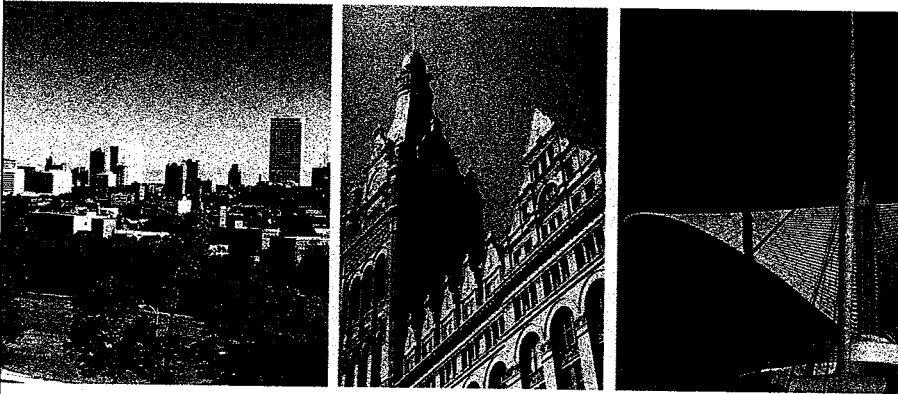




2002 Annual Report

APRIL
2003





The Board of Ethics

To the Honorable Mayor of Milwaukee
and the Common Council

**The City of Milwaukee Board of Ethics
2002 Annual Report**

The City of Milwaukee Board of Ethics is a seven member volunteer board, comprised of individuals having no affiliation to the City of Milwaukee except for residency. These individuals are recommended for nomination by seven, community-conscience groups throughout greater Milwaukee. The seven groups include: The League of Women Voters of Milwaukee, 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. The members of the Ethics Board diligently administer the City of Milwaukee Code of Ethics, which facilitates the essential elements of public trust.

In the year 2002, the Ethics Board held twelve regular board meetings, and two subcommittee meetings. The Board confidentially addressed fifteen requests for advisory opinions from a variety of sources, including employees, officials, board/commission members, and citizens. The Board initiated five complaints against individuals who failed to meet the deadline for filing the Statement of Economic Interest for 2001. Four citizens complaints were filed, one was dismissed for lack of sufficiency, two were dismissed for lack of jurisdiction and one was dropped because it did not serve the public trust to proceed. A selection of opinion and complaint summaries follows and should not be viewed as definitive opinions, 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 March to review the 2001 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.

A line by line comparison of the City of Milwaukee Ethics Code, Chapter 303, to the State of Wisconsin Ethics Code, Chapter 19, was completed by the Board in 2001. An update and revision of Chapter 303 had not been completed since 1991 and was badly

needed. The proposed revisions were passed by the Common Council on March 5, 2002 and became effective on March 22, 2002. A brief summary of the revisions is attached to this report. Due to the revisions of the Code, the Ethics Board found it necessary to revise the Statement of Economic Interest form in May, to accurately reflect the revised ordinance.

Early in 2002, the City Attorney's office alerted the Board of possible conflict with regard to the release of the Statement of Economic Interest (SEI) as an open record. The Board took immediate action to the concern by notifying all individuals when their SEI forms were requested, therefore invoking a "Woznicki notice." The notice allowed filers an opportunity to go to court to stop the release of their forms from public inspection but made requestors wait ten days to view the forms in their entirety. In the hopes of confining the problem, the Board revised the Statement of Economic Interest form in November to include a letter explaining the "Woznicki notice" and adding a section, Part 9, that allows the filer to waive the notice or request notification from the Board in the event of an open records request. As the open records issue is being debated at the state level the Board continues to mediate the requests for the records and needs of the filers for privacy.

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 or deleted to 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 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 provides legal counsel; Kathy Marquardt and Linda Elmer, staff assistants from the City Clerk's office, who provide legislative support; Marian Hartner, Council File Specialist from the City Clerk's office, who provides additional secretarial support; and Nola Devereaux, independent contractor, who provides 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,

Pamela Schmidt, Chair

Summary of Revisions
Chapter 303, Milwaukee Code of Ethics
Effective March 22, 2002

This ordinance makes the following changes to the city's code of ethics, all intended to bring the code more in line with the provisions of state statutes pertaining to ethics:

1. It more broadly defines the range of city employes with whom former city officials and employes may not have contact after leaving city service.
2. The code currently requires contracts with the city of Milwaukee worth more than \$3,000 over a 12-month period to be reported to the board. Under this ordinance, all contracts worth more than \$3,000 over a 12-month period and which are derived in whole or in part from city funds must be so declared.
3. It provides that officials and employes must report honoraria, gifts or expenses worth more than \$50 on their statements of economic interests. Presently, honoraria, gifts or expenses worth less than \$100 need not be reported.
4. It clarifies that the ethics board may not grant waivers or extensions for the filing of statements of economic interests to candidates for public office.
5. It deletes a provision that exempted officials' and employes' personal residences from their statements of economic interests.
6. It includes participation in limited liability companies as one of the economic interests that must be disclosed by officials and employes.
7. It authorizes the board, once it has made a finding of probable cause with respect to an alleged ethical violation, to refer the matter to the district attorney's office for further investigation and possible prosecution.
8. It obligates the board to retain a hearing examiner to conduct any hearing brought under this section.
9. It authorizes the board to issue orders to officials or employes found guilty of ethical violations directing them to conform their behavior to the provisions of the ethics code. Further, it authorizes the city attorney's office to initiate civil forfeiture actions against persons who do not pay forfeitures assessed pursuant to this section.
10. It authorizes the board to negotiate settlements to conclude actions brought under this section. Such settlements are to be reduced to writing and are to be made available for public inspection.
11. It makes a number of technical revisions to the code.

THE CITY OF MILWAUKEE ETHICS BOARD 2002 FACT SHEET

ETHICS BOARD MEMBERS

TERMS

Pamela Schmidt, Chair Public Policy Forum	(Jun. 1991 to Jan. 2005)
Catherine Halloran, Vice Chair League of Women Voters of Milw. County	(July 1997 to July 2003)
Mary Jo Avery Milwaukee Labor Council	(Feb. 2002 to Feb. 2005)
D. Michael Guerin Milwaukee Bar Association	(Mar. 2002 to Mar. 2005)
Donald Theilke Interfaith Conference of Greater Milw.	(Nov. 1992 to Aug. 2002)
Martha Toran Milwaukee Branch – N.A.A.C.P.	(Sept. 2002 to Sept. 2005)
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@ci.mil.wi.us or ndeaver@ci.mil.wi.us

TELEPHONE

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

STAFF

Nola M. Devereaux, Research Assistant (independent contractor)

2001 BUDGET

\$22,101.00 in the 2002 adopted budget

STATUTORY REFERENCE

Section 303, Milwaukee Code of Ordinances

SUMMARIES

Confidential Advisory Opinions

MEB 02-1

ISSUE: A City employee requested an opinion as to whether a conflict of interest exists in accepting a registration fee waiver for presenting a topic at a conference. The issue is further complicated because the conference organizers may bid on contracts with the City of Milwaukee in the future.

ADVICE: The Board determined that no conflict of interest exists with accepting the waiver on behalf of the City. The Board based its conclusion on the following facts:

- a) The employee had management approval to attend and participate in the conference.
- b) The employee was attending the conference on City time and at the expense of the City.
- c) The employee's participation benefited the City of Milwaukee.
- d) Request for Proposal on any future City contracts had not been presented or received.

MEB 02-3

ISSUE: A City of Milwaukee official requested an opinion as to whether a conflict of interest exists in hiring a law firm that periodically represents various entities within the City of Milwaukee.

ADVICE: The Milwaukee Code of Ethics is limited to addressing financial conflict of interest. The code does not apply to the choice of legal counsel. The Board determined that there is nothing in the Code to restrict the choice of legal counsel. The Board cautioned that there may be limitations on this choice posed by rules other than the Milwaukee Code of Ethics.

MEB 02-4

ISSUE: A City of Milwaukee official requested an opinion as to whether it was necessary to recuse her/himself from official action when matters involving her/his private legal counsel or firm came before the committees on which the official serves.

ADVICE: The Board determined that the official should abstain from voting on any matters brought before the committees she/he serves by her/his legal counsel or any members of her/his counsel's law firm.

MEB 02-5

ISSUE: A City of Milwaukee official requested an opinion as to whether a conflict of interest exists with an immediate family member working for an agency receiving Community Block Grant funds, but whose position is not currently funded by those grants.

ADVICE: The Board determined that no conflict of interest exists under the Code of Ethics, Chapter 303, but cautioned that the appearance of a conflict of interest may exist. The Board suggested the official take steps to minimize the appearance of a conflict by recusing her/himself from votes on any issues related to the allocation of funds to the agency. The Board further cautioned that this opinion relates only to the Milwaukee Code of Ethics and that she/he may be subject to other regulations, including but not limited to, the State of Wisconsin and the federal government.

MEB 02-7

ISSUE: A non-profit organization requested an opinion as to whether conflicts of interest exist with four individuals who work concurrently with the non-profit organization and the City of Milwaukee, a City official involved with the non-profit, and the employment of a City official's adult daughter with the non-profit. The non-profit was seeking the opinion to secure Community Development Block Grant (CDBG) funds.

ADVICE: The request was returned to the non-profit organization because the Ethics Board would not offer a "blanket" opinion on all areas of concern. The Board further explained that each of the issues presented would need to be handled as individual requests. Each issue raised in the request was factually different from one another and had to be reviewed independently within the context of Chapter 303, MCO.

- This request prompted the Board to develop a guideline, "**Requesting a Confidential Advisory Opinion from the City of Milwaukee Ethics Board**". This guideline is attached and available by request from the Ethics Board.

MEB 02-11

ISSUE: A former city employee requested an opinion as to whether a conflict of interest exists in her/his taking a position with a non-profit community organization that focuses on economic development and community service projects within 12 months after leaving City employment. The former employee expects to come into contact with

officials and employees of the City of Milwaukee and stated that the position was funded through a private foundation grant.

ADVICE: The Board determined that no conflict of interest existed based on the following information:

- a) The position is funded through a private grant and not CDBG funds.
- b) The position was a temporary position with a duration of approximately two months.
- c) The position is informational and technical in nature and did not involve formal appearances before the Common Council or involve contact with other City employees other than on a technical basis.
- d) The former employee will at not appear before or negotiate with any official or employee or participate in any judicial or quasi-judicial proceeding, application, contract, claim or charge which might give rise to a judicial or quasi-judicial proceeding.
- e) If the circumstances change before the 12 month provision expires, the former employee should seek further advice from the Board of Ethics.

MEB 02-13

ISSUE: A city official requested an opinion as to whether a conflict of interest existed in taking a position as a consultant with a contractor based in another state. The request stated that this contractor does business with the City of Milwaukee and is likely to apply for contracts with the City and/or involving City funds.

ADVICE: The Board determined that the consulting position would not conflict with the official's position with the City of Milwaukee based on the official's explanation that it is her/his knowledge that led to the involvement with the contractor. Also, that the work would not take away from her/his official obligations and would not use City resources. The Board further opined that potential conflicts may arise if the official voted or participated in discussions on issues involving this contractor. It is the official's responsibility to guard against any potential conflicts and recuse her/himself from any discussion or votes.

MEB 02-14

ISSUE: A city official requested an opinion as to whether a conflict of interest existed in taking a position as a consultant with a development team based in another state. The request stated that it was unlikely that the developer would have dealings with the City of Milwaukee.

ADVICE: The Board determined that the consulting position would not conflict with the official's position with the City of Milwaukee based on the fact that the work would not

take away from her/his official obligations and would not use City resources. The Board further opined that potential conflicts may arise if the official voted or participated in discussions on issues that involve this developer. It is the official's responsibility to guard against any potential conflicts and recuse her/himself from any discussion or votes.

MEB 02-15

ISSUE: A city board member requested an opinion as to whether a conflict of interest existed between her/his employment and her/his official role as a city board member, because her/his employer has sought funding from that board and may do so in the future.

ADVICE: The Board determined that the potential for a conflict of interest and/or the appearance of conflict exists in this situation. The Board offered the following suggestions to mitigate such conflicts:

- a) The board member should disclose possible conflicts.
- b) The board member should remove self from discussion of applications for funding from her/his employer
- c) The board member should remove self from voting on applications for funding from her/his employer
- d) The board member should familiarize self with the state and local ethics guidelines

Complaints

MEB 02-402-1

MEB 02-402-2

MEB 02-402-4

MEB 02-402-5

MEB 02-402-8

The Ethics Board filed five complaints against members of City Boards or Commissions for failure to file the annual Statement of Economic Interest form within the prescribed time. Four of the individuals filed the completed Statement of Economic Interest and the complaints were dismissed. The fifth individual resigned from membership of the board on which she/he served. The Ethics Board determined that it did not benefit the public trust to pursue a violation.

MEB 02-202-01

A complaint brought by a citizen against a City official was filed. The Board found that the complaint did not deal with an alleged violation within the jurisdiction of the Board of Ethics.

MEB 02-202-02

A complaint brought by a citizen against a City official was filed. The Board found that the complaint did not deal with an alleged violation within the jurisdiction of the Board of Ethics.

MEB 02-1102-01

A complaint brought by a citizen against a City official was filed. The Board dismissed the complaint as being insufficient on its face. That is, the complaint did not show that the accused used his position to influence or gain unlawful benefits, advantages or privileges for her/himself or others.

MEB 02-402-01

A complaint brought by a citizen against a City official was filed. The official resigned from duty and the Board determined that it did not serve the public interest to pursue the matter further.

Requesting a Confidential Advisory Opinion from the City of Milwaukee Ethics Board

Who may request an advisory opinion. Pursuant to section 303-7-2-a, Milwaukee Code of Ethics (MCO), "any individual, and specifically including former officials and other city employes, either personally or on behalf of an organization or governmental body, may request of the board an advisory opinion regarding the propriety of any matter or matters to which the person is or may become a party; and any appointing officer, with the consent of a prospective appointee, may request of the board an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party."

Confidentiality. The Board's deliberations and actions upon requests are closed to the public. No member of the board may make public the identity of the individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion. Annually, the Board publishes summaries of its opinions after making alterations to prevent the identification of the requestor and persons mentioned in the opinions.

How to request an advisory opinion. All requests for an opinion shall be in writing. A request from an employee, official, former official, or appointing authority should:

- a. Give status of person making request, eg., position held, department, board/ commission member, or appointing officer. State whether the request is made based on regulations of a federal program and, if so, identify the program.
- b. State each question upon which an opinion is desired.
- c. Present all of the facts giving rise to each question.
- d. Refer to particular sections in the Ethics Code, Chapter 303, MCO, that appear to be relevant.

Although these criteria are subject to exception when the circumstances warrant, a request that does not meet these criteria may be returned and the requestor asked to resubmit the request in an appropriate form.

Evidence of intent to comply with law. It is prima facie evidence of intent to comply with this chapter when a person refers a matter to the board and abides by the board's advisory opinion if the material facts are as stated in the opinion request.

For further information, contact the Ethics Research Assistant at 286-8641. Mail requests for advisory opinions in an envelope marked "CONFIDENTIAL OPINION REQUEST" to:

The City of Milwaukee Ethics Board
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202