

**CITY OF BIRMINGHAM  
BOARD OF ETHICS  
ADVISORY OPINION REQUEST 2009-04**

May 4, 2010

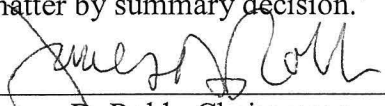
**I. INTRODUCTION**

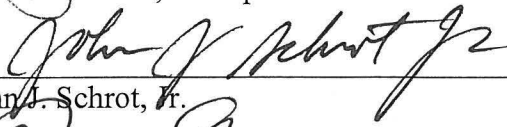
David L. Wisz, a member of the City of Birmingham Traffic and Safety Board, requested that the City of Birmingham Board of Ethics issue an advisory opinion about whether certain alleged conduct of City of Birmingham Planning Director Jana Ecker violates the city's Code of Ethics. Because Mr. Wisz's request on its face fails to demonstrate any violation of the Code of Ethics, the Board of Ethics issues this summary opinion under Rule 205(e) and dismisses the matter summarily.

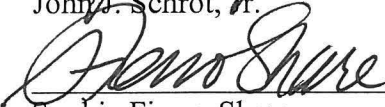
**II. DISCUSSION**

The facts are not in dispute. This matter is related to matter 2009-02 and is functionally identical to matter 2009-03, involving Birmingham City Commissioner Scott Moore's appearance as a speaker at a public forum about certain mass-transit issues called "Transit Now!" organized by a third-party group. Ms. Ecker likewise spoke at that public forum. Uncontroverted testimony shows that she appeared in her official city capacity with the expressed consent of Thomas Markus, the Birmingham City Manager.

For the reasons set forth in our Decision in matter 2009-03, the Board of Ethics holds that, on its face, Mr. Wisz's request for an advisory opinion as to the conduct of Ms. Ecker fails to demonstrate a violation of the applicable provision of the Code of Ethics, § 2-324(2) ("no official or employee of the city shall represent his or her personal opinion as that of the city"). There is no showing that Ms. Ecker represented her personal opinion as that of the city. Indeed, she was speaking for the city about a matter on which the city has already taken an official position. The Board of Ethics accordingly dismisses this matter by summary decision.<sup>1</sup>

  
\_\_\_\_\_  
James D. Robb, Chairperson

  
\_\_\_\_\_  
John J. Schrot, Jr.

  
\_\_\_\_\_  
Sophie Fierro-Share

\_\_\_\_\_