

2003 Annual Report



MILWAUKEE
ETHICS BOARD

FEBRUARY 2004



The Board of Ethics

To the Honorable Mayor of Milwaukee
and the Common Council

The City of Milwaukee Board of Ethics 2003 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 are: 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 2003, the Ethics Board held twelve regular board meetings, and two subcommittee meetings. The Board confidentially addressed fourteen requests for advisory opinions from a variety of sources, including employees, officials, board/commission members, and citizens. The Board initiated one complaint against an individual who failed to meet the deadline for filing the Statement of Economic Interest for 2002. Two citizens complaints were filed, one was returned for lack of sufficiency, and the other was returned because it was incomplete. A selection of opinion 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.

In January 2003, the Board held an informal question and answer session for all Department Heads, Deputy Department Heads, Common Council Members and Legislative Assistants. The session was attended by 24 individuals and generated lively discussion regarding the main functions and composition of the Ethics Board, recent code revisions, Statement of Economic Interest and Gift Form information, requesting a confidential advisory opinion and other topics of interest.

The Board appointed a subcommittee in April to review the 2002 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.

The Board continued to monitor changes in the State open records law as it relates to the viewing of the annual statement of economic interest forms. The Board continues to maintain that the statements are an open record that should be released to the public. A subcommittee of the Board met in October to review the open records procedure and to propose appropriate measures to the full Board. With the guidance of Assistant City Attorney Melanie Swank, the Board discontinued Part 9 of the statement of economic interest form dealing with the notification of public records release and removed the mailing address portion as well. Current State open records law allows the release without notification of the document except the home phone number and address. The Board is confident that changes will allow proper access of records to the public while offering the protections under the law to officials and employees.

In September, 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 Common Council commended former Ethics Board chair, Pamela Schmidt, for her 12 years of dedicated service on November 5, 2003. Besides her faithful service at regular Board meetings, Pamela also served on the Code of Conduct Task Force established by Common Council President Marvin Pratt in November 2002. The Task Force completed its work in September of 2003 with recommendations involving several conduct issues including campaign regulations, conduct handbook, lobby registration, and annual ethics training. Throughout the one year process, Ms. Schmidt communicated perspectives from the Ethics Board to the Task Force that helped in the formation of the recommendations. The recommendations were presented for review to the Common Council on October 14, 2003. (Common Council File Number 030905)

The Ethics Board welcomed new board member, Dwight H. Ellis III, in December. Mr. Ellis is the representative from the Public Policy Forum who brings insight to the Board on areas of law pertaining to employee relations. He replaces Ms. Schmidt on the Board.

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; Jim Owczarski, of the Legislative Reference Bureau, who provides Legislative support; Kathy Marquardt and Linda Elmer, staff assistants from the City Clerk's office, who staff 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, Chair

THE CITY OF MILWAUKEE ETHICS BOARD 2003 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. 2005) |
| D. Michael Guerin Milwaukee Bar Association | (Mar. 2002 to Mar. 2005) |
| Donald Theilke Interfaith Conference of Greater Milw. | (Nov. 1992 to Aug. 2006) |
| Devon Turner Metro. Milwaukee Assoc. of Commerce | (June 2002 to June 2005) |

MAILING AND EMAIL ADDRESSES

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Milwaukee, WI 53202
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TELEPHONE

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STAFF

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

2003 BUDGET

\$23,101.00 in the 2003 adopted budget

STATUTORY REFERENCE

Section 303, Milwaukee Code of Ordinances

SUMMARIES

Confidential Advisory Opinions

MEB 03-1

ISSUE: A City official requested an opinion as to whether a conflict of interest exists in using a cash award to initiate a fund, that would be used to endow a local prize recognizing projects involving students, community organizations and city employees working together. The fund once endowed would be administered by a local foundation according to the foundation's policies. The requestor also asked if the other employees could deposit honoraria to the fund serving as a potential ethical safe harbor for honoraria receipt.

ADVICE: The Board determined that under Chapter 303-9-4, Code of Ethics, no conflict of interest exists with accepting the award and conveying the cash to a charitable organization other than one with which the official is associated. This endowed fund with a local foundation would be one such charitable organization. With respect to the propriety of other City employees making additional donations to or the Department receiving any disbursements from the newly endowed fund with the local foundation, the Board deferred issuing an opinion until additional information is available. Asking the requestor to come back to the Board once the fund is fully endowed. Regarding the question of other City employees, receiving honoraria for talks and presentations, the option of depositing the honoraria into a fund created by the City appears to be a useful approach to the issue of honoraria acceptance. The Board understands that this option will be pursued through City process, and need not be pursued further at this time.

MEB 03-2

ISSUE: A City of Milwaukee official requested an opinion as to whether a conflict of interest exists in his/her purchase of surplus City property through a publicly advertised competitive bidding process. The requestor submitted the following facts: a.) the properties of interest are acquired by the City through real estate tax foreclosure; b.) the properties are determined to have no municipal use; c.) Chapter 303-49, Milwaukee Code of Ordinances outlines a specific process of disposal of these properties to responsible parties; d.) the requestor has no decision-making authority in the Chapter 304-49, MCO process; e.) the requestor, in his/her official capacity has no power to select, give input, or evaluate any of the foreclosed properties; f.) and the requestor has notified his/her Department Head of the intent to purchase a City tax foreclosed property.

ADVICE: The Board determined that no conflict of interest exists in the purchase of surplus City real estate by this official.

MEB 03-3

ISSUE: A City of Milwaukee Board/Commission member requested an opinion as to whether it was necessary to recuse her/himself from official action in matters related to the member's employer even if the matters described may not benefit the member but may benefit the employer.

ADVICE: The Board determined that the official should abstain from voting on any matters brought before the committees she/he serves because the appearance of a conflict and the potential for the creation of a financial conflict of interest exists.

MEB 03-4

ISSUE: A City of Milwaukee board/commission member requested an opinion as to whether a conflict of interest exists in being involved in the selection process of a City official with a family member being one of the applicants.

ADVICE: The Board determined that no conflict of interest exists under the Code of Ethics, Chapter 303 because the family member does not meet the definition within Chapter 303-3-5 of an immediate family member. Although the Board determined that the member's participation in the selection process is not specifically prohibited under the Code of Ethics, they strongly recommended that the member recuse herself/himself from evaluation or selection that may, directly or indirectly, result in the hiring of this family member.

MEB 03-5

ISSUE: A City employee requested an opinion as to whether conflicts of interest exist with her/his daughter and son-in-law purchasing a vacant City of Milwaukee property through a City "rent with the option of purchase" program.

ADVICE: The Board determined that no conflict of interest exists with the daughter and son-in-law participating in the rent with the option to purchase program offered on the property. This opinion was based on the fact that the employee has no influence in the application process or selection of renters for the program and that the property is not a part of any program this employee would be involved. Further, the daughter and son-in-law are financially independent of the requestor and the property was publicly advertised.

MEB 03-6

ISSUE: The executive director of a City board requested an opinion on behalf of the board and staff relative to whether a conflict of interest exists in the members and staff of that board attending an all expenses paid conference and facility tour out of state.

ADVICE: The Board determined that no conflict of interest existed in the board members and staff attending the conference based on Chapter 303-9-3c, MCO which states that “public officials may receive...on behalf of the city transportation, lodging, meals, food or beverage, or reimbursement...of actual and reasonable cost that the official can show... were received on behalf of the city and not primarily for the private benefit of the official or any other person.” Upon hearing the request, the Ethics Board members concurred that the conference and tour would clearly benefit the City of Milwaukee. The Ethics Board further reminded the staff and City board members to disclose the conference and tour under Part 8, Honoraria and Payment of Expenses, section of the 2003 Statement of Economic Interest form.

MEB 03-7

ISSUE: The president of a City commission requested an opinion as to whether a conflict of interest existed in accepting complimentary tickets for the commissioners to a local attraction. The requestor also explained that the commissioners have a landlord/tenant relationship with the attraction offering the tickets.

ADVICE: The Board determined that, given the landlord/tenant relationship, it is improper for the commissioners to accept any gift from the attraction. Even though the cost of the tickets may seem de minimus, it is the contractual relationship that creates a direct conflict of interest. The Board further recommended that the commission use its resources to provide a ticket(s) for the commissioners if visits to this attraction are deemed necessary.

MEB 03-8

ISSUE: A former City employee requested an opinion as to whether or not she/he could appear before the Common Council or other judicial or quasi-judicial proceeding as an official representative of a non-profit community organization prior to the expiration of the 12-month prohibition in Chapter 303-5-8-a, MCO.

ADVICE: The Board determined that the former City employee must comply with the 12-month prohibition and that the Board has no authority to waive the prohibition outlined in Chapter 303-5-8-a., MCO.

MEB 03-9

ISSUE: A City official requested an opinion as to whether a conflict of interest existed in her/his acceptance of several hundred dollars in tickets to a local event.

ADVICE: The Board refrained from offering an opinion in this matter as the nature of rendering an advisory opinion is to give advice on future, not past, conduct.

MEB 03-10

ISSUE: A City official requested an opinion as to whether a conflict of interest exists in contracting to teach a course for the University of Wisconsin one night per week.

ADVICE: The Board determined that the contract with the University did not conflict with her/his official city position. The Board further reminded the official to list this or any other income over \$1,000 in Part 1 – Income of the annual Statement of Economic Interest form.

MEB 03-11

ISSUE: A City official requested an opinion as to whether a conflict of interest exists between her/his official duties and her/his consulting firm.

ADVICE: The Board determined that a prohibitive conflict of interest existed in the dual role of ownership of the consulting firm and the official's duties. The Board recommended that the official limit any dealings with the City of Milwaukee and recommended that she/he recuse her/himself from both discussions and voting on any issues involving the consulting firm. The Board further advised that the official must not use or disclose information gained in the course of or by reason of her/his position with the City that is not public information that could result in a gain for her/him, a family member or any other person including the consulting firm. The consulting firm is prohibited from entering into any contract of lease with the City of Milwaukee involving a payment of payments of more than \$3,000 within a 12 month period unless she/he first make a written disclosure to the contract and her/his relationship to the Ethics Board and the City department involved in the lease or contract.

The Board further warned the official against using her/his position with the City in the promotion of any of her/his consulting firms activities.

MEB 03-12

ISSUE: A City official requested an opinion as to whether a conflict of interest exists in receiving and retaining an honorarium for teaching a class for the University of Wisconsin, on her/his own time.

ADVICE: The Board determined that the official may accept and retain the honorarium based on the provision of Chapter 303-9-3-b, MCO. The Board further concurred with the requestor that the honorarium be disclosed on the 2003 Statement of Economic Interest form.

MEB 03-13

ISSUE: The director of a City department requested a confidential advisory opinion on behalf of a City Board relative to potential conflicts of interest that may exist with firms that are on a selection list for a future City contract.

ADVICE: The Ethics Board lacked jurisdiction to entertain the request stating that nothing stated in the request implicates provisions of the Code of Ethics, Chapter 303.

MEB 03-14

ISSUE: A City employee requested an opinion as to whether a conflict of interest exists in her/his serving as the treasurer of a for-profit community organization. This organization intends to pay its officers in the future.

ADVICE: The Board determined that no conflict of interest exists in the employee serving as the treasurer of the for-profit community organization, provided that serving as the treasurer will in no way interfere with the full and faithful discharge of the employee's duties with the city and that the employee will not use City time, resources, services or supplies in the pursuit of the position.

Complaints

MEB 03-403-1

The Ethics Board filed one complaint against a member of a City Board or Commission for failure to file the annual Statement of Economic Interest form within the prescribed time. The individual filed the completed Statement of Economic Interest and the complaint was dismissed.

