

Agenda for Ethics Training June 3, 2024

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Approval of the January 27, 2022 Minutes
- V. Introduction – Mayor Michele Hodges
- VI. Overview of the Grosse Pointe Park Ethics Ordinance – Rick Pacynski
- VII. Mission and Procedural Rules of the Ethics Board – Tony Agosta
- VIII. Facts and Questions – Dave Breen
- IX. Hypothetical Scenarios – Pacynski, Agosta and Breen
- X. Public Comment
- XI. Adjournment

ETHICS REVIEW BOARD MEETING – January 27, 2022
5:30 P.M.

The meeting was called to order by Chair Pacynski.

The following were present: Board member Mann and Chair Pacynski.

Also present: Charles Kennedy, Grosse Pointe City Attorney and Courtney Delmege, Deputy Clerk.

Excused Absence: Board member Breen

PUBLIC COMMENT

Chair Pacynski stated three written comments were received.

One verbal comment was made.

DISCUSSION AND APPROVAL OF PROPOSED ETHICS OPINION 2022-01

See attachment.

Motion by Chair Pacynski, supported by Board member Mann to approve proposed ethics opinion 2022-01.

Motion by Board member Mann, supported by Chair Pacynski to amend proposed ethics opinion 2022-01 with Board member Mann's edits.

AYES: Board member Mann and Chair Pacynski

NAYS: None

Excused Absence: Board member Breen

ADJOURNMENT

Motion by Chair Pacynski, supported by Board member Mann, to adjourn the meeting.

AYES: Board member Mann and Chair Pacynski

NAYS: None

Excused Absence: Board member Breen

With no further business, the meeting adjourned at 5:48 p.m.

INTRODUCTION

Sherry Cotton, a resident of Grosse Pointe Park (“GPP”), transmitted a complaint to the Ethics Review Board executed on October 21, 2021, alleging that a Facebook post by Vikas Relan, a member of the GPP City Council, referring to her as a “loser” and a “mommy,” mocked and degraded her, purportedly in violation the GPP Ethics Ordinance (the “Ordinance”). Subsequently retained counsel entered an appearance on behalf of Ms. Cotton and filed what is essentially an amended complaint.

Two additional Complainants, Raymond Pitera and Michael J. Fikany, filed separate Complaints also alleging that the Relan’s Facebook post violated the Ethics Ordinance. The claims of all three substantially overlap (though not completely) and a joint hearing date was scheduled for January 24, 2022.¹

The complaints are important ones in that they concern whether the Ordinance restricts or regulates the use of social media by public employees and officials. All of the Facebook postings by the respondent, Mr. Relan, were made on the Grosse Pointe Park Community Page, apparently a substantially open access page. More significantly, the statements that created the controversy at issue² occurred within the context of a hotly contested election campaign involving four seats on the Council and the Office of the Mayor. Fueling this political contest were allegations of racism, alleged use of “dog whistles,” allegations of obstructionism, etc.

STATEMENT OF FACTS

The first person to file a complaint against Council member Relan, Sherry Cotton, is a prominent local businesswoman and philanthropist with long roots in GPP. She and her family have been responsible for the economic renewal of significant portions of GPP, particularly the commercial strips and land along Kercheval. One of her three sons owns the Grosse Pointe News. Her September 23, 2021 Letter to the Editor appeared in that publication:

¹ Separate hearings on the three complaints were initially planned for early December 2021 but were adjourned at the request of one of the parties. Because of the Christmas and New Year holidays, and after the parties agreed to consolidate the complaints into a single hearing, a hearing was rescheduled to January 11, 2022. Unfortunately, that hearing was adjourned due to the illness of one of the Ethics Board members. The Ethics Board regrets that as a consequence, a hearing and formal decision on the three complaints was unintentionally and unfortunately delayed by several months from the filing of the three complaints.

² Including letters to the editor, a letter to the City Council and various postings on Facebook.

"What are Park Values? They are inclusiveness in a wonderful neighborhood that anyone can come to and join as visitor or resident. They are a product of lovely people, from every race, age and sexual orientation. They are exemplified by the businesses on Kercheval, Charlevoix, Mack, Jefferson and Fairfax that anyone can patronize. They are represented in the fantastic people who manage our city and patrol our streets. They are embodied in Michele Hodges, a woman who was told to sit in the corner by Vikas Relan, Mary Rouleau and others because they were threatened by her running for mayor. She is standing up to these bullies and so am I."

At about the same time, a local citizen, Ken Sanborn, apparently began leaving handbills throughout the City that were highly critical of several Council members, including Relan. In response to these handbills, in mid-October, Relan posted the following on the GPP Community Facebook page:³

Ken Sanborn lies. Along with the garbage GPpNews and Greater GPee. Know your facts, my friends, and recognize shady tactics when they present themselves.
(posted 10/19/2021)

The next day, Mary Ellen Murphy, a local resident, replied to Relan:

Vikas Relan With all due respect, your comment makes you sound childish and petty. I'm a little taken aback.
(posted 10/20/2021)

In response, Relan responded (and it is this response that gives rise to the controversy at hand):

Mary Ellen Murphy – Have you read the GPpNews (sic) in the last 18 months? They printed an anonymous letter from Mike Fikany⁴ and a letter to the editor from the owners (sic) mommy. mr. Sanborn (sic) has contributed numerous letters that have been printed without any vetting of facts, and is now taping letters to residents' doors with the same lies and fear rhetoric. If I am childish, I am only standing up for myself in a way that will get the attention needed. I'm done sitting quietly, taking my lashings front (sic) these losers.
(posted 10/21/2021)

Further, the next day Relan re-posted his comments but changed the final sentence to instead read, "I'm done sitting quietly, taking my lashings from these losers (sic) organizations – the

³ A private Facebook page, not managed or "owned" by the City.

⁴ The Grosse Pointe News had published excerpts from a letter Michael Fikany had in September mailed to the mayor, the city manager, and members of the city council. Relan apparently believed that Fikany had provided a copy of the letter to the newspaper (a claim Fikany denies) even though the letter was intended to remain confidential.

GPpNews (sic) and the Gr. GPee (sic) org for spreading lies. (I apologize to Mike Fikany and Mr. Sanborn for confusion on this)”

Ms. Cotton alleges that Mr. Relan’s Facebook post referred to her as a “loser” and weaponized the use of the word “mommy” to denigrate, ridicule and embarrass her and that such conduct violated Section 2-2 the Grosse Pointe Park Ethics Ordinance (the “Ordinance”). A copy of Ms. Cotton’s complaint is attached as Exhibit 1.

That same day, a very similar complaint was filed by Raymond Pitera also alleging that Mr. Relan’s Facebook post violated Section 2-2 the Ordinance (“Responsibilities of public office”) and Section 2-4 (“Intention of code”). A copy of Mr. Pitera’s complaint is attached as Exhibit 2.

Almost a week later, a third ethics complaint was filed against Council member Relan relating to the Facebook posts, this one by Michael Fikany, a Grosse Pointe Park resident well known locally for his and his family’s real estate brokerage serving the Grosse Pointes for many years. In his complaint, Fikany similarly contended that Relan’s Facebook comments were unacceptable behavior for a sitting Council member, in particular because Relan singled out Fikany by name to call him a “loser.”

Fikany does not point to any specific provision of the Ordinance in seeking sanctions for Relan’s behavior. A copy of Fikany’s complaint is attached as Exhibit 3.

Responding to the three complaints, on January 7, 2022, Relan filed a “Response and Position Statement” wherein he (1) disputed the authority of the Board to proceed since the complaints were not served on him via certified mail, as required by section 2-6(b)(1)(b) of the Ordinance, (2) disputed the authority of the Board to proceed since a concise statement of the alleged breach by him of the Ordinance was not provided by the Board, as ostensibly required by 2-6(b)(1)(b) of the Ordinance, (3) contended the complaints fail to state a claim because nothing he said or did was for personal gain or other violation of section 2-5 of the Ordinance⁵, and that (4) finding his comments on Facebook to be a violation of the Ordinance would be an infringement of his First Amendment rights.⁶ A copy of Relan’s response has been included as part of the record.

⁵ And that to the extent the three complaints rely on sections 2-1 to 2-4 of the Ordinance to state a claim against him, Relan claims such reliance is misplaced because those sections of the Ordinance are not proscriptive but instead, merely stand as statements of City Council’s intent that its employees and officials obey the law, treat people fairly, etc.

⁶ Relan also (1) challenged whether Board member David Breen could participate, given his position as Chairman of the Board of the Henry Ford Health System (Relan is an employee of that organization) and (2) even though the City Attorney, Jake Howlett, is not a voting member of the Board, the failure of the Board to have someone replace Mr. Howlett, (who notified the Board he had a conflict of interest with respect to the Cotton complaint). Mr. Breen, for reasons unrelated to his position as Chairman of the Henry Ford Health System, notified the Board that he, too, had a conflict of interest and could not participate in hearing these three complaints. Since Mr. Breen did not participate in these proceedings, and since an attorney was named to replace Mr. Howlett for purposes of the consolidated hearing, the Board finds no merit in these two objections raised by Mr. Relan.

Relan further requested (1) summary dismissal of the complaints on grounds “(t)he Ethics Ordinance seeks to avoid and regulate conflicts of interest involving elected and appointed officials and city employees in their official capacity . . . (but that the) charges in the complaints involve the respondent’s personal actions, not charges of there having been any conflict of interest or improper personal gain, and (2) that the Board, pursuant to 2-6(b)(1)(g) of the Ordinance, that the recommend that Council, declare the complaints to be frivolous and to accordingly impose a civil infraction or other sanction.

The three Complainants and Relan agreed to have the three complaints consolidated into a single hearing, which public hearing was held on January 24, 2022.⁷

ISSUES PRESENTED

1. Is the Ethics Review Board authorized to issue an opinion in this case, given the jurisdictional challenges raised by the Respondent?
2. Were the Respondent’s comments on the GPP Facebook page in violation of the Ethics Ordinance?
3. If so, would sanctions against the Respondent for violating the Ordinance infringe on his constitutional right to free speech?
4. Were the Complaints frivolous, warranting a recommendation to Council that the Complainants be sanctioned?

ANSWER AND ANALYSIS

I

Leaving aside the Respondent’s concerns about participation in the hearing by Mr. Breen (a non-issue given his declaration of a conflict of interest and decision not to participate) and the need for an attorney to be available to the Ethics Review Board in place of Mr. Howlett, the City Attorney (who also had a conflict of interest),⁸ the Respondent raised concerns about the method of service of the complaints on him and the lack of a summary of the charges against him.⁹ While Respondent is correct that the complaints *should have* been served on him by

⁷ Having specifically cited to Sections 2-2 and 2-4 of the Ordinance as affording a basis for citing the Respondent for violating that Ordinance, the Board deemed it necessary to hold a public hearing on the three complaints. Following the processes laid out in the Ordinance and holding a hearing in respect to those processes is not intended to be a commentary by the Board on the validity of the complaints or credibility of the charges contained therein.

⁸ As indicated, Charles Kennedy, the City Attorney for the City of Grosse Pointe, acted in place of Mr. Howlett, thus obviating the concern raised by the Respondent.

⁹ The complaints had been “served” on Respondent by way of first class mail posted by the chair of the Ethics Board.

certified mail,¹⁰ there is no dispute that he received them over 60 days prior to the hearing¹¹ in this case and that he was adequately advised of the nature of the charges against him. The “Response and Position Statement” filed January 7th by Respondent is comprehensive, cogent and evidences his complete understanding of the charges made. Thus, while his criticisms of the Board’s failure to follow the Ordinance to the letter in serving him with copies of the complaints filed and apprising him of the charges, it is clear that these errors were immaterial.

There is no dispute that Relan received copies of the complaints well over 60 days in advance of the hearing and that he fully understood the nature of the charges being made. His response, filed January 7, 2022, is especially thoughtful and responsive to the charges. No harm was done by this Board’s failure to serve copies of the complaints by certified mail or to include a summary of the charges contained therein.

II

Mr. Relan’s comments that gave rise to the three complaints were ill considered. Name calling in the face of political disagreement is less than enlightening. This exchange in the heat of a hotly contested mayoral and Council race does not warrant a finding that the City’s Ethics Ordinance has been violated.

The central issue in this case is whether the aspirational language of Section 2-2 of the Ordinance amounts to a sword that may be brandished against City employees and officials who say things in public that may be offensive or cause members of the public to cringe. Section 2-2 reads as follows:

City officials and employees are bound to uphold the Constitution of the United States and the Constitution of the state and to carry out impartially and comply with the laws of the nation, state, and the city. City officials and employees must not exceed their authority or breach the law or ask others to do so. City officials and employees are bound to observe in their official acts the highest standards of morality and to discharge the duties of their offices faithfully, regardless of personal consideration, recognizing that their conduct in both their official and private affairs should be above reproach.

All city officials and employees shall safeguard public confidence by being honest, fair and respectful of all persons and property with whom they have contact, by maintaining non- partisanship in all official acts, and by avoiding conduct which may tend to undermine respect for city officials and employees and for the city as an institution.

¹⁰ The Board apologizes for the oversight.

¹¹ The Ordinance requires at least 28 days’ notice. Section 2-6(b)(1)(b).

Relatedly, Pitera further contends that Section 2-4 provides support for an Ethics claim. That section reads:

Sec. 2-4. - Intention of code.

It is the intention of section 2-5 below that city officials and employees avoid any action, whether or not specifically prohibited by section 2-5, which might result in, or create the appearance of:

- (1) Using public employment or office for private gain;*
- (2) Giving or accepting preferential treatment, including the use of city property or information, to or from any organization or person;*
- (3) Losing complete independence or impartiality of action;*
- (4) Making a city decision outside official channels; or*
- (5) Affecting adversely the confidence of the public or the integrity of the city government.*

The code of ethics is intended to be preventative and not punitive. It should not be construed to interfere with or abrogate in any way the provisions of any federal or state statutes, the City Charter, the city ordinances, or any rights and/or remedies guaranteed under a collective bargaining agreement.

This declaration of policy is not intended to apply to contributions to political campaigns, which are governed by state law.

Complainants argue that (1) by calling them “losers,” and by besmirching their motives and political views, Respondent was not “respectful of all persons . . . with whom (he had) contact,” (2) that his Facebook posts tended “to undermine respect for city officials and employees,” and (3) that Relan failed to act with the “highest standards of morality and to discharge the duties of (his office) . . . above reproach.” These claims, however, assume that Section 2-2 of the Ordinance is operative language that authorizes intervention by the Ethics Board. However, Section 2-2 is aspirational language only and is not part of the enforceable section of the Ordinance.

The same analysis applies to Section 2-4. A statement by Council of its laudable purpose in enacting the Ordinance and what it hoped to achieve by doing so does not mean that Council intended either of these two sections to act as enforceable provisions. As this Board recently stated in its opinion in a previous ethics complaint improvidently filed against the City Manager:

The Ethics Ordinance was not promulgated with the intent that the (Ethics Review Board) serve as a Special Master or Court of Appeal for decisions made by City actors in the course of their administrative duties. As we see it, whether a city employee or other actor exceeded his/her authority or acted without an appropriate factual foundation involve issues of law and fact that are the province of the City Council.

A claim under the Ethics Ordinance is only appropriate where the allegations are tied to specific elements of the Ordinance. At its core, the Ethics Ordinance was written to prevent city actors from using public resources for personal gain of any sort. The issues presented here, however, involve whether the City Manager did or did not properly do his job. Such claims are first and foremost for the City political and administrative structure to resolve. Accordingly, we do not believe the claims being raised are ones properly before this Board.

The Ordinance was adopted with the clear intent to prohibit self-dealing and other behavior that would result in unwarranted personal gain by a City employee or official. It was not adopted to regulate all conduct by all City employees and officials. Unless Complainants can point to a specific violation of section 2-5 of the Ordinance, their attempts to insert this Board in their personal disputes are misplaced.

To rule otherwise would set up this Board as a “Supreme Court” of sorts for any act by any City employee that someone found offensive or insulting. This is not to say the Complainants are without remedy. Certainly, they are always empowered to complain to City Council and solicit its censure or sanction. Moreover, to the extent anything said by Council member Relan was defamatory, they are free to pursue litigation in court. But a request that this body recommend penalties against Relan for what was clearly personal commentary, however crude, is simply not within the powers afforded this Board under the Ordinance.

III

Because this Board has concluded that charges against Council member Relan may not, on this record, be pursued under the Ordinance, it is not necessary to decide whether Council member Relan’s Facebook post was protected under the First Amendment to the U.S. Constitution. The Board accordingly declines to speculate.

IV

This Board has been in existence for just over a year and has been engaged previously in only one other ethics complaint (the one alluded to earlier). As such, the issues raised by the Complainants are, generally speaking, novel and have required this Board to break new ground. (This alone was one of the specific reasons this Board felt it advisable to hold a hearing in this case and to take testimony from witnesses.) We cannot, therefore, conclude that the three complaints in this case were “frivolous.” We accordingly decline the invitation to declare them

THE ETHICS ORDINANCE AND THE BOARD OF ETHICS

- Rick Pacynski
- Dave Breen
- Tony Agosta

A man with glasses, wearing a brown suit jacket, a blue shirt, and a patterned tie, is sitting at a desk in a classroom. He is holding a yellow sticky note in his right hand. The background shows other students in a classroom setting.

WELCOME TO ETHICS

**WHERE EVERYTHING IS MADE UP AND
THERE ARE NO RIGHT ANSWERS**

makeameme.org

The Grosse Pointe Park City Council passed an Ethics Ordinance in August 2020

. . . And later that year, appointed its first three members of the Ethics Board

The purpose of the ethics ordinance is **TO HELP
PRESERVE PUBLIC TRUST IN THE
INTEGRITY OF GOVERNMENT**

- ◇ Public office and employment are public trusts
- ◇ For the citizens of Grosse Pointe Park to have trust in their government and its employees, each city official, employee, and advisor must act with integrity
- ◇ All city officials, employees, and advisors
 - ◇ Need to avoid conflicts or interest between their private interests and the public interest and
 - ◇ Must not use public office for personal gain

What is NOT a purpose of the Ethics Ordinance?

- The Ethics Ordinance was not drafted with the intent that the Ethics Review Board be a “court of appeal” for every decision made by a city official
 - A claim that, for example, a city employee was mean or acted arbitrarily does not come within the purview of the Ethics Ordinance
 - Similarly, a claim that a City official defamed a member of the public does not come within the purview of the Ethics Ordinance
 - Complaining that these acts were “unethical” does not mean the Ethics Ordinance makes them “prohibited conduct”

Reference: Ethics Review Board opinions 2022-01 and 2023-01

What the ethics ordinance mandates

- ◆ The heart of the Ordinance rests in Section 2-5
- ◆ The specific mandates and prohibitions of Section 2-5 generally require:
 - ◆ Honesty and Integrity of conduct
 - ◆ Faithful stewardship of City property and resources
 - ◆ Transparent, unbiased and objective decision-making

Honesty and Integrity

- ◇ “No official or employee of the city shall represent his or her personal opinion as that of the city” [§2-5(a)(2)]
- ◇ “No official or employee of the city shall engage in a business transaction in which he or she may profit because of his or her official position” [§2-5(a)(6)]
- ◇ “No official or employee of the city shall use . . . his or her official position to secure, request or grant unreasonably any special consideration, privilege, exemption, advantage, contract or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen” [§2-5(a)(10)]**

Faithful Stewardship

- ◇ “No official or employee of the city shall divulge to any unauthorized person, confidential information acquired in the course of employment . . .”
[§2-5(a)(1)]
- ◇ “Every official or employee of the city shall use [City property] solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit” [§2-5(a)(3)]

Transparent and Unbiased Decision-Making

- ◇ “No official or employee of the city shall . . . solicit, or accept any gift or loan of . . . [a] thing of value for the benefit of any person or organization, other than the city, which tends to influence the manner in which the official or employee . . . performs his or her official duties” [§2-5(a)(4)]**
- ◇ “No official or employee of the city shall engage in or accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her independence of judgment . . . “ [§2-5(a)(7)]**

Transparent and Unbiased Decision-Making (cont.)

- ◇ “No official or employee of the city shall participate . . . in the negotiation or execution of contracts, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision, relating to any business entity in which he or she has, directly or indirectly, a financial or personal interest” [§2-5(a)(9)]

In Summary . . .

DO	DO
Place loyalty to the Constitution, City Charter, the laws, and ethical principles above private gain	Act impartially to all groups, persons and organizations. Treat everyone the same
Give an honest effort in the performance of your duties	Protect and conserve City property
Disclose waste, fraud, abuse corruption and other illegal or unethical behavior to appropriate authorities	Keep confidential City information that is confidential
Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap	

In Summary . . .

DO NOT	DO NOT
Use nonpublic information to benefit yourself or anyone else	Use City property for unauthorized purposes or personal use
Solicit or accept gifts from persons or parties that do business with or seek official action from the City (unless permitted by an exception)	Take jobs or hold financial interests that conflict with your government responsibilities
Make unauthorized commitments or promises that bind City and do not represent personal opinions as that of the City	Engage in outside activities or employment that conflict with your official duties
Show favoritism	Seek special privileges

In Summary . . .

DO NOT	DO NOT
Use your position to unfairly hurt anyone else's chances of making or receiving what they are entitled to receive	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
Represent anyone else before a City body, City staff or Court on a particular matter involving the City of Grosse Pointe Park, even if not compensated	Take actions that give the appearance that they are illegal or unethical

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

Mission of the Ethics Board

- ◆ Our goal is 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
- ◆ And to address alleged violations of the Ethics Ordinance without delay and with due process and fidelity to the Ethics Ordinance

Mission of the ethics board

- ◆ While the purpose of GPP's Code of Ethics is to enhance public trust and avoid conflicts of interest, the mission of the Ethics Board is to:
 - ◆ INFORM AND EDUCATE, NOT PUNISH
 - ◆ WHEN ASKED, DETERMINE COMPLIANCE WITH THE CODE
 - ◆ EDUCATE THE PUBLIC ABOUT THE CODE

Role of the Ethics Board

- ◆ Created as an advisory board via §2-6 of the Ethics Ordinance
- ◆ “When there is a question or a complaint as to the applicability of any provision of this code to a particular situation, that question or complaint shall be directed to the board of ethics. It shall then be the function of the board of ethics to conduct hearings and/or issue an advisory opinion” [§2-6(b)]
- ◆ “After the board of ethics' advisory opinions and/or hearing findings have been published . . . [t]he city council shall be responsible for imposing any sanction for a violation of this Code on one of its members or any person appointed by the council to any city board . . . [and] . . . [t]he city manager shall be responsible for imposing any discipline for a violation of this Code on any employee of the city” [§2-6(b)(3)]

How the Board gets involved

- ◆ When there is a complaint about an employee's or official's conduct, or a question 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

How the Board gets involved

- ◇ The Rules of the Board of Ethics provide for three types of matters that may be considered by it, depending on whose conduct is to be reviewed and who is requesting that review:
 - ◇ A complaint about an employee's or official's conduct (a "Complaint")
 - ◇ A request for an advisory opinion from the Board regarding hypothetical, anticipated conduct (an "Advisory Opinion")
 - ◇ A request from one of the City's employees or officials for an opinion relating to whether another employee's or official's conduct disqualifies them from discussing or voting on an issue before City Council or one of the City's Boards (a "Disqualification Hearing")

Hearings

- ◆ The Rules of the Board of Ethics govern the conduct of an Ethics hearing
- ◆ Our Rules require
 - ◆ Notice to the affected parties
 - ◆ Presentation of evidence – testimony and documents
 - ◆ Argument (oral or in writing) of the parties
 - ◆ Deliberations in public
 - ◆ A public vote on the decision
 - ◆ A written opinion that is made public and published
- ◆ Procedure timelines vary depending on type of Board involvement (Complaint, Advisory Opinion, Request for Disqualification)

Advisory opinions

- ◆ Since one of the goals of the Ethics Board is to enable employees and officials to know in advance whether conduct they intend to engage in will breach the Ethics Ordinance, requests for advisory opinions are encouraged
- ◆ Better to know in advance how the Board views someone's conduct than to face a complaint after the fact

Requesting the Board's involvement

- ◆ To request an advisory opinion, file a complaint, or if you have any questions or comments regarding the Board of Ethics, please contact someone in the Clerk's office
 - ◆ email (clerk@grossepointepark.org)
 - ◆ telephone (313-822-6200)
- ◆ Also, the Rules of the Ethics Board and the forms to use can be accessed by going to
https://www.grossepointepark.org/government/commissions_committees/ethics_review_board/index.php

Frequently Asked Questions

- ◆ 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
 - ◆ Encourage folks 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
 - ◆ Uphold the public's confidence in the integrity of city government

Frequently Asked Questions (cont.)

- ◆ 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.)

- ◆ 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.)

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

Frequently Asked Questions (cont.)

- ◆ IF I USE CITY RESOURCES, CAN I JUST REIMBURSE THE CITY FOR THE USE?
 - ◆ No, reimbursing for personal use may result in personal benefit and may impose administrative burdens
 - ◆ Reimbursing creates the misperception that personal use is allowable as long as paid for
 - ◆ Using City property for personal use can create confusion of what is and what is not City property

Frequently Asked Questions (cont.)

◆ MAY I SEEK EMPLOYMENT OUTSIDE THE CITY WITHOUT RESTRICTION?

◆ May not perform government duties that affect financial interests of outside entity if employed by or seeking employment with that entity

Frequently Asked Questions (cont.)

◆ IF I RECEIVE A GIFT AND DO NOT USE IT, OR I PASS IT TO A COLLEAGUE, HAVE I RECEIVED A GIFT?

- ◆ Prohibited gifts are those “which ten[d] to influence the manner in which the official or employee or any other official or employee performs his or her official duties”
- ◆ No formal rule allowing gifts below some pre-set amount
- ◆ Thus, the better practice is to avoid accepting gifts of any kind (still might appear improper to a resident)
- ◆ But note, §2-5(a)(5) allows for “fees for speeches or published works on legislative subjects” and “reimbursement for expenses for . . . invitations to such events as ground breakings, grand openings, charitable or civic events, or inconsequential gifts from established friends”

Frequently Asked Questions (cont.)

- ◆ CAN I ATTEND MEETINGS OF THE BOARD OF ETHICS?
 - ◆ Absolutely
 - ◆ Although the Ethics Board arguably is not subject to the Open Meetings Act, the Board has elected to act as though it **IS** governed by the Open Meetings Act and does intend to follow its requirements

Frequently Asked Questions (cont.)

- ◆ 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 Council and the public
 - ◆ After publication, City Council is 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 Rules of Procedure, but its power to penalize is limited to making findings and communicating same to the appropriate City officials and the public

Frequently Asked Questions (cont.)

- ◆ Are the opinions of the Ethics Review Board published?
 - ◆ Yes. The opinions can be found under the Ethics Review Board section of the City's website:



PARK PHONE DIRECTORY



15115 EAST JEFFERSON AVENUE

8AM - 4:30PM | MON - FRI



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DEPARTMENTS

RESIDENTS

VISITORS

GROSSE POINTE PARK

GOVERNMENT

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INFRASTRUCTURE

CITY COUNCIL

Meeting Agendas & Minutes

Council Committees

COMMISSIONS

Beautification Commission

Board of Review

Downtown Development Authority

Recreation Commission

Planning Commission

Tax Increment Finance Authority

Ethics Review Board

MUNICIPAL DASHBOARD

AGENDAS AND MINUTES PORTAL

CITY CODE & CHARTER



SHARE



Hypothetical situations

◆ SCENARIO 1

- ◆ You receive a ticket to a Taylor Swift concert. The ticket was given to you by someone who occasionally does business with the city. Although the person who gave you the ticket never asked for anything in return, it's possible that is what was intended. The day of the concert, you decide you never really liked Taylor Swift 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 an improper gift, even if you did not make use of it?

Hypothetical situations

◆ SCENARIO 1

- ◆ Yes, there is a conflict
- ◆ 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)
- ◆ You should turn down the gift. Even if you reimburse the giver, the opportunity may have greater value than the price on the face of the ticket
 - ◆ The giver may still believe you “owe a favor” in return
 - ◆ The public may perceive it as an act of corruption

Hypothetical situations

◆ SCENARIO 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?

Hypothetical situations

◇ SCENARIO 2

- ◇ No, there is no conflict
- ◇ Benefits routinely conferred upon members of associations 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

Hypothetical situations

◆ SCENARIO 3

- ◆ On their lunch break a group of City employees solicit holiday gifts on behalf of a family sponsored by Adopt a Family. When soliciting the gifts they voluntarily solicit and inform private municipal vendor businesses that they are employed by the City, but are soliciting on behalf of the sponsored family or Adopt a Family. Is this an ethical violation?

Hypothetical situations

◇ SCENARIO 3

- ◇ Yes, this is a violation
- ◇ By stating that they are employed by the City, they are using their municipal positions to influence the private businesses and support the private charity

Hypothetical situations

◆ SCENARIO 4

- ◆ The Chief of Police decides to run for City Council. He creates posters and handouts with him in uniform standing next to his police car with the caption, “Chief Jones for Council. Someone you can trust!”

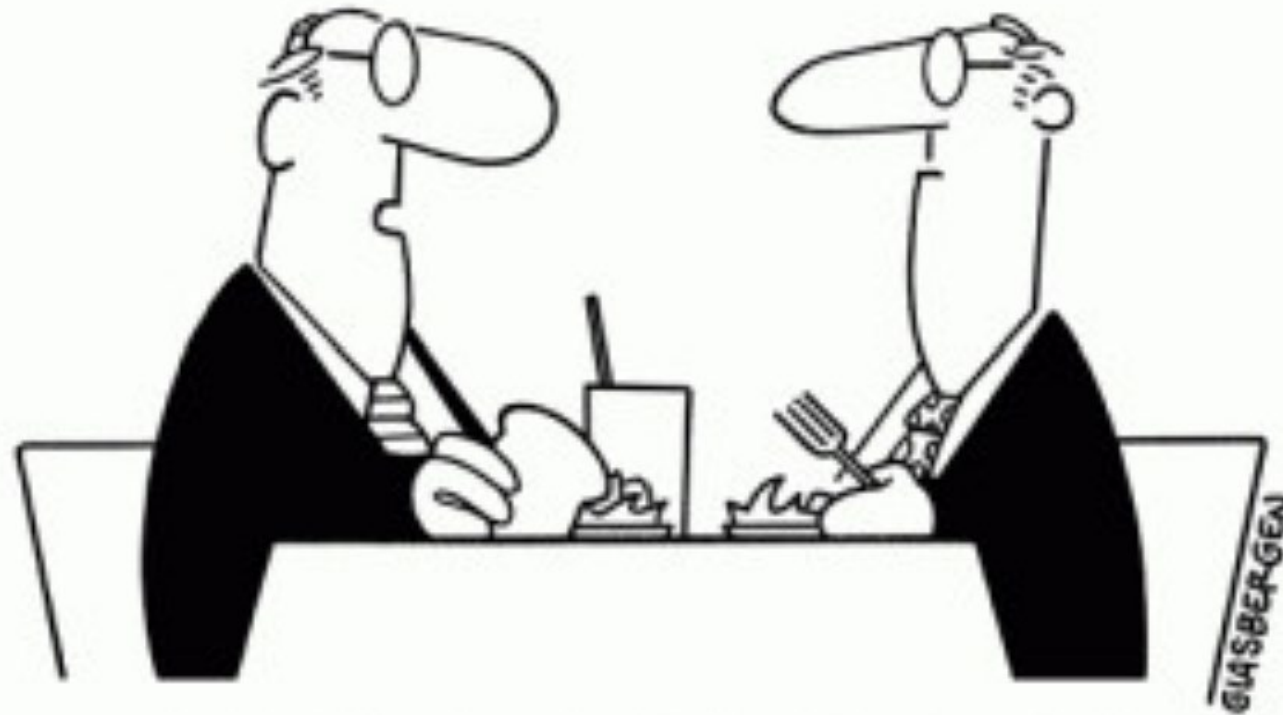
Is this an ethical violation?

Hypothetical situations

◆ SCENARIO 4

- ◆ Yes, this is a violation
- ◆ By including an image of himself in uniform and using the City's vehicle as a prop, the Chief is using his status as a trusted City employee for personal gain.

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“The way I see it, unethical ethics are better than no ethics at all!”

Questions?