



2008
CITY OF MILWAUKEE
ETHICS BOARD

Annual Report

JUNE 17, 2009



The Board of Ethics

To the Honorable Mayor of Milwaukee
and the Common Council

The City of Milwaukee Board of Ethics 2008 Annual Report

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

In the year 2008, the Ethics Board held nine regular board meetings, and four subcommittee meetings. The Board confidentially addressed nine requests for advisory opinion from a variety of sources, including employees, officials, board/commission members, and citizens. Summaries of the opinions are included in this report. These summaries should not be viewed as definitive advice, but rather as a guide to the types of situations addressed by the Board. If persons subject to the ethics code have any questions regarding their actions, they should request a confidential opinion from the Board of Ethics. In addition, the Board filed five complaints against individuals who failed to file the Statement of Economic Interests form in a timely manner.

The Board appointed a subcommittee in April to review the 2007 Statement of Economic Interests forms. The purpose of this review was to check for accuracy and inconsistencies in a random selection of completed forms. Overall, the committee found the Statements of Economic Interest forms to be properly completed and did not recommend any changes to the statement of economic interest form.

In an effort to supply information on the Code of Ethics and the functions of the City of Milwaukee Ethics Board, Ethics Board Chair Dwight Ellis presented a power point presentation to Common Council members and Legislative Assistants on April 24, 2008. The power point was part of a larger discussion on local governmental ethics and open records laws presented by the City Attorney's office.

In June, the Board received an opinion from the City Attorney's office which concluded that certain sections of the Code of Ethics, Chapter 303 relating to late filing and penalties was not lawful if applied to certain employees. In response to the opinion, the Board created a subcommittee to consider amendments of the pertinent Code sections. The Subcommittee held three meetings in August and September. With the assistance of the Department of Employee Relations and the Legislative Reference Bureau, the Subcommittee proposed extensive revisions to the sections of the Code dealing with late filing and failure to file the Statement of Economic Interest form. The revisions included a 10-day grace period for late filing, \$25 fee for filings that are 11 to 30 days late, \$5/day for filings that are over 30 days late, with a maximum of \$125 for daily late fees. Individuals filing more than 45 days late may be referred to the City Attorney's office for prosecution in Municipal Court. The proposed code revisions were passed by the Common Council on December 16, 2008 and became effective on January 8, 2009 (file number 081085).

In September, the Board requested that all Department Heads review the list of persons within their departments who are required to file an annual Statement of Economic Interests. The Department Heads then responded to the Board regarding any position they felt should be added to or deleted from the current list. The Board then reviewed these requests in light of the Ethics Code and the current job descriptions and forwarded a final recommendation to the Finance and Personnel Committee for changes to the Positions Ordinance. This process is intended to keep the annual list of filers accurate while giving Department Heads an annual opportunity to refresh their understanding of Chapter 303, Ethics Code.

The Board relies on the professional support services of an independent contractor and several City Employees. The Board wishes to thank: Edward Ehrlich, of the City Attorney's office, who provides legal counsel; Linda Elmer, Staff Assistant from the City Clerk's office, who staffs the Board's meetings; and Joanna Polanco, Council File Specialist from the City Clerk's office, who provides additional secretarial support. We greatly appreciate our research assistant, Nola Devereaux, who, as an independent contractor, provides invaluable research and technical support. We also wish to thank the City Clerk, Ronald Leonhardt, for providing additional administrative support to the Board.

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

Very truly yours,

Dwight Ellis, Chair

SUMMARIES

Confidential Advisory Opinions

MEB 08-1 Use of Public Position for Private Gain

ISSUE: A City employe requested an opinion as to whether or not a conflict of interest exists in her/his displaying of projects, produced in her/his official capacity, for the City of Milwaukee in a personal business venture designed primarily for the use of soliciting her/his personal (non-governmental) work.

ADVICE: The Board determined that the display and presentation of work done by the requestor for the City of Milwaukee on her/his personal marketing materials may be a violation of the City's Code of Ethics, 303-5-2. This section of the Code states, "No official or other city employe may use his or her public position or office to obtain financial gain or anything of substantial value for the official's or other city employe's private benefit or that of his or her immediate family or for an organization with which he or she is associated." In its deliberations, the Board tried to balance the requestor's understandable interest and right to pursue personal freelance activities while avoiding the prohibition in the City's Ethics Code that the requestor not use her/his City position for private gain. The Board made specific recommendations to the requestor about how to adjust the information portrayed in the marketing materials in order to achieve this balance and avoid a conflict with the Code of Ethics.

MEB 08-2 Gift/Payment of Expenses

ISSUE: A City official requested an opinion as to whether or not it is permissible under the Code of Ethics to accept a trip, offered by a local non-profit organization, including transportation and lodging. The purpose of the trip is to continue to develop and enhance the City's relationship with a foreign government as part of a relationship cultivated by the Mayor in recent years.

ADVICE: The Board determined that no conflict of interest exists in accepting the invitation to attend the trip. The Board based its opinion on the Code of Ethics, s. 303-9-3-c which state that "a public official may receive...on behalf of the city transportation, lodging meals, food, beverage, or reimbursement ...of actual and reasonable cost that the official can show...were received on behalf of the city and not primarily for the private benefit of the official or any other person." The Board further advised the official to disclose all of the underwritten expenses to the Ethic Board on the 2008 Statement of Economic Interests form or on the "Gifts, Honoraria, Payment of Expense form."

MEB 08-3 Gift/Payment of Expenses

ISSUE: A City official requested an opinion as to whether or not it is permissible under the Code of Ethics to accept payment of expenses, offered by a local law firm, to a foreign city, for a trade mission. The payment of expenses would include transportation and lodging for four days. The purpose of the trip is to meet with local government officials and business executive in an effort to increase Milwaukee exports to the foreign country. Other local governmental officials from the Milwaukee area are expected to participate.

ADVICE: The Board determined that no conflict of interest exists in accepting the payment of expenses as outlined in the request. The Board based its opinion on the Code of Ethics, s. 303-9-3-c which state that “a public official may receive...on behalf of the city transportation, lodging meals, food, beverage, or reimbursement ...of actual and reasonable cost that the official can show...were received on behalf of the city and not primarily for the private benefit of the official or any other person.” The Board further advised the official to disclose all of the underwritten expenses to the Ethic Board on the 2008 Statement of Economic Interests form or on the “Gifts, Honoraria, Payment of Expense form.”

MEB 08-4 Lack of Jurisdiction

ISSUE: A City official requested an opinion as to whether or not conflicts of interest exist with a current member of the Neighborhood Improvement Development Corporation (NIDC) Board and her/his relationship with a local community association.

ADVICE: The Board determined that the members of the NIDC Board do not meet the definitions of “Official” or “Other City Employee” as set forth in the Code of Ethics, Chapter 303 and therefore would not come under the jurisdiction of the Ethics Code. The request was returned for lack of jurisdiction.

MEB 08-5 Post employment restriction

ISSUE: A former City official requested an opinion as whether or not a conflict of interests exists if she/he, during the 12 months from the date of her/his retirement were to: 1) represent clients in challenging tax assessments or 2) appear in Milwaukee Municipal Court on matters not related to her/his previous duties.

ADVICE: The Board determined that the Code of Ethics, s. 303-5-8-a clearly prohibits the meeting with or making any formal or informal appearances before or negotiating with any City employees or officials related to her/his former responsibilities with the City. If the requestor were to be compensated for her/his representations in such matters,

the Code of Ethics prohibits such representations. The restriction remains in effect for one year after she/he ceased employment with the City of Milwaukee.

MEB 08-6 Benefit offer to a public official

ISSUE: A City official requested an opinion as to whether she/he may accept a \$5000 term life insurance benefit offered to the members and staff of a local board.

ADVICE: Based on the information presented, the Board determined that the term life insurance policy was a benefit of the officials' work with the local board, not unlike other benefits that an official receives within her/his employment and therefore, acceptance of this benefit would not constitute a violation of the Code of Ethics, Chapter 303.

MEB 08-7 Immediate family member

ISSUE: A City official requested an opinion as to whether or not a conflict of interest exists in hiring her/his step-daughter to an official City position. The step-daughter is not a blood relative, was not adopted by the requestor, is not a member of the requestor's household and does not derive any financial support from the requestor.

ADVICE: Based on the information presented by the requestor, the Board determined that the City's Code of Ethics does not prohibit the requestor from hiring her/his step-daughter. The Board based its decision on the definition of "immediate family member" in the Code of Ethics, s. 303-3-5-b which states: "An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support." The Board further reminded the requestor that even though it is not prohibited by the Code to hire her/his step-daughter, it is possible that members of the public or media may consider the hiring of her/his step-daughter inappropriate because of the direct benefit to a person to whom the requestor is related by marriage.

MEB 08-8 Conflict of interest in official action

ISSUE: A City official requested an opinion as to whether or not a conflict of interest exists in her/his voting on a City pension matter that may benefit her/his father, who has retired from his City position.

ADVICE: Based on the information presented, the Board determined that the City's Code of Ethics does not prohibit the requestor from participation in the discussion or votes in the pension matter. The Board based its decision on the definition of "immediate family member" in the Code of Ethics, s. 303-3-5-b which states: "An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more

than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.” The Board further reminded the requestor that even though it is not prohibited by the Code to participate in the discussions and votes in the pension matter, it is possible that members of the public or media may consider her/his participation in the deliberations inappropriate because of the proposed benefit to her/his father and therefore the requestor may wish to recuse her/himself from participation.

MEB 08-10 Gift disclosure

ISSUE: A City employee requested clarification regarding the gift reporting requirements outlined in Chapter 303. The request dealt with whether or not the requestor must disclose wedding gifts received from family, friends, and business acquaintances, including other city officials and business owners. Further, the requestor asked for clarification on two points: 1) If a gift was from a group of people the value be adjusted based on the number of people joining in the gift? 2) Would the total value of a gift be split between the requestor and the requestor’s spouse (for purposes of reporting)?

ADVICE: The Board determined that the requestor is required to disclose gifts received from persons other than family (as specified in the Code of Ethics) which are valued at more than \$50. With regard to the two questions relating to the division of the gifts to determine the value of the gift, the language of the Code of Ethics section quoted above does not address joint gifts. However, the language of the section does require the reporting of “any gift or gifts having an aggregate value of more than \$50 within the taxable year”. It is the Board’s interpretation of this language that a gift by a group of people would come within the aggregation rule and the Board recommends that any gift from a group which has a value of more than \$50 be disclosed.

Further, with respect to the fact that gifts were given to the couple, the Board points out that the language of section 303-13-7 contains the words “directly or indirectly” and the information to be reported on an individual’s SEI has numerous references to an individual’s “immediate family”, which includes an individual’s spouse. Accordingly, it is the interpretation of the Board that the total value of a gift to the couple together must be measured against the \$50 reporting threshold (not some lesser portion).

Complaints

MEB 08-508-1

The Ethics Board filed a complaint against a member of a City Board member for failure to file the annual Statement of Economic Interests form within the prescribed time. The individual did not file the Statement of Economic Interests, the Board found the individual in violation of the Code of Ethics and recommended that the individual be removed from her/his official capacity and/or consideration fro appointment or reappointment, thereto.

MEB 08-508-2

The Ethics Board filed a complaint against a member of an Elected City official for failure to file the annual Statement of Economic Interests form within the prescribed time. The individual subsequently filed the completed Statement of Economic Interests and the complaint was dismissed.

MEB 08-508-3

The Ethics Board filed a complaint against a member of an Elected City Official for failure to file the annual Statement of Economic Interests form within the prescribed time. The individual did not file the Statement of Economic Interests and the Board found the individual in violation of the Code of Ethics. The Board recommended that the individual be formally reprimanded by the Common Council for this violation.

MEB 08-508-4

The Ethics Board filed a complaint against a City Employee for failure to file the annual Statement of Economic Interests form within the prescribed time. The individual subsequently filed the completed Statement of Economic Interests and the complaint was dismissed.

MEB 08-508-5

The Ethics Board filed a complaint against a City Employee for failure to file the annual Statement of Economic Interests form within the prescribed time. The individual did not file the completed Statement of Economic Interests. Since the individual had recently left City employment, the Board recommended that the individual be removed from consideration for future employment.

THE CITY OF MILWAUKEE ETHICS BOARD 2008 FACT SHEET

ETHICS BOARD MEMBERS

TERMS

Dwight Ellis, Chair Public Policy Forum	(Dec. 2003 to May 2011)
Martha Toran, Vice Chair Milwaukee Branch – N.A.A.C.P.	(Sept. 2002 to April 2012)
Joanne Barndt League of Women Voters of Milwaukee County	(Oct. 2007 to Dec. 2009)
Annie Wacker Milwaukee Area Labor Council	(Oct. 2005 to Feb. 2012)
Patricia Hintz Milwaukee Bar Association	(April 2005 to June 2011)
Eliot Bernstein Interfaith Conference of Greater Milwaukee	(Oct. 2004 to June 2009)
Devon Turner Metro. Milwaukee Assoc. of Commerce	(June 2002 to April 2012)

MAILING AND EMAIL ADDRESSES

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STAFF

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

2007 BUDGET

\$28,999 in the 2008 adopted budget

STATUTORY REFERENCE

Section 303, Milwaukee Code of Ordinances

