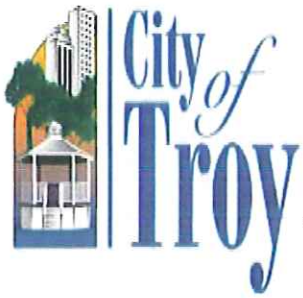

TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: February 16, 2005
SUBJECT: Ethics Policy

The City of Troy has already implemented several "ethical" requirements for public servants. Public servants include the City Council, City Board and Committee Members, City Management and City employees. These requirements are interspersed in several different locations, including but not limited to the City Charter, Board/Committee By-laws, Rules and Procedure, Occupational Standards, Ordinances, and Employee Handbooks. Some members of City Council have requested an official ethics policy for the City that would incorporate all of these requirements into one document.

In researching this issue, there are several Michigan communities that have incorporated the Government Ethics Center Public Service Ethics- Summary of Principles and Guidelines, which is attached for your review. This is a comprehensive set of guidelines for the public servant, and is instructive as to the expectations of public service, and a reminder of the sanctity of the public trust. Assuming that the City of Troy receives permission from the Josephson Institute, these principles could be adopted by the City of Troy. The more challenging task is to decide how to incorporate and enforce these principles. Council should decide what the City's policy is for reporting, deliberating, deciding, referring, and sanctioning alleged violations of the ethics code by public servants. One option is to defer to an ethics board, which is done in other jurisdictions. City Council may also wish to assume responsibility for the enforcement of the ethics policy. It is my recommendation that the consensus of City Council be further defined after a study session where potential ramifications and unintended consequences are discussed in greater detail.

As always, if you have any questions concerning the above, please let me know.

PROPOSED
ETHICS PRINCIPLES AND GUIDELINES

The City of Troy recognizes the following principles and guidelines, as espoused by the Josephson Institute Government Ethics Center, which are reiterated with permission, and adopted by the City of Troy.

I. PUBLIC OFFICE AS A PUBLIC TRUST.

Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.

A. Pursuit of Public Interests.

In treating their office as a public trust, public servants, whatever their role, should diligently and in good faith pursue the public interest to the best of their ability and subordinate self-interest to the public good.

B. Ensuring Public Respect.

In treating their office as a public trust, public servants should act so as to ensure the reality and perception that government is conducted according to the highest principles of democracy with honesty, integrity and a concern for justice and is, therefore, worthy of respect, trust, and support.

1. *Avoiding Impropriety.* Public servants should maintain public trust in government by avoiding acts that place personal or private interests above pursuit of the public interest.

2. *Avoiding Appearances of Impropriety.* Public servants should avoid conduct that tends to undermine public trust by creating in the minds of reasonable impartial observers the perception that government office has been used improperly.

C. Formulation of Public Policy.

Persons with the responsibility for making public policy and laws should place the public interest over all other considerations.

1. *Elected Officials Should Make Policy.* In a representative democracy, public interest should be determined and translated into policies and programs by or under the direction of elected officials who are ultimately accountable to the public.

2. *Dealing With Conflicting Loyalties.* In pursuing the public interest, public servants should put loyalty to democratic principles and to the broadest public good above loyalty to political party, their constituencies and individuals.

3. *Ranking Loyalty Obligations.* When allocating public funds and formulating general public policies, elected officials should evaluate information objectively and decide what is best for the public as a whole, not just a narrow constituency.

4. *Organizational vs. Personal Loyalties.* Public servants with supervisory authority should safeguard and protect the public interest, the reputation of government and the integrity and efficiency of their department, even at the cost of injuring a superior, colleague, or friend.

5. *Protection of Minority Rights.* It is in the overall public interest that the will of the majority is tempered by a commitment to consider and protect the rights and advance the interests of minorities, especially those that are not sufficiently represented in the normal decision making process.

D. Implementation of Policy.

Public administrators and executives should interpret and implement policies and laws in good faith and energetically pursue the goals of policy and lawmakers.

1. *Subordination of Personal Views.* Public servants charged with the administration of policies and laws should do so as equitable, efficiently, and economically as possible, regardless of their personal views.

2. *Dealing With Policy Disagreements.* Public servants who find that their personal convictions are irreconcilably incompatible with lawful policies should openly state their conflict and, in some cases, withdraw from the administration of such policies.

3. *Whistle Blowing: Disclosure of Unlawful or Improper Policies or Actions.* Public servants who have a good faith belief that the public interest requires the disclosure of governmental policies or actions thought to be unlawful or improper should reveal their information to appropriate authorities.

4. *Leaking.* Except in matters of great public importance where identifying oneself as the source of information would involve unreasonable personal risks, public servants should not secretly reveal confidential matters or allege improprieties.

E. Personal Gain From the Performance of Public Duties.

Except for official compensation, public servants should neither seek nor accept any form of payment, gratuity or other personal benefit relating to the performance of their responsibilities.

1. *Performance of Duty.* Public servants should neither seek nor accept any form of personal benefit for the performance of their duty to deal with a matter promptly, efficiently or fairly or for the exercise of appropriate but discretionary representational authority.

2. *Accessibility of Elected Officials.* Elected officials should assure that constituents and others who may be affected by public policies have a fair and equal opportunity to express their concerns, grievances, and ideas without regard to their willingness or ability to provide personal benefits or political support to the official.

3. *Personal Benefits Should Never Appear to Be Necessary.* Public servants should not engage in any conduct which could create in the mind of a reasonable observer the belief that persons will receive better or

different service if they provide personal benefits or political support to a government official.

F. Use of Public Employees for Personal Benefit.

Public servants should not use public employees on government time for private benefit.

1. *Subordinate's Responsibility To Say No.* Public employees should refuse to perform improper personal tasks on government time.

G. Use of Government Property for Personal Benefit. A public servant should not use government property or facilities for private benefit.

H. Use of Title or Prestige for Personal Benefit.

Public servants should not use, nor allow others to use, the authority, title, or prestige of public office for the attainment of private financial, social or political benefits in any manner that is inconsistent with public interests.

1. *Use For Commercial Purposes.* Public servants should not permit their names or official titles to be used by a nonpublic enterprise in any manner that would lead reasonable observers to believe that those who deal with the enterprise may receive special treatment or advantages as a result of a formal association with the public servant.

2. *Exploitive Fees.* The present or former holder of a high public office that carries with it substantial prestige should not appear to sell the stature of the office by accepting sums that create a general perception that the office has been exploited for private gain.

3. *Use For Private Advantage.* Public servants should not use official letterhead or refer to their public position as a means of inducing or intimidating persons to resolve disputes more favorably, provide preferential treatment, or give free tickets, discounts, favors or other advantages.

I. Use of Public Powers for Political Advance.

A public servant should not use the resources, prerogatives and powers of office primarily to advance political interests.

1. *Use of Public Employees.* A public servant should not seek to use public employees, on government time, to assist in political party activities, campaigning, fund raising, or other partisan or personal political activities.

2. *Use of Public Facilities.* A public servant should not conduct nor allow campaign and fund raising activities on government premises nor use government resources for these purposes.

3. *Use of Public Authority.* A public servant should not use public authority primarily to achieve personal political advantage or favorable press coverage.

J. Use of Campaign Funds for Private Benefit.

Public servants to run for office should use campaign funds only for expenses directly relating to campaigning (e.g. salaries, consultant fees, travel, printing, media, polling, communication with voters and constituents) and not for personal or other political purposes.

1. *Improper Expenditures.* Campaign funds should not be used to supplement personal income or enhance a personal life style.

2. *Loans.* Candidates should not borrow from campaign funds nor loan them to any other person, whether or not interest is paid.

3. *Disclosure About the Use of Funds.* Public servants to raise campaign funds with the intent or known possibility that they will be used for a purpose other than direct campaign expenses relating to a current election should disclose their intent to the donor in order to avoid any possibility of raising money under false pretenses.

II. PRINCIPLES OF INDEPENDENT OBJECTIVE JUDGMENT.

Public servants should employ independent objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and both real and apparent improper influences.

A. Conflicts of Interest.

Public servants should safeguard their ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial, social and political relationships and transactions that may compromise or give the appearance of compromising their objectivity, independence or honesty.

1. *Disclosure of Financial Conflicts of Interest.* Public servants should safeguard their ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial, social and political relationships and transactions that may compromise or give the appearance of compromising on their objectivity, independence or honesty.

2. *Avoidance of Financial Conflicts.* Public servants should make all reasonable efforts to avoid transactions that may compromise or give the appearance of compromising their objectivity, independence or honesty.

3. *Benefits Intended to Influence.* Public servants should not accept benefits of any sort under circumstances in which it could be reasonably inferred that the benefit was intended to influence them in the performance of their public responsibilities.

4. *Duty to Report Improper Offers.* When the possibility of improper motive requires refusal of a gratuity, the official should firmly warn the person about bribery laws and improper influence; if the attempt to unduly influence is clear, the matter should be reported to law enforcement authorities.

5. *Appearance of Undue Influence.* Regardless of the actual intent of the provider or recipient, public servants should not accept benefits of any sort under circumstances that would create in the mind of a reasonable observer the belief the benefit may influence them in the performance of their public responsibilities.

   a. *Earned income from persons directly affected by actions or decisions.* Public servants should avoid engaging in financial relationships that might reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are unlikely to be affected directly by their actions or decisions.

   b. *Gratuities from persons directly affected by actions or decisions.* Public servants should refuse to accept any gratuities that may reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are likely to be affected directly by their actions or decisions.

   c. *Campaign contributions from persons directly affected by decisions.* Public servants should be cautious about accepting campaign contributions that may reasonably be construed to affect their judgment or actions, especially from other lobbyists or other persons who are likely to be affected by their decisions.

   d. *Personal relationships with persons directly affected by decisions.* Public servants should be cautious about accepting campaign contributions that may reasonably be construed to affect their judgment or actions, especially from lobbyists who are likely to be affected directly by their decisions.

B. Recusal and Disqualification.

Public servants should not take any public action under circumstances where, due to a conflict in interests, they are not certain that they can do so fairly and objectively.

C. Bias or Favoritism.

Public servants should exercise the powers and prerogatives of office fairly without prejudice or favoritism. It is improper to use public authority to reward relatives, friends or political supporters or to hinder or punish enemies and opponents.

D. Intervening on Behalf of Constituents and Friends.

Public officials should be extremely cautious about directly or indirectly intervening with normal decision making, investigatory, or adjudicative processes of governmental bodies on behalf of constituents or friends, since such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits.

1. *General Rule.* Generally, intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness of the procedures and the intervener consciously avoids seeking to unduly influence the decision making process.

2. *Those who intervene* should firmly, explicitly and unambiguously convey their limited purpose to reduce the possibility of direct or indirect pressure on administrators that could reasonably appear to influence the substantive decision.

III. PRINCIPLE OF ACCOUNTABILITY.

Public servants should assure that government is conducted openly, efficiently, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.

A. Oversight.

Public servants should assure that those to whom they have delegated public power, including their staffs and administrative agencies, carry out their responsibilities efficiently, equitably and ethically.

B. Openness.

Public servants should exercise the authority of their offices openly so that the public is informed about governmental decisions and the citizenry can hold them accountable for their actions.

C. Duty to Improve the System.

Public servants who believe that a law or policy is not achieving its intended purpose, is creating unintended harms, or is wasteful or inefficient, should take affirmative steps to improve procedures in a way that will increase the fairness and quality of government services and assure that policies are implemented equitably, efficiently and economically.

1. *Making Changes.* Public servants should take whatever actions they can to correct problems, streamline procedures and improve services. Where desirable changes exceed authority, public servants should promptly and forcefully recommend reform to the appropriate person or body.

2. *Supervisor's Duty.* In order to encourage a broad sense of responsibility for both the results and methods of government action, supervisors should develop a working environment that fosters constructive criticism and creative problem solving.

D. Self- Policing.

Public servants should maintain the integrity and trustworthiness of government by taking whatever steps are necessary, including reporting improper conduct to appropriate authorities, to prevent the unlawful or unethical use of public position, authority or resources.

IV. PRINCIPLE OF DEMOCRATIC LEADERSHIP.

Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.

A. Obeying All Laws.

Public servants have a special obligation to obey all laws and regulations.

B. Artifices and Schemes.

Public servants should not engage in artifices and schemes to exploit loopholes or ambiguities in the law in a way that undermines their spirit and purpose.

C. Integrity of the Process.

In using procedural rules, public servants should maintain the integrity, fairness and efficiency of the process by honoring the substance and spirit of the rules and by refraining from conduct which undermines the principles of representative democracy.

D. Use of Leadership Power.

Legislative leaders and committee chairs should use their leadership powers only in a manner consistent with representative democracy.

E. Civil Disobedience.

In rare cases, a public servant may exercise the prerogative of conscientious objection by disobeying the law. In such cases, the illegal behavior should be open and the official should be willing to bear the appropriate legal and political consequences.

V. PRINCIPLE OF RESPECTABILITY AND FITNESS FOR PUBLIC OFFICE.

Public servants should safeguard public confidence in the integrity of government by being honest, fair, caring and respectful and by

avoiding conduct creating the appearance of impropriety of which is otherwise unbefitting a public official.

A. Fitness of Public Office.

Public servants should conduct their professional and personal lives so as to reveal character traits, attitudes, and judgments that are worthy of honor and respect and demonstrate fitness for public office.

1. *Honesty.* Public servants should be scrupulously honest, avoiding any form of lying, deception, deviousness, hypocrisy, and cheating in their professional and personal lives.

2. *Integrity.* A public servant should reflect personal integrity in all matters, placing principle over expediency and demonstrating courage of convictions.

3. *Private Personal Conduct.* Public servants should avoid engaging in any conduct that is likely to bring discredit on themselves and the governmental bodies in which they serve.

B. Campaigning.

Those seeking public office should conduct their campaign in a way that aids the citizenry to make an informed choice on appropriate criteria and which casts credit on government and the election process.

Text Size

Board of Ethics

Members

NAME	TERM
Sophie Fierro-Share	6/30/2011
James Robb	6/30/2010
John Schrot Jr.	6/30/2012

About the Board of Ethics

Watch the Board of Ethics Video:

The above video is a presentation of the Board of Ethics for all board and committee members on the following topics: Open Meetings Act & Freedom of Information Act; Parliamentary Procedures & Roberts Rules of Order; Ethics Ordinance and Board of Ethics

Helping to Preserve Public Trust in the Integrity of Government
The City of Birmingham has declared that public office and employment are public trusts. For government to operate properly, each city official, employee, or advisor must earn and honor the public trust by integrity and conduct. All city officials, employees, and advisors must avoid conflicts between their private interests and the public interest and must not use public office for personal gain.

All proceedings before the Birmingham Board of Ethics are subject to the Open Meetings Act.

Ethics Ordinance
Through the Ethics Ordinance,the city has established rules of conduct for city officials, employees, and advisors and has designed a process for determining whether their conduct conforms to or violates the ordinance. That process contemplates the involvement of all citizens, not just city officials, employees, and advisors, in monitoring the integrity of city government.

Board of Ethics
When there is a question or a complaint 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.

Mission Statement
The mission of the City of Birmingham Board of Ethics is:

- To foster an environment where city officials, employees, and professional consultants work together with integrity, honesty, and mutual respect, such that decisions are made which honor the public trust and enhance the quality of life in our community.
- To educate and inform the public about expected standards of conduct for city officials, employees, and professional consultants through resources such as the city's website and newsletter.
- To strengthen citizens' confidence in the integrity of their city officials, employees, and professional consultants.
- 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.
- To address alleged violations of the Ethics Ordinance without delay and with due process and fidelity to the Ethics Ordinance.

Rules of the Board of Ethics
The Rules of the Board of Ethicsprovide for three types of matters that may be referred to the board, depending on whose conduct is to be reviewed and who is requesting that review.

City officials or employees, including consultants, advisors, contractors, and persons serving on advisory boards and commissions, may desire a determination of whether their own conduct or anticipated conduct conforms to or violates the Ethics Ordinance. They may seek that determination by requesting an advisory opinion from the Board of Ethics on the advisory opinion request form. After a hearing at which the official or employee may appear, documents may be presented, and testimony taken, the board issues an opinion on the question presented.

City residents may desire a determination of whether the conduct of city officials or employees conforms to or violates the Ethics Ordinance. They may seek that determination by filing a complaint with the Board of Ethics on the complaint form. After an evidentiary hearing at which the complaining party and the responding party must appear, documents may be presented, and testimony taken, the board issues a decision on the question presented.

The city commission and the city's various boards and advisory commissions may themselves desire a determination of whether one of their members should be disqualified, due to a disclosed conflict of interest, from discussion, deliberation, action, or voting on a particular matter. In that instance, the commission or board may refer the question to the Board of Ethics for a final determination as to the conflict in question and whether the official, commissioner, or employee must refrain from participation in the matter.

Contact Information
If you have any questions or comments regarding the Board of Ethics, please contact Laura Broski, City Clerk, at 248.530.1802.

Forms and Documents
Advisory Opinion Form
Decisions
Ethics Complaint Form
Ethics Ordinance (Part II, Chapter 2, Article IX)
Procedural Rules

Meetings

View Past Events

EVENT	DATE/TIME	AGENDA
Board of Ethics Meeting	7/22/2010 8:00 AM	Not Available

ARTICLE IX. ETHICS*

***Editor's note:** Ord. No. 1810, adopted May 19, 2003, states that the provisions of this article shall become effective July 21, 2003.

Sec. 2-320. Public policy.

Public office and employment are public trusts. For government to operate properly, each city official, employee, or advisor must earn and honor the public trust by integrity and conduct.

The city hereby declares that all city officials and employees must avoid conflicts between their private interests and the public interest. Public officials and employees must:

(1) Be independent, impartial and responsible to the people;

(2) Make governmental decisions and policy in the proper governmental channels;

(3) Not use public office for personal gain.

To enhance public trust, the city must provide its officials and employees with adequate guidelines for separating their roles as private citizens from their roles as public servants.

This Code sets minimum standards of ethical conduct for all city officials and employees, elected or appointed, paid or unpaid. It proscribes actions incompatible with the public interest and directs disclosure of private financial or other interests in matters affecting the city.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-321. Responsibilities of public office.

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.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-322. Definitions.

City official or *employee* means a person elected, appointed or otherwise serving in any capacity with the city in any position established by the City Charter or by city ordinance which involves the exercise of a public power, trust or duty. The term includes all officials and employees of the city, whether or not they receive compensation, including consultants and persons who serve on advisory boards and commissions. The term does not include election inspectors and student representatives

appointed to city boards or commissions.

Consultant means a person who gives professional advice or services regarding matters in the field of his or her special knowledge or training.

Compensation means any money, property, thing of value or benefit conferred upon or received by any person in return for services rendered or to be rendered to himself or herself or any other party.

Financial interest means any interest in money, property or thing of value or benefit.

Immediate family means a city official or employee, his or her spouse, parents or children.

Official duties or *official action* means a decision, recommendation, approval, disapproval or other action or failure to act, which involves the use of discretionary authority.

Personal interest means an interest arising from blood or marriage relationships or any business association.

Private gain means any interest or benefit, in any form, received by a city employee or official.

Substantial shall mean considerable in quantity or significantly great.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-323. Intention of code.

It is the intention of section 2-324 below that city officials and employees avoid any action, whether or not specifically prohibited by section 2-324, 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.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-324. Promulgation.

(a) *Conflict of interest--General.*

(1) No official or employee of the city shall divulge to any unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.

(2) No official or employee of the city shall represent his or her personal opinion as that

of the city.

(3) Every official or employee of the city shall use personnel resources, property and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory and regulatory procedures and not for personal gain or benefit.

(4) No official or employee of the city shall directly or indirectly, solicit or accept any gift or loan of money, goods, services or other 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 or any other official or employee performs his or her official duties.

Gratuities do not include fees for speeches or published works on legislative subjects and, except in connection therewith reimbursement for expenses for actual expenditures for travel, and reasonable subsistence, for which no payment or reimbursement is made by the city, invitations to such events as ground breakings, grand openings, charitable or civic events, or inconsequential gifts from established friends.

(5) 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 or authority or benefit financially from confidential information which he or she has obtained or may obtain by reason of such position or authority.

(6) 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 or action in the performance of his or her official duties.

This section shall not prohibit a part-time elected or appointed city official from engaging in private employment or business on his or her own time as a private citizen and where city business is not involved, subject to his or her disclosing such private employment or business on the public record for any matter on which he or she may be called upon to act in his or her official capacity, in accordance with Section 5 B below. He or she shall refrain from voting upon or otherwise participating in debate on any such matter.

(7) No official or employee of the city shall participate, as an agent or representative of the city, 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.

(8) No official or employee of the city shall use, or attempt to 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.

(9) It is recognized that various boards and committees are part of the plan of government for the city. As such, it is further recognized that by virtue of the various requirements for membership of the board, a member may be placed in the position of participating in a decision that may directly or indirectly affect his or her financial or personal interests. Therefore, those members of the various boards and committees in the city, as they may be established from time to time, may participate in such decisions provided that they act:

a. In furtherance of the public good;

b. In compliance with the duties of their respective boards; and,

c. In a manner consistent with subsection (8) of this section.

(10) Determination of conflict of interest. A conflict of interest exists if:

a. The city official or employee has any financial or personal interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that city official or employee, or is associated as owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of such matter, and such interest is or may be adverse to the public interest in the proper performance of said official's or employee's governmental duties, or;

b. The city official or employee has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or;

c. The public official has any other prohibited interest as defined by state statutes relating to conflicts of interest.

(11) Subsequent conflict of interest. No official or employee of the city shall acquire any financial interest in or accept any employment concerning any project which has been granted approval by the city or any commission, board, department or employee thereof within one year of the official's or employee's participation in any manner in considering or recommending the approval or disapproval of said project.

(b) *Full disclosure.*

(1) Responsibility to disclose. It shall be the responsibility of the official or employee to disclose the full nature and extent of his or her direct or indirect financial or personal interest in a matter before him or her.

No official or employee of the city shall participate, as an agent or representative of the city, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she has directly or indirectly a financial or personal interest. The official or employee shall, in such circumstances, recuse himself or herself from the matter before him or her.

(2) Disclosure of conflict of interest and disqualification.

a. Any city official or employee who has a conflict of interest, as defined herein, in any matter before the city shall disclose such fact on the appropriate record of the city prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, as follows, provided that such exceptions shall be observed as are permitted by law:

1. A city commissioner shall disclose any conflict of interest and the nature and extent of such interest on the record of the city commission;

2. A member of any city board, commission or committee shall disclose any conflict of interest and the nature and extent of such interest on the records of said board, commission or committee;

3. A city employee who has a financial or other interest in a matter before the city commission or any city board, commission or committee and who participates in discussion with, or gives an official opinion to the city commission, or to such other city board, commission or committee relating to such matter, shall disclose on the records of the city commission or such other city board, commission or committee, as the case may be, any conflict of interest and the nature and extent of such interest.

4. Otherwise, any appointed city official or employee shall address such a disclosure to the supervisory head of his or her department, and any elected city official shall address such a disclosure to the general public.

b. If a city official, commissioner or employee who has a conflict of interest, as defined herein, in any matter before the city, and who discloses that conflict on the appropriate records but who refuses to refrain from discussion, deliberation or voting thereon, the matter under consideration shall be immediately referred to the board of ethics for a final determination as to the conflict in question and whether the official, commissioner or employee must refrain from discussion, deliberation, action or voting thereon.

c. Within 20 days after election, employment, appointment, or the effective date of this ordinance, or any change in the facts set forth in the city official's or employee's previously filed disclosure statement, each city official and employee shall file with the city clerk an affidavit and disclosure statement. The city clerk shall provide each city official or employee with the required affidavit and disclosure statement form immediately upon his or her election, employment or appointment. The affidavit and disclosure statement does not apply to part-time and temporary employees of the city. Additionally, the disclosure requirements on this section do not apply to regular full-time employees below the level of assistant department head, except at the discretion of the city manager.

d. The effective date for this ordinance shall be July 21, 2003.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-325. Violation, enforcement and advisory opinions.

(a) *Board of ethics.*

(1) The city commission shall appoint a board of ethics, consisting of three members, as an advisory body for the purpose of interpreting this code of ethics.

(2) The initial three members of the board of ethics shall be appointed for one-, two-, and three-year terms of office respectively, which shall begin on July 1, 2003. If appointed prior to July 1st, they shall begin their terms of office immediately and their terms shall include the additional time prior to July 1st. Terms of office shall expire on June 30th of the respective years.

Thereafter, all members shall be appointed to three-year terms, beginning July 1, so that only one member's term expires each year. A member shall hold office until his or her successor is appointed. The city commission shall fill a vacancy by an appointment for the unexpired term only.

(3) The board of ethics shall be made up of residents of the city who have legal, administrative or other desirable qualifications.

a. The members of the board of ethics shall serve without compensation, and shall not be elected officials, persons appointed to elective office, full-time appointed officials or city employees, nor shall they be currently serving on any other city board or commission.

b. The board shall select its own presiding officer from among its members.

c. The board shall establish such procedures it deems necessary or appropriate to perform its functions as set forth in this article.

(b) *Functions of the board of ethics.* 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, as applicable.

(1) Hearings. The board of ethics shall follow the following hearing procedure:

a. The board shall, within seven days after any matter is brought to its attention, set a date certain for hearing said matter.

b. The board shall, at least 28 days before the hearing date, send notice of such hearing, accompanied by a concise statement of the alleged breach of this code of ethics, to any person requested to appear before them, by certified mail, return receipt requested, to addressee only.

c. Any person requested to appear before a board of ethics hearing may request one extension for a period not to exceed 28 days. Extensions thereafter will be granted only under extreme circumstances.

d. Any person requested to appear before a board of ethics hearing may be accompanied by his or her attorney.

e. All hearings at which any person shall be requested to appear shall be subject to the Open Meetings Act.

f. All findings of board hearings shall be published in permanent form and communicated to the city commission and the public, subject to the requirements of the Open Meetings Act.

(2) Advisory opinions. All advisory opinions so issued shall also be published in permanent form and communicated to the city commission and the public, subject to the requirements of the Open Meetings Act.

(3) After the board of ethics' advisory opinions and/or hearing findings have been published:

a. The city commission shall be responsible for imposing any sanction for a violation of this Code on one of its members or any person appointed by the commission to any city board.

b. If it becomes necessary to seek the removal of a city official after the board of ethics' advisory opinion and/or hearing findings, the city shall follow the requirements for removal of a public official in accordance with the laws of the state.

c. The city manager shall be responsible for imposing any discipline for a violation of this Code on any employee of the city.

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

Sec. 2-326. Affidavit and disclosure statement.

Immediately following an election, employment or appointment of a city official or employee, the city clerk shall provide the individual with an affidavit and disclosure statement form. Within 20 days after election, appointment, employment or any change in the facts set forth in the city official's or employee's previously filed affidavit and disclosure statement, all city officials or employees shall file with the city clerk an affidavit and disclosure statement including the following:

A. A disclosure statement responding in detail to the following questions:

1. To the best of your knowledge, do you or any members of your immediate family own any interest in real property located within the City of Birmingham, in land contiguous to the City of Birmingham, or in any area covered by a 425 Agreement to which the City of Birmingham is party?

2. If your answer to question 1. is affirmative, to the best of your knowledge state the following information for each such interest owned:

(a) The nature of your interest in the real property;

(b) The location of the real property (for improved property, provide the street address; for unimproved property state its location in relation to existing streets), and;

(c) The property's permanent real estate tax identification number.

3. To the best of your knowledge, do you or members of your immediate family own five percent (5%) or more of any business entity located in the City of Birmingham?

4. If your answer to question 3. is in the affirmative, state the following, to the best of your knowledge:

(a) The name of the entity;

(b) The address of the entity;

(c) The nature of your relationship to the entity, and;

(d) The date relationship commenced.

5. To the best of your knowledge, do you or any members of your immediate family have any direct financial or business relationships with any supplier, service provider or contractor of the City of Birmingham from which you or they derive direct compensation or financial benefit that is not reported in the prior answers.

6. To the best of your knowledge, have you or any members of your immediate family given or received any gifts, other than from immediate family members, the value of which exceeds $50.00, within the last year, or since the effective date of this code, whichever time period is shorter, to or from any person or business or other legal entity doing business with the City, other than legal campaign contributions? If so, list the names and addresses of each donor or donee of each such gift and the date upon which it was made and the nature of the gift.

B. An affidavit in which the City official or employee states: "I have read and I understand the Code of Ethics of the City of Birmingham and, to the best of my knowledge, I am not in conflict with its provisions."

Dated:
Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public

_____ County, Michigan

My Commission Expires:_____

(Ord. No. 1805, 4-28-03; Ord. No. 1810, 5-19-03; Ord. No. 1819, 1-12-04)

City of Birmingham
A Walkable Community

BOARD OF ETHICS
PROCEDURAL RULES

Chapter 1. Policy and Construction.

Rule 101. Intent.
The City of Birmingham Board of Ethics (the board) promulgates these rules pursuant to the City of Birmingham's Code of Ethics with the intent of realizing the policies and goals set forth in that code and in the board's own mission statement. The board intends to conduct its business consistent with all applicable federal, state and local laws.

Rule 102. Construction.
These rules are to be construed to achieve the timely, efficient and cost-effective determination of matters brought before the board.

Rule 103. The board may modify these rules on a case-by-case basis to further this policy.

Chapter 2. Procedure for Obtaining Advisory Opinions.

The rules of this chapter apply to the situation where a city official, employee, the City Commission or a City board or commission seeks an advisory opinion as to whether his, her or its conduct or anticipated conduct, or that of a city official, employee or body, conforms to the Code of Ethics.

Rule 201. Definition
"Advisory opinion" means a written opinion of the board concerning whether the conduct or anticipated conduct of the person requesting the opinion, or that of a city official, employee, or body, conforms to the code of ethics.

Rule 202. Request for Advisory Opinion.
A city official, employee, the City Commission or a City board or commission may request an advisory opinion on whether the conduct or anticipated conduct of a city official, employee, or body, conforms to the code of ethics. The request must be in writing and filed with the city clerk on a form prescribed by the clerk who will present it to the board for consideration. The person or body who files the request is called the "requesting party." The requesting party may include with the request any documents that may assist the board in responding to the request. If the request for advisory opinion concerns the conduct of a person or body other than the requesting party, the other party is called the "subject party."

Rule 203. Dismissal.

a. The city clerk may administratively dismiss a request for an advisory opinion if the request fails to comply with Rule 202 of this Chapter.

b. The board may administratively dismiss a request for an advisory opinion for either of the following reasons:
   (i) One or more requests or complaints regarding the same matter are pending.
   (ii) The board previously addressed the subject matter.

Rule 204. Additional Information.
Upon presentation of a request for an advisory opinion, the board may direct the city clerk to obtain additional information regarding the request.

Rule 205. Summary Decision.
At any time, the board may issue an advisory opinion decision on the request based on any of the following reasons:
a. The board lacks jurisdiction over the person or body subject to the advisory opinion.
b. The board lacks jurisdiction over the subject matter.
c. The requesting party lacks the legal capacity to request an advisory opinion.
d. The request for an advisory opinion is barred because of release, prior judgment, or other disposition of the matter before the request for an advisory opinion was filed.
e. The request for advisory opinion on its face fails to demonstrate any violation of the code of ethics.

Rule 206. Summary Opinion.
If no genuine issue as to any material fact exists, the board may issue an advisory opinion without a hearing.

Rule 207. Scheduling.
If the request for an advisory opinion is not resolved under Rule 205 and 206, the board may schedule a meeting or hearing in accordance with the Rules of this Chapter.

Rule 208. Meeting Date.
The clerk will set the matter for meeting on a date certain and place the matter on the board's calendar. The board may hold a hearing to review, or further review, the merits of a request for an advisory opinion.

Rule 209. Notice of Meeting and Requests to Others to Appear.
The clerk will send notice of the meeting to the requesting party in the manner prescribed by the Code of Ethics. If the requesting party seeks review of the conduct or anticipated conduct of a third party city official, employee, or body, the clerk will also send notice of the meeting to that subject party in the manner prescribed for hearings by the Code of Ethics. The board may request other persons to appear at the meeting by directing the clerk to send notice of the meeting and a request to appear, accompanied by a copy of the request for advisory opinion.

Rule 210. Appearance of Requesting Party, Subject Party, or Representative.

The requesting party and the subject party, person subject to the request, or a representative of either, may appear at the meeting, present information to support or oppose the request, and respond orally to questions presented by the board.

Rule 211. Meetings, Generally.
The board will conduct a meeting on the matter set forth in the request for advisory opinion at the scheduled time. Any person requested to appear at the meeting may be accompanied by an attorney.

Rule 212. Presiding Officer.
The Chairperson of the board will act as the presiding officer for the meeting or may assign another member of the board to be the presiding officer. The presiding officer will officiate over the meeting; moderate the questions and answers between members of the board, the requesting party, the subject party, and any other witness; and rule on questions of procedure and the admissibility of evidence. The presiding officer will consult with other members of the board before making any decision.

Rule 213. Presentation of the Request and the Evidence.
The requesting party will present the request by stating the issue to be resolved and giving any evidence that bears on the matter. The subject party may likewise present any evidence that bears on the matter. The board may request the testimony of other witnesses and the introduction of exhibits or other evidence relevant to the matter. The requesting party, the subject party, and any member of the board may question any witness in the manner directed by the presiding officer. All witnesses will give testimony on sworn oath or affirmation.

Rule 214. Post-Meeting Evidence.
The board may request the requesting party or any other person to submit post-meeting evidence if warranted.

Rule 215. Closure of the Record.
The record is closed at the conclusion of the meeting or, if the board requests any person to submit post-meeting evidence, at the earlier of the submission of the evidence or the deadline for submitting it. The board may re-open the record and take additional evidence before rendering its decision.

Rule 216. Advisory Opinion.
The board will determine whether the conduct or anticipated conduct of the requesting party or the subject party, as the case may be, conforms to the Code of Ethics. The board will make its decision upon a vote of a majority of the board based upon the evidence in the record and controlling law. The board will issue its decision in the form of a written advisory opinion. The advisory opinion, and any dissenting or concurring opinion, will be stated in writing. Once they are issued, the opinions are final.

Rule 217. Transmittal of the Advisory Opinion or Order.
The board will send its advisory opinion or order to the city clerk, who will publish, distribute and keep it in the manner prescribed in the ordinance and in conformity with

applicable law. The clerk will mail the requesting party, the subject party, the affected department, and other persons as the board directs, a copy of the opinion or order.

Chapter 3. Procedure for Resolving Complaints.

The rules in this chapter apply to the situation where any person has a complaint against a city official or employee, as defined in the Code of Ethics, alleging that the conduct of that official or employee is in breach of the code.

Rule 301. Filing of Complaint.

A person with a complaint involving the applicability of any provision of the Code of Ethics with respect to the conduct of a city official or employee may bring the matter before the board by filing with the city clerk a complaint on a form prescribed by the clerk. The person who files the complaint is called the "complainant." The person who is alleged to have breached the code is called the "respondent."

Rule 302. Dismissal.

a. The city clerk may administratively dismiss a complaint if it fails to comply with Rule 301 of this Chapter.
b. The board may administratively dismiss a complaint for either of the following reasons:
   (i) One or more complaints or requests for advisory opinions regarding the same matter are pending.
   (ii) The board previously addressed the subject matter.

Rule 303. Additional Information.

Upon the filing of a complaint, the board may direct the city clerk to obtain additional information regarding the request.

Rule 304. Summary Decision.

At any time, the board may issue a decision on the complaint based on any of the following reasons:

a. The board lacks jurisdiction over the respondent.
b. The board lacks jurisdiction over the subject matter.
c. The complainant lacks the legal capacity to assert the complaint.
d. The complaint is barred because of release, prior judgment, or other disposition of the complaint before the complaint was filed.
e. The complaint on its face fails to demonstrate any violation of the code of ethics.

Rule 305. Summary Opinion.

If no genuine issue as to any material fact exists, the board may issue a decision on the complaint without a hearing.

Rule 306. Scheduling.

If the complaint is not resolved under Rule 205 and 206, the board may schedule a meeting or hearing in accordance with the Rules of this Chapter.

Rule 307. Hearing Date.

Within seven (7) days of the filing of the complaint, the clerk will set the matter for hearing on a date certain and place the matter on the board's calendar in accordance with the ethics ordinance and these procedural rules.

Rule 308. Service of Complaint on, and Notice to, Respondent.
At least twenty-eight (28) days before the hearing date, the clerk will send notice of the hearing, accompanied by a copy of the complaint to the respondent in the manner prescribed by the code.

Rule 309. Notice of Hearing to Complainant and Requests to Others to Appear.
After setting the matter for hearing, the clerk will notify the complainant of the hearing date in the manner prescribed by the Code of Ethics. The board may request other persons to appear at the hearing by directing the clerk to send notice of the hearing and a request to appear, accompanied by a copy of the complaint in the manner prescribed by the code.

Rule 310. Answer of Respondent.
Ahead of the hearing date, the respondent may submit a written answer to the complaint by filing that answer with the city clerk. In the answer, the respondent may respond to the allegations set forth in the complaint and may further provide information, including documents, relevant to the matter. In lieu of a written answer, the respondent may appear at the hearing and respond orally to the allegations in the complaint.

Rule 311. Hearings, Generally.
The board will conduct a hearing on the matter alleged in the complaint at the scheduled time. Any person requested to appear at the hearing may be represented by an attorney.

Rule 312. Presiding Officer.
The Chairperson of the board will act as the presiding officer for the hearing or may assign another member of the board to be the presiding officer. The presiding officer will officiate over the hearing and rule on questions of procedure and the admissibility of evidence. The presiding officer will consult with other members of the board before making any decision.

Rule 313. Opening Statements.
The opening statement is the parties' way to introduce the matter to the board, summarize the evidence that will be presented during the hearing, and state the relief requested. The complainant and the respondent may each give an opening statement. Usually, the complainant will give the first opening statement, but the board may vary this procedure.

Rule 314. Conduct of Proceedings

a. The complainant will present evidence to support the complaint. The respondent may then present evidence to support any defense. Witnesses for each party will also submit to questions from the complainant, the respondent, and the board. The board has the discretion to vary this procedure, provided that the

parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.

b. The board, exercising its discretion, will conduct the proceedings with a view to expediting the resolution of the matter and may direct the order of proof, bifurcate proceedings and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the matter.

c. The parties may agree to waive oral hearings in any case.

Rule 315. Evidence

a. The parties may offer such evidence as is relevant and material to the matter and will produce such evidence as the board may deem necessary to an understanding and determination of the matter. Conformity to legal rules of evidence will not be necessary. All evidence will be taken in the presence of the board and all of the parties, except where any of the parties is absent, in default or has waived the right to be present.

b. The board will determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the board to be cumulative or irrelevant.

c. The board will take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

Rule 316. Closing Statements.

When the parties have finished presenting their evidence, each may make a closing statement summarizing the evidence, stating the relief requested, and arguing in favor of that relief. Usually, the respondent will give the first closing statement, to be followed by the complainant, but the board may vary this procedure.

Rule 317. Post-Hearing Briefs.

The board may request the parties to submit post-hearing briefs if warranted.

Rule 318. Closure of the Record.

The record is closed at the conclusion of the hearing or, if the board requests the parties to submit post-hearing briefs, at the earlier of the submission of the briefs or the deadline for submitting them. The board may re-open the record and take additional evidence before rendering its decision.

Rule 319. Decision.

The board will determine whether the respondent's conduct as alleged in the complaint or demonstrated at the hearing is in breach of the Code of Ethics. The board will make its decision upon a vote of a majority of the board based upon the evidence in the record and controlling law. The board will issue its decision in the form of a written opinion. The opinion, and any dissenting or concurring opinion, will be stated in writing. Once they are issued, the decision and opinions are final.

Rule 320. Transmittal of the Decision.

The board will send its decision to the city clerk, who will publish, distribute and keep it in the manner prescribed by the ordinance and in conformity with applicable law. The

clerk will mail each party, the affected department, and other persons as the board directs, a copy of the decision.

Chapter 4. Procedure for Deciding Referred Questions of Disqualification Due to Conflict of Interest.

The rules in this chapter apply to the situation where, under Section 2-324 of the Code of Ethics, a city official or employee has a conflict of interest in any matter before the city, as defined in the code, has disclosed that conflict on the appropriate records of the city, but refuses to refrain from discussion, deliberation or voting on that matter. In that instance, the affected city body may request the board to decide the question of whether the official or employee must refrain from discussion, deliberation, action or voting on the matter because of disqualification due to a conflict of interest. The rules in this chapter contemplate that the referred question be decided on an expedited basis.

Rule 401. Referral of Question of Disqualification.

The city, its commission, or any city board or committee, which is called the "referring body," may refer to the board the question of whether an official or employee is disqualified from discussion, deliberation, action or voting on any pending matter due to a conflict of interest. The referring body will refer the question of disqualification to the board by filing the question with the city clerk on a form prescribed by the clerk. The referring body may include with the referred question any information and documents that may assist the board in answering the referred question. The person who is alleged to be disqualified due to conflict of interest is called the "respondent."

Rule 402. Dismissal.

a. The city clerk may administratively dismiss a referred question of disqualification if the referral fails to comply with Rule 401 of this Chapter.
b. The board may administratively dismiss a referred question of disqualification for either of the following reasons:
   (i) One or more questions regarding the same matter are pending.
   (ii) The board previously addressed the subject matter.

Rule 403. Additional Information.

Upon referral of a question of disqualification, the board may direct the city clerk to obtain additional information regarding the request.

Rule 404. Summary Decision.

At any time, the board may issue a decision on the referred question of disqualification based on any of the following reasons:

a. The board lacks jurisdiction over the respondent.
b. The board lacks jurisdiction over the subject matter.
c. The referring body lacks the legal capacity to refer the question to the board.
d. Decision on the question is barred because of release, prior judgment, or other disposition of the question before the question was referred.
e. The question on its face fails to demonstrate any conflict of interest or reason for disqualification.

Rule 405. Summary Opinion.

If no genuine issue as to any material fact exists, the board may issue a decision without a hearing.

Rule 406. Scheduling.
If the referred question of disqualification is not decided under Rule 404 and 405, the board may schedule a meeting or hearing in accordance with the Rules of this Chapter.

Rule 407. Hearing Date.
As soon as practicable after the referred question of disqualification is filed, the clerk will set the matter for hearing on a date certain, which may be that very day, and place the matter on the board's calendar. The board may convene and conduct the hearing immediately upon the clerk's receipt of the referred question, or may set another time for the hearing.

Rule 408 Notice of Hearing and Requests to Others to Appear.
The clerk will notify the referring body and the respondent of the hearing. Notice may be given orally or in any other form reasonably calculated to give the date, time, location and subject matter of the hearing. The board may request other persons to appear at the hearing by directing the clerk to notify those persons of the request and transmitting a copy of the referred question to them.

Rule 409 Hearings, Generally.
The board will conduct a hearing on the referred question at the scheduled time.

Rule 410. Presiding Officer.
The Chairperson of the board will act as the presiding officer for the hearing or may assign another member of the board to be the presiding officer. The presiding officer will officiate over the hearing, and rule on questions of procedure and the admissibility of evidence. The presiding officer will consult with other members of the board before making any decision.

Rule 411. Appearance of Referring Body and Respondent.
The referring body and the respondent may appear at the hearing, present information on the referred question of disqualification and respond orally to questions presented by the board. The referring body will designate one of its members or another person to act as its representative for the hearing.

Rule 412. Opening Statements.
The opening statement is the parties' way to introduce the question to the board, summarize the evidence that will be presented during the hearing, and state the party's position on the question. The referring body and the respondent may each give an opening statement. Usually, the referring body will give the first opening statement, but the board may vary this procedure.

Rule 413. Conduct of Proceedings

a. The referring body will present evidence on the question of disqualification. The respondent may then present evidence to support his or her position on the question. Witnesses for each party will also submit to questions from the

referring body and the respondent. The board has the discretion to vary this procedure, provided that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.

b. The board, exercising its discretion, will conduct the proceedings with a view to expediting the resolution of the matter and may direct the order of proof, bifurcate proceedings and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the matter.

c. The parties may agree to waive oral hearings in any matter.

Rule 414. Evidence

a. The parties may offer such evidence as is relevant and material to the question and will produce such evidence as the board may deem necessary to an understanding and determination of the question. Conformity to legal rules of evidence will not be necessary. All evidence will be taken in the presence of the board and all of the parties, except where any of the parties is absent, in default or has waived the right to be present.

b. The board will determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the board to be cumulative or irrelevant.

c. The board will take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

Rule 415. Closing Statements.

When the parties have finished presenting their evidence, each may make a closing statement, summarizing the evidence, stating the position it takes on the question, and arguing in favor of that position. Usually, the respondent will give the first closing statement, to be followed by the referring body, but the board may vary this procedure.

Rule 416. Post-Hearing Briefs.

The board may request the parties to submit post-hearing briefs if warranted.

Rule 417. Closure of the Record.

The record is closed at the conclusion of the hearing or, if the board requests the parties to submit post-hearing briefs, at the earlier of the submission of the briefs or the deadline for submitting them. The board may re-open the record and take additional evidence before rendering its decision.

Rule 418. Decision.

The board will decide whether the respondent is disqualified from discussion, deliberation, action or voting on the matter pending before the referring body due to a conflict of interest. The board will make its decision upon a vote of a majority of the board based upon the evidence in the record and controlling law. The board will issue its decision in the form of a written opinion. The opinion, and any dissenting or concurring opinion, will be stated in writing. Once they are issued, the decision and opinions are final.

Rule 419. Transmittal of the Decision.

The board will send its decision to the city clerk, who will publish, distribute and keep it in the manner prescribed in the ordinance and in conformity with applicable law. The clerk will provide the referring body, the affected department, and the respondent with a copy of the decision.

Revised 10/03
Revised 05/04
Revised 10/06
Revised 12/06
Revised 1/08

Declaration of Commitment

We commit ourselves collectively and individually to do the following:

1. We will devote time, thought and study to our duties and responsibilities as council members.

2. We will build and maintain good relationships with each other and with the city manager.

3. We will emphasize planning, policy-making, and public relations, leaving management to the city manager.

4. We will come well prepared for each council meeting; keep our comments concise, organized, and clear; and listen carefully to others who have the floor.

5. We will vote our individual convictions and avoid factionalism.

6. We will individually refrain from deliberations and decisions on matters in which one has a vested interest or a conflict of interest.

7. We will respect all confidential information received and refrain from disclosing opinions expressed in confidence by each other and the manger.

8. We will listen courteously to citizens, refer those with personal requests and criticism to the city manager, and keep him apprised of community concerns.

9. We will set clear goals for the city manager, support him, and help him to be as effective as possible.

10. We will establish council and city goals and share them with the community.

Code of Ethics

As a member of Troy City Council, I will:

1. Respect the confidentiality of privileged information;
2. Recognize that as an individual council member I have no authority to speak or act for council;
3. Work with other council members to establish effective policies;
4. Delegate authority for the running of the city to the manager and staff;
5. Encourage ongoing communications among council members, staff, and the community;
6. Render all decisions based on the available facts and independent judgment rather than succumbing to the influence of individuals or special interest groups;
7. Make every effort to attend all meetings;
8. Become informed concerning the issues to be considered at each meeting;
9. Avoid conflicts of interest or the appearance thereof;
10. Refrain from using this position to benefit myself, family members or business associates.

Code of Conduct

As a member of Troy City Council, I shall do my utmost to represent the public interest by adhering to the following commitments:

- I shall represent all constituents honestly and equally, and refuse to surrender my responsibilities to special interest or partisan political groups.
- I shall avoid any conflict of interest or the appearance of impropriety which could result from my position, and shall not use my council membership for personal gain or publicity.
- I shall recognize that a council member has no legal authority as an individual and that decisions can be made only by a majority vote at a council meeting.
- I shall take no private action that might compromise council or the city, and shall respect the confidentiality of privileged information.
- I shall abide by majority decisions of council, while retaining the right to seek changes in such decisions through ethical and constructive channels.
- I shall encourage and respect the free expression of opinion by my fellow council members and others who seek a hearing before council.
- I shall be involved in, and knowledgeable about, not only local concerns, but also state and national issues.

CODE OF ETHICS

Members of council shall agree to:

- Attend all regularly scheduled meetings insofar as possible and become informed concerning the issues to be considered at those meetings.

- Endeavor to make policy decisions only at publicly held council meetings.

- Render all decisions based on the available facts and independent judgment and refuse to surrender that judgment to individuals or special-interest groups.

- Encourage the free expression of opinion by all council members and seek systematic communications between council, staff, and all elements of the community.

- Work with other council members to establish effective policies and to delegate authority for city operations to the manager.

- Communicate to other council members and the manager expressions of public reaction to policies and programs.

- Stay current on issues by individual study and through participation in programs providing needed information, such as those sponsored by state and national associations.

- Avoid being placed in a position of conflict of interest; and, if such conflict of interest is unavoidable, disclose such interest to other council members and abstain from participation in such matter.

- Exercise caution when communicating between and among council members via electronic messaging services, including but not limited to electronic mail (e-mail), Internet Web forums, and Internet chat rooms.

- Take no private action that will compromise council or the city management and respect the confidentiality of information that is privileged under applicable law.

Declaration of Commitment

We commit ourselves collectively and individually to do the following:

1. We will devote time, thought and study to our duties and responsibilities as council members.

2. We will build and maintain good relationships with each other and with the city manager.

3. We will emphasize planning, policy-making, and public relations, leaving management to the city manager.

4. We will come well prepared for each council meeting; keep our comments concise, organized, and clear; and listen carefully to others who have the floor.

5. We will vote our individual convictions and avoid factionalism.

6. We will individually refrain from deliberations and decisions on matters in which one has a vested interest or a conflict of interest.

7. We will respect all confidential information received and refrain from disclosing opinions expressed in confidence by each other and the manger.

8. We will listen courteously to citizens, refer those with personal requests and criticism to the city manager, and keep him apprised of community concerns.

9. We will set clear goals for the city manager, support him, and help him to be as effective as possible.

10. We will establish council and city goals and share them with the community.

Code of Ethics

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1. Respect the confidentiality of privileged information;
2. Recognize that as an individual council member I have no authority to speak or act for council;
3. Work with other council members to establish effective policies;
4. Delegate authority for the running of the city to the manager and staff;
5. Encourage ongoing communications among council members, staff, and the community;
6. Render all decisions based on the available facts and independent judgment rather than succumbing to the influence of individuals or special interest groups;
7. Make every effort to attend all meetings;
8. Become informed concerning the issues to be considered at each meeting;
9. Avoid conflicts of interest or the appearance thereof;
10. Refrain from using this position to benefit myself, family members or business associates.

Code of Conduct

As a member of Troy City Council, I shall do my utmost to represent the public interest by adhering to the following commitments:

- I shall represent all constituents honestly and equally, and refuse to surrender my responsibilities to special interest or partisan political groups.
- I shall avoid any conflict of interest or the appearance of impropriety which could result from my position, and shall not use my council membership for personal gain or publicity.
- I shall recognize that a council member has no legal authority as an individual and that decisions can be made only by a majority vote at a council meeting.
- I shall take no private action that might compromise council or the city, and shall respect the confidentiality of privileged information.
- I shall abide by majority decisions of council, while retaining the right to seek changes in such decisions through ethical and constructive channels.
- I shall encourage and respect the free expression of opinion by my fellow council members and others who seek a hearing before council.
- I shall be involved in, and knowledgeable about, not only local concerns, but also state and national issues.

CODE OF ETHICS

Members of council shall agree to:

- Attend all regularly scheduled meetings insofar as possible and become informed concerning the issues to be considered at those meetings.

- Endeavor to make policy decisions only at publicly held council meetings.

- Render all decisions based on the available facts and independent judgment and refuse to surrender that judgment to individuals or special-interest groups.

- Encourage the free expression of opinion by all council members and seek systematic communications between council, staff, and all elements of the community.

- Work with other council members to establish effective policies and to delegate authority for city operations to the manager.

- Communicate to other council members and the manager expressions of public reaction to policies and programs.

- Stay current on issues by individual study and through participation in programs providing needed information, such as those sponsored by state and national associations.

- Avoid being placed in a position of conflict of interest; and, if such conflict of interest is unavoidable, disclose such interest to other council members and abstain from participation in such matter.

- Exercise caution when communicating between and among council members via electronic messaging services, including but not limited to electronic mail (e-mail), Internet Web forums, and Internet chat rooms.

- Take no private action that will compromise council or the city management and respect the confidentiality of information that is privileged under applicable law.