
- Understand and follow the ethical rules
- By following rules, you affirm public's confidence in integrity of government, and avoid administrative, civil, or criminal penalties



## BOARD OF ETHICS

- If you have a question regarding the application of restrictions to your particular situation, contact Board of Ethics in advance.
- **"The ultimate answer to ethical problems in government is honest people in a good ethical environment."**
  - John F. Kennedy

Q & A

# **CONCLUSION**



**THANK YOU FOR YOUR  
PARTICIPATION**