

# Conflicts for Advisory Board Members

COA Integrity Office

2011

## Thanks for Your Service to the City

- ◆ Local government depends on the service of community-minded individuals.
- ◆ With public service come additional responsibilities.
- ◆ Board members are City officials.
- ◆ As a City official you become subject to laws that are designed to ensure the transparency and impartiality of your government.

- ◆ The application of conflict rules requires a close knowledge of an individual's relationships and financial affairs.
- ◆ It is ultimately the personal responsibility of each board member to be aware of the relevant rules and to comply with them.

- ◇ When your personal interests intrude on your ability to adhere to the highest standards in your decision making, or if it would appear so an observer, you have a conflict of interest.
  
- ◇ Conflicts can arise in a number of ways.
  - **financial relationships**
  - **occupational concerns**
  - **personal relationships**

- ◇ Could there be benefits (or consequences) for me that could cast doubt my objectivity?
- ◇ Do I have a close personal or financial relationship with an interested party?
- ◇ Could this situation have an influence on any future opportunities for me?
- ◇ How would I feel if my role were portrayed in the media?
- ◇ Would I be happy if my personal connection to the issue became known to the public or my colleagues?

◆ Conflict rules:

- may prohibit the conflict
- may require recusal (taking yourself out of the loop)
- may leave the matter up to your judgment (the law cannot always codify common sense)

- ◆ A person who is
  - **registered as a lobbyist**
  - **required to register as a lobbyist, or**
  - **an employee of a person required to register**under the City's lobbying ordinance
- ◆ may not serve on a City board within three years of engaging in lobbying activity.

- ◇ A City board member may not:
  - **formally appear before the board of which he or she is a member while acting as an advocate for himself or herself, or for any other person, group, or entity,**
  - **accept paid campaign work relating to a ballot proposition if the participated in the board's discussion or vote regarding the proposition.**

- ◇ A person may not be involved in the
  - **development,**
  - **evaluation, or**
  - **decision-making process**
  - **of any solicitation**
  
- ◇ And have a financial interest, direct or indirect, in the contract resulting from that solicitation

- ◇ The City Code requires a board member to recuse when
  - **the member has a “substantial interest” in a person or entity**
  - **that would be “affected” by a vote of the board of which he or she is a member.**

A substantial interest may arise from:

- ◆ Ownership
- ◆ Income
- ◆ Control
- ◆ Debt
- ◆ Family
- ◆ Doing business

- ◇ “Affected” means “reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question.”

- ◇ The vote or decision need not be the only producing cause of the economic effect or consequence. It's enough that the effect or consequence would be reasonably expected to occur.
- ◇ The vote or decision need not be the only decision or the final decision on the matter.

- ◇ A City board member who serves as
  - ◇ **a corporate officer**
  - ◇ **or member of the board of directors**
  - ◇ **of a nonprofit entity**
  
- ◇ may not participate in a vote or decision regarding funding by or through the City for the entity

- ◇ To Recuse
  - Indicate that a conflict exists with a particular item on the attendance sheet.
  
  - State from the dais that you are recusing and why
    - ◇ it must be included in the meeting’s official minutes
  
  - Take no part in any discussion or vote, whether on or off the dais.
    - ◇ You do not have to leave the dais during the discussion or vote, but you may wish to do so.
    - ◇ Remember you may not appear before your own board as an advocate for yourself or any other person.

- ◇ If a City board reviews a federally-funded project or activity, the members are *also* subject to the federal conflict rules for the federal program that is the source of the funding.
- ◇ Each federal program has specific conflict of interest rules.
  - **Requirements set by various federal agencies may vary.**

- ◆ Typically, an official or an official's relative or business associate may not have a financial interest in the federal activity.
- ◆ The prohibition applies during the official's tenure and for a year thereafter.

- ◇ Some conflicts are not recognized by the law and require common sense
- ◇ Don't over-legalize
- ◇ Be sensitive to public perception

- ◆ **The City's Anti-Lobbying Ordinance**
  - **Each response is considered on the same basis**
  - **Respondents have equal access to information**
  - **Respondents have the same opportunity to present information**
  - **To protect the competitive bid process**

◆ A Single Point of Contact

- **Is designated in each solicitation to respond to all questions and comments pertaining to the solicitation.**

- ◆ Questions?
- ◆ Contact the City's Integrity Officer

- **John Steiner**
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