



The Board of Ethics

April 11, 2005

To the Honorable Common Council,

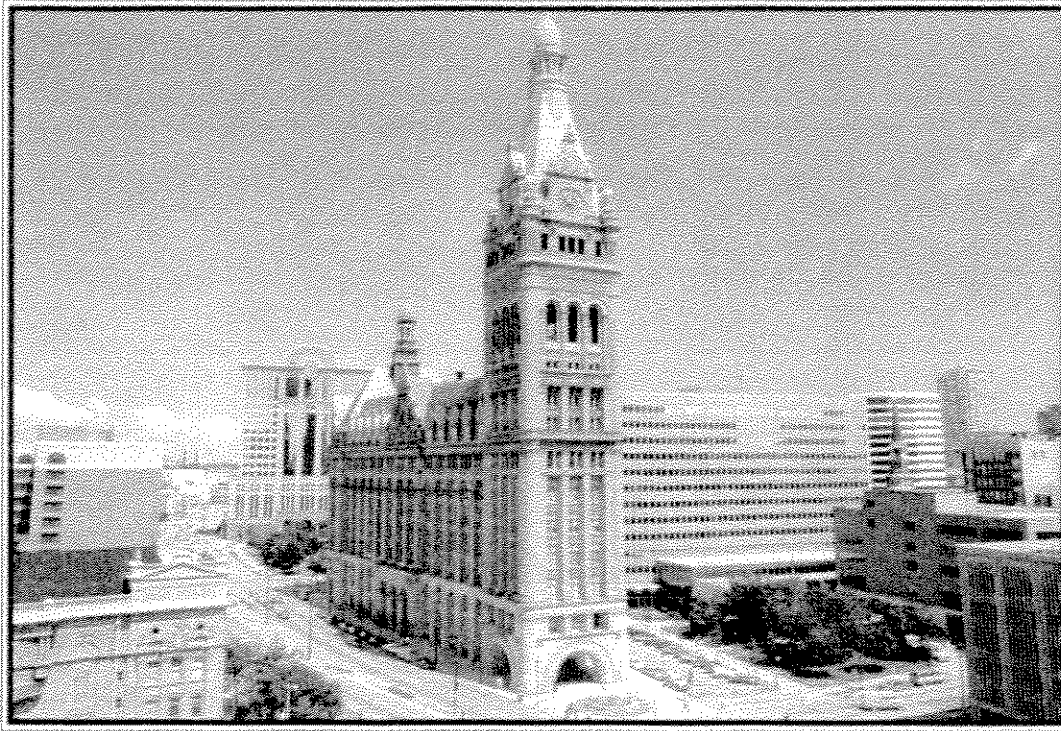
A communication from the City of Milwaukee Ethics Board transmitting the 2004 Annual Report.

Very truly yours,

Kit Halloran O'Meara, Chair
Ethic Board



Milwaukee



Ethics Board



2004 Annual Report



The Board of Ethics

To the Honorable Mayor of Milwaukee
and the Common Council

The City of Milwaukee Board of Ethics 2004 Annual Report

The City of Milwaukee Board of Ethics faithfully administers the City of Milwaukee Code of Ethics, Chapter 303, which promotes the essential elements of public trust. The Board works to implement the Code by issuing confidential advisory opinions, investigating sworn complaints, requiring and reviewing annual financial statements and providing educational efforts. Seven volunteers, having no affiliation to the City of Milwaukee except for residency, make up the Board of Ethics. Members of the Board are recommended for nomination by seven community groups based in the greater Milwaukee area. The seven groups are: The League of Women Voters of Milwaukee County, the Milwaukee Labor Council, the Public Policy Forum, the Milwaukee Bar Association, the Metropolitan Milwaukee Association of Commerce, the Milwaukee Branch of the N.A.A.C.P. and the Interfaith Conference of Greater Milwaukee.

In the year 2004, the Ethics Board held eleven regular board meetings, and a subcommittee meeting. The Board confidentially addressed a record setting twenty-three requests for advisory opinions from a variety of sources, including employees, officials, board/commission members, and citizens. One citizen complaint was filed and dismissed as insufficient. Summaries of the opinions are included in this report. They should not be viewed as definitive advice, but rather as a guide to the types of situations addressed by the Board. If persons subject to the ethics code have any questions regarding their actions, they should request a confidential opinion from the Board of Ethics.

The Board appointed a subcommittee in May to review the 2003 Statement of Economic Interest forms. The purpose of this review was to check for accuracy and inconsistencies in a random selection of completed forms. Overall, the committee found the Statements of Economic Interests to be properly completed.

Throughout 2004, the Board worked to give assistance to the Common Council regarding the proposed lobbying regulation. The lobbying ordinance will take effect in July 2005 in which the registration of lobbyists will be handled in the License Division and the City Attorney's Office will handle enforcement.

In August, the Board requested that all Department Heads review the list of persons

within their departments, who are required to file an annual Statement of Economic Interest. The Department Heads then responded to the Board regarding any position they feel should be added to or deleted from the current list. The Board then reviews these requests according to the ethics code and current job descriptions and forwards the final recommendation to the Finance and Personnel Committee. This process works well to keep the list accurate while giving Department Heads a yearly opportunity to refresh their understanding of Chapter 303.

The Ethics Board welcomed new board member, Eliot Bernstein, in October. Mr. Bernstein is the representative from the Interfaith Conference of Greater Milwaukee. He replaces valued long time member, Don Thielke, who passed away in May.

In November, the Board adopted a new format for the Annual Statement of Economic Interest. The new format separates the form and the instructions. This provides more detailed instructions, making the forms much more user friendly.

Board member, Michael Guerin submitted his resignation in December. The Board is thankful for the services Mr. Guerin provided and is currently awaiting a reappointment for him.

The Board relies on the professional support services of some City Employees and an independent contractor. The Board wishes to thank: Harry Stein, of the City Attorney's office, who provided legal counsel; Linda Elmer, staff assistant from the City Clerk's office, who staffs the regular meetings, and Marian Hartner, Council File Specialist from the City Clerk's office, who provides additional secretarial support. We greatly appreciate our research assistant, Nola Devereaux, who, as an independent contractor, provides invaluable research and technical support. We also wish to thank the City Clerk, Ronald Leonhardt, for providing additional administrative support to the Board.

Please feel free to contact any member of the Board of Ethics should you have any questions or desire additional information. We welcome any comments or suggestions you may have.

Very truly yours,

Kit Halloran O'Meara, Chair

SUMMARIES

Confidential Advisory Opinions

MEB 04-1 Personal use/public property

ISSUE: A City official requested an opinion as to whether the occasional personal use of a department vehicle constitutes a personal gain as define by the Ethics Code, Chapter 303.

ADVICE: The Board determined that given the 24-hour per day level of availability required of this City official, the occasional personal use of a department vehicle would not constitute a substantial personal gain.

MEB 04-2 Post employment

ISSUE: A former City employee requested an opinion as to whether a conflict of interest exists in his/her taking a part-time position with a Milwaukee based firm under the post employment restrictions in 303-5-8a and b.

ADVICE: The Board determined that taking the part-time position is not prohibited under the Code of Ethics based on the following facts: his/her duties would not involve formal appearances or contacts with employees of the department where he/she worked; his/her new duties would not involve appearing before or negotiating with any City official or employee; he/she would not participate in any judicial or quasi-judicial proceeding, application, contract, or claim.

MEB 04-3 Conflict of interest in official action

ISSUE: A City of Milwaukee official requested an opinion as to whether a conflict of interest exists in consideration of a matter before him/her. The matter could potentially benefit associations with which the official is affiliated.

ADVICE: The Board determined that while the appearance of a conflict of interest may exist given the perceived benefit to the associations, the official's affiliation with these entities does constitute an "association" as defined in 303-5-2. The Board encouraged the official to continue disclosing his/her affiliations and cautioned that disclosure alone will not remove a conflict if one develops.

MEB 04-4 Payment of expenses

ISSUE: A City employee requested an opinion as to whether or not he/she could accept hotel accommodations for a conference in another state. The employee outlined that he/she would be speaking at the conference, would take vacation time to attend the conference and pay for airfare and meals. The purpose for attending the conference is to evaluate the conference for possible use by the City and to further personal public speaking skills.

ADVICE: The Board determined that accepting the hotel accommodation and attending this conference is allowed under the Code of Ethics, Chapter 303-9-3a. The Board further recommended that the employee disclose these accommodations as payment of expenses on the annual Statement of Economic Interest form.

MEB 04-5 Conflict of interest/potential conflicting employment

ISSUE: A City official requested an opinion as to whether a conflict of interest exists with her/his keeping a sub-chapter S corporation that existed prior to becoming a City official. The official further disclosed that the corporation is dormant.

ADVICE: The Board determined that no conflict of interest exists in keeping the dormant sub-chapter S corporation.

MEB 04-6 Conflict of interest in official action

ISSUE: A member of a City board or commission requested an opinion as to whether or not he/she must recuse him/herself on a matter that could be of personal benefit that may come before the Board or Commission for which he/she serves.

ADVICE: The Board determined that if the matter comes before the board or commission on which he/she serves, the member must recuse him/herself. The Board acknowledged that his/her outside activities are of value to the board/commission deliberations and need not preclude membership.

MEB 04-7 Hypothetical

ISSUE: The City official requested an opinion regarding possible future actions on behalf of him/herself and other officials.

ADVICE: The Board determined that the facts in the original request changed and the new issue was hypothetical. The Board does not issue opinions on hypothetical issues.

MEB 04-8 Payment of expenses

ISSUE: A City employee requested an opinion as to whether or not a conflict of interest exists in accepting an all expenses paid seminar in another state. The purpose of the seminar is training and the knowledge gained would benefit the City.

ADVICE: The Board determined that no conflict of interest exists in accepting the invitation to attend this seminar. The Board further reminded the employee to disclose the expenses on the honoraria and payment of expenses section on the annual Statement of Economic Interest form.

MEB 04-9 Conflict of interest in official action

ISSUE: A member of a City board or commission requested an opinion as to whether a conflict of interest exists between his/her official City duties and the pursuit of tax incremental financing district (T.I.F.) funds for a personal business venture.

ADVICE: The Board determined that no conflict of interest exists between his/her official duties and the pursuit of those T.I.F. funds.

MEB 04-10 Payment of expenses

ISSUE: A City employee requested an opinion as to whether a conflict of interest exists in accepting a tour offered by a City Board for which he/she is an ex officio member. The Board would pay all expenses except for airfare and the purpose of the tour is to gather waterfront planning information.

ADVICE: The Board determined that no conflict of interest exists in accepting the payment of expenses for the tour. The Board deferred matters relative to work time and airfare to the Common Council or the Department Head. Further, the Board reminded the individual to disclose any payment of expenses in the honoraria and payment of expenses section of the Statement of Economic Interest form.

MEB 04-11 Conflict of interest in official action

ISSUE: A City official requested an opinion regarding the steps he/she must take to avoid any potential or real conflicts of interest between his/her official duties and his/her ownership interest in a business.

ADVICE: The Board determined the following:

- 1) Because of the dual role the official should limit his/her dealings with the City and recuse him/herself from both discussion and votes on issues involving his/her business.

- 2) The official must not use or disclose information gained in the course of or by reason of his/her position with the City that is not public information that could result in a gain for the official, the officials family or any other entity including his/her business.
- 3) The official's business is prohibited from entering into any contract with the City involving a payment or payments of more than \$3,000 within a 12 month period unless he/she first made a written disclosure of the contract and relationship to the business to the Ethics Board and the City department involved in the lease or contract.
- 4) The official should take measures to insure that the business will not use his/her official position with the City in any business promotions.
- 5) Chapter 303 does not prevent any official or other city employee from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his/her duties to the City.
- 6) His/her request and disclosure of the facts is prima facie evidence of the intent to comply with Chapter 303, Code of Ethics.

MEB 04-12 Payment of expenses

ISSUE: A City official requested an opinion as to whether a conflict of interest exists in accepting free office space, phone, computer and meeting space in a community center. The purpose of the offer is to provide outreach services to the general public.

ADVICE: The Board determined that no prohibited conflict of interest exists in your use of the office space in the community center as it is offered to other service providers and would involve no political activity.

MEB 04-13 Potential conflicting offices

ISSUE: An appointed director of a City department requested an opinion as to whether a conflict of interest exists in accepting an appointment by the County Executive to serve on a county board/commission.

ADVICE: The Ethics Board determined that no prohibitive conflict of interest exists in the dual role of serving on a county board/commission and the directorship of the City department. The Board further recommended that the individual make every effort to disclose the dual role to both appointers, the Mayor and the County Executive. This opinion does not address any potential conflict that might arise in the day-to-day work of the two bodies.

MEB 04-14 Post employment

ISSUE: A former City official requested an opinion on two issues relative to the post employment restrictions in Chapter 303-8, Code of Ethics. The first issue relates to whether or not a conflict of interest exists in her/his pursuing a contract with a City of Milwaukee entity. The requestor assured the Board that he/she would recuse him/herself from any official action on

any matter with which he/she had prior knowledge. The second issue has to do with whether or not he/she could establish private consulting clients in the future that could include City officials or other City departments.

ADVICE: On the first issue the Board determined that no conflict of interest exists in pursuing a contract with a City of Milwaukee entity in that the requestor assured the Board that he/she would recuse him/herself from any official action on any matter with which he/she had prior knowledge. In the second matter, the Board refrained from offering an opinion because the facts were unclear and asked that the requestor return when the issue is clarified.

MEB 04-15 Potential conflicting employment

ISSUE: A current City employee requested an opinion as to whether or not a conflict of interest exists between his/her city job and seeking employment outside the City of Milwaukee.

ADVICE: The Board determined that no conflict of interest exists in the pursuit of employment outside the City of Milwaukee. The Board further outlined: that he/she must not use or disclose information gained in the course of or by reason of his/her position with the City that is not public information that could result in a gain for the requestor, his/her family or any other entity at outlined in Chapter 303-5-4; the opinion is based on Chapter 303, Code of Ethics and that the City department for which the requestor works may have other regulations he/she is required to follow; he/she must not use City time or resources in the pursuit of outside employment; and that it is up to the requestor avoid a conflict in each transaction and to seek further guidance should matters change.

MEB 04-16 Potential conflicting employment

ISSUE: A current City employee requested an opinion as to whether or not a conflict of interest exists in seeking business pursuits in the metro area not directly related to his/her employment with the City.

ADVICE: The Board determined that no conflict of interest exists in the pursuit of employment. The Board further outlined: that he/she must not use or disclose information gained in the course of or by reason of his/her position with the City that is not public information that could result in a gain for the requestor, his/her family or any other entity at outlined in Chapter 303-5-4; the opinion is based on Chapter 303, Code of Ethics and that the City department for which the requestor works may have other regulations he/she is required to follow; he/she must not use City time or resources in the pursuit of outside employment; and that it is up to the requestor avoid a conflict in each transaction and to seek further guidance should matters change.

MEB 04-17 Conflict of interest in official action

ISSUE: A City of Milwaukee official requested an opinion as to whether a conflict of interest exists in continued involvement in an official City matter that involves a family member.

ADVICE: Based on the information provided the Board determined that no technical conflict of interest exists under Chapter 303, Code of Ethics that would prohibit the requestor from participating in the official matter. This is based on the fact that the family member is not an immediate family member as defined by the Code of Ethics, chapter 303-3-5, because he/she does not receive one half of his/her support from the requestor nor does the requestor receive one half of his/her support from the family member. The Board further recommended that the requestor insure that all appropriate steps in the matter are followed and that the requestor distance him/herself from any official discussions on the matter.

MEB 04-18 Potential conflicting employment

ISSUE: A current City employee requested an opinion as to whether a conflict of interest exists in concurrently working for the City and continuing a private business.

ADVICE: The Board determined that no conflict of interest exists in continuing the private business. The Board further outlined: he/she must not use or disclose information gained in the course of or by reason of his/her position with the City that is not public information that could result in a gain for the requestor, his/her family or any other entity as outlined in Chapter 303-5-4; the opinion is based on Chapter 303, Code of Ethics and that the City department for which the requestor works may have other regulations he/she is required to follow; he/she must not use City time or resources in the pursuit of outside employment; and should matters change he/she will seek further guidance.

MEB 04-19 Post employment

ISSUE: A former City official requested an opinion as to whether or not a conflict of interest exists in working for a Milwaukee based organization. The nature of the work does not involve contact with City officials.

ADVICE: The Board determined that no conflict of interest exists in the former City official working for the Milwaukee based organization as long as his/her duties do not include the actions described in Chapter 303-5-8a & b. Further, if matters change prior to twelve-months prohibition expiring, he/she should seek further guidance from the Board. This opinion is based on Chapter 303, Code of Ethics and does not address any issues regarding federal or state regulations.

MEB 04-20 Post employment

ISSUE: A former City official requested an opinion as to whether or not a conflict of interest exists in his/her private consulting business accepting a contract with a Milwaukee based development entity. The consulting work would involve contact with the Mayor and various City Departments.

ADVICE: Based on Chapter 303-5-8a the Board determined that the requestors involvement in the process would constitute a violation of the Code of Ethics and that the Code prohibits engaging in these activities for 12 months following the date he/she cease to be an official of the City of Milwaukee. If circumstances change prior to the 12-month provision expiring the requestor should seek further advice.

MEB 04-21 Payment of expenses

ISSUE: A current City employee requested an opinion as to whether or not a conflict of interest exists in accepting an all expense paid trip to tour a manufacturing facility in another state. The employee's supervisor rejected the request for the employee to make the trip as a representative of the City.

ADVICE: The Board determined that a direct conflict of interest exists in the employee accepting the trip. The Board based its determination on the following facts: the employees City responsibilities include the inspection of materials purchased by the City from this company; Chapter 303-5-3, Code of Ethics states that no person may offer or give to any city employee, directly or indirectly, and no city employe may solicit or accept for any person, directly or indirectly, anything of value if it could reasonably be expected to influence the city employ's official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the city employe.

MEB 04-22 Potential conflicting offices

ISSUE: A City of Milwaukee official requested an opinion as to whether or not a conflict of interest exists between his/her city duties and serving as treasurer of a non-profit organization located in the City of Milwaukee. The non-profit organization receives Community Development Block Grant but the official is not involved in any action affecting the granting of funds. Serving as treasurer is a non-paid position.

ADVICE: The Board determined that no conflict of interest exists in his/her serving as the treasurer for the non-profit organization so long as serving as treasurer will in no way interfere with the full and faithful discharge of his/her duties with the City and that the official will not use City time, resources, services or supplies in the pursuit of this position. Further, the official will remove him/herself in the unlikely event that any matters might come up between his/her official capacity with the City and the non-profit organization.

MEB 04-23 Conflict of interest in employment

ISSUE: A current City employee requested an opinion as to whether a conflict of interest exists with his/her City duties and responsibilities given the fact that an immediate family member may, as a part of their livelihood, be required to interact with the City employee or his/her department.

ADVICE: The Board determined that no conflict of interest exists since the City employees responsibilities are primarily ministerial in nature and that his/her duties do not involve the awarding or monitoring of any City contracts.

Complaints

MEB 04-704-1

A complaint brought by a citizen against a City official was filed. The Board dismissed the complaint as being insufficient in that it did not provide any information, either in the written complaint or in the closed session, related to a violation of the Code of Ethics, Chapter 303.

THE CITY OF MILWAUKEE ETHICS BOARD 2004 FACT SHEET

ETHICS BOARD MEMBERS

TERMS

Catherine Halloran, Chair League of Women Voters of Milw. County	(July 1997 to Oct. 2006)
Martha Toran, Vice Chair Milwaukee Branch – N.A.A.C.P.	(Sept. 2002 to Sept. 2005)
Mary Jo Avery Milwaukee Labor Council	(Feb. 2002 to Feb. 2005)
Dwight H. Ellis III Public Policy Forum	(Dec. 2003 to Feb. 2008)
D. Michael Guerin Milwaukee Bar Association	(Mar. 2002 to Dec. 2004)
Eliot Bernstein Interfaith Conference of Greater Milw.	(Oct. 2004 to June 2006)
Devon Turner Metro. Milwaukee Assoc. of Commerce	(June 2002 to June 2005)

MAILING AND EMAIL ADDRESSES

Ethics Board
City Hall, Room 205
Milwaukee, WI 53202
ethics@milwaukee.gov and ndeever@milwaukee.gov
Website: www.milwaukee.gov/citygov/council/board.htm

TELEPHONE

(414) 286-8641
FAX (414) 286-0723

STAFF

Nola M. Devereaux, Research Assistant (part-time, independent contractor)

2004 BUDGET

\$23,101.00 in the 2004 adopted budget

STATUTORY REFERENCE

Section 303, Milwaukee Code of Ordinances

