

**\*REVISED**

**NOTICE OF PUBLIC MEETING  
CITY OF PHOENIX  
ETHICS COMMISSION**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS COMMISSION** and to the general public, that the **ETHICS COMMISSION** will hold a Hybrid meeting open to the public on **February 19, 2026, at 3:00 p.m.**

**OPTIONS TO ACCESS THE MEETING**

- **Call-in to listen** to the live meeting: Dial 1-415-655-0001, Enter meeting access code 2339 267 3270 and press # again when prompted for the attendee ID.
- **Observe the live meeting virtually**, by clicking on the following link and registering to join the meeting online:  
<https://cityofphoenix.webex.com/weblink/register/r3609c5c6e6c15be689007caed4ff0e70>
- If you would like to attend in person at Phoenix City Hall, 12th Floor, Central Conference Room 200 W. Washington St., Phoenix, Arizona, **please RSVP to [ethics.commission@phoenix.gov](mailto:ethics.commission@phoenix.gov).**
- **Register to speak and/or submit a comment** on an agenda item:
  - Contact: Rebecca McCarthy
  - At: (602) 262-7526
  - Email: [ethics.commission@phoenix.gov](mailto:ethics.commission@phoenix.gov)
  - By: 11:00 a.m. on February 19, 2026

**Public Comment:** If you wish to provide a written comment or speak at the meeting virtually or by phone, please submit a request to [ethics.commission@phoenix.gov](mailto:ethics.commission@phoenix.gov) or call (602) 262-7526 no later than 11:00 a.m. on Thursday, February 19, 2026. The email or phone call should include your first and last name, email address, the item number(s) and whether you would like your comment read into the record or if you wish to speak.

**Please take notice that in order to preserve the integrity of the investigation process and pursuant to the City Code, all information related to an Ethics Inquiry is required to remain confidential until there is final action by the Commission; therefore, the Commission will not take public comment on Agenda items regarding pending ethics inquiries. Written comments may be submitted at any time to the Commission inbox at [ethics.commission@phoenix.gov](mailto:ethics.commission@phoenix.gov).**

Additional information can be found at <https://www.phoenix.gov/ethics>.

## **Executive Session**

The Ethics Commission may vote to convene into executive session (which will not be open to the public) pursuant to A.R.S. Section 38-431.03(A)(2) or (A)(3) for discussion or consideration of any items on the agenda, at any time during the meeting. The Ethics Commission must take action on an agenda item in open session. Items on the agenda may be discussed out of order unless they have been specifically noted to be set for a certain time.

The agenda for the meeting is as follows:

1.	Call to Order/Roll Call	Chair
2.	Commission Attorney Explains Public Comment	Commission Attorney
3.	*Revised to correct Commission members listed as present and absent Approval of Meeting Minutes from January 15, 2026 <b>Discussion and Possible Action</b>	Chair
4.	Staff Update <b>Information and Discussion</b>	Staff
5.	Discussion of Inquiry Review Process and Citizen Petition <b>Discussion and Possible Action</b>  <i>Attachment A: Report of the Phoenix Ethics Review Ad Hoc Task Force</i> <i>Attachment B: Principles for Designing an Independent Ethics Commission, Campaign Legal Center</i>	Chair
6.	Review of Current Complaints <b>Discussion and Possible Action</b>  1. EC-25-01 2. EC-25-06 3. EC-25-18	Chair
7.	Call to Public	Chair
8.	Future Agenda Items and Meeting Dates	Chair
9.	Adjournment	Chair

For further information, please contact Rebecca McCarthy at (602) 262-7526 or via electronic mail at [ethics.commission@phoenix.gov](mailto:ethics.commission@phoenix.gov). For reasonable accommodation or translation services, please contact Rebecca McCarthy at (602) 262-7526 or TTY: 7-1-1 as early as possible to coordinate needed arrangements.

## AGENDA ITEM 3

**CITY OF PHOENIX  
ETHICS COMMISSION  
Summary Minutes  
January 15, 2026**

Phoenix City Hall  
12<sup>th</sup> Floor, Central Conference Room  
200 W Washington St.  
Phoenix, AZ 85003

Commission Members Present

Patricia Sallen, Chair  
Peter Schirripa, Vice Chair  
Ann Hart  
Jose Samuel (Sam) Leyvas III

Commission Members Absent

Cheryl Pietkiewicz

**1. Call to Order/Roll Call**

Chairwoman Patricia Sallen called the meeting to order at 3:03 p.m. with Vice Chairman Peter Schirripa and Commissioners Ann Hart present. Commissioner Sam Leyvas attended virtually. Commissioner Cheryl Pietkiewicz did not attend.

Chairwoman Patricia Sallen thanked the former Chairman, Commissioner Leyvas, for his work and leadership.

Commissioner Leyvas expressed gratitude for the Commission's and staffs' efforts over the last two years and expressed confidence in the new leadership.

**2. Commission Attorney Explains Public Comment**

Elizabeth Nillen, Commission Attorney, stated members of the public may speak for up to two minutes on agenda items, aside from agenda items on the pending complaints, and gave direction on appropriate decorum when providing comments.

**3. Approval of Meeting Minutes from December 18, 2025**

Commissioner Hart made a motion to approve the minutes of the December 18, 2025, Ethics Commission Meeting. Vice Chairman Schirripa seconded the motion, which passed unanimously 4-0.

**4. Staff Update**

Rebecca McCarthy, Special Projects Administrator, informed the Commission that the Ethics Handbook for the Board and Commissions has been revised and posted to the Ethics Website.

Vice Chairman Schirripa asked if the previous version would be available online.

Ms. McCarthy responded that the previous version could be added.

Vice Chairman Schirripa opened the discussion up to the Commission. He noted that transparency about the revisions would be fair.

Chairwoman Sallen agreed and noted it would be important to note the substantive or high-level changes on the website.

Deputy City Manager David Mathews commented that staff can provide a draft to the Commission.

**5. Discussion of Inquiry Review Process and Citizen Petition**

Chairwoman Sallen summarized the agenda item and noted the action by the Council was to refer the Citizen Petition to the Commission for further action as part of the Commission's planned review of the procedures and other governing policies.

Deputy City Manager Mathews added that any recommendations made by the Commission would be sent to the City Manager, who would then make the recommendation to City Council to be voted upon.

Chairwoman Sallen asked Deputy City Manager Mathews about the best course of action regarding these recommendations.

Deputy City Manager Mathews stated that staff would take any recommendations provided by the Commission and draft them as a formal recommendation from the Commission to the City Manager's Office.

Commissioner Leyvas asked staff to verify in the procedures if any recommendations would need to go back to the City Manager or if this requirement was only for the initial Rules of Procedure.

Deputy City Manager Mathews referenced Rules of Procedure Section III E. stating the Commission may refer changes to the Rules of Procedures to the City Manager and must be approved by an affirmative vote of seven Councilmembers.

Commissioner Leyvas asked if that dynamic changes since the Council referred the Citizen Petition directly to the Commission.

Deputy City Manager Mathews responded no. He noted that since the Commission was already planning to review the procedures, the Council referred the Citizen Petition to the Commission to be included in this planned discussion and review. He stated the process per the Rules of Procedure still applies.

Commissioner Leyvas thanked staff for clarifying.

Chairwoman Sallen suggested the Commission begin with a discussion regarding topics requiring attention and offer recommendations to the City Manager's Office for potential changes to language or other provisions. She mentioned having a brief list of topics to discuss, including the initiation of the procedures for inquiries, as referenced in the Citizen Petition. She requested clarification on whether the inquiry must be hand-delivered to the City Clerk's Office, as stated in the Citizen Petition.

Deputy City Manager Mathews clarified the City Clerk would require the original wet signature to comply since it is a notarized document. He stated the inquiry could be accepted via email originally and then could be followed up by either hand delivering or mailing the original signed copy.

Chairwoman Sallen stated she would want to follow-up on this topic. She requested to review the process for withdrawing a complaint, including when a request can be made. She stated a discussion is also needed on the issue of confidentiality and how the Commission can fulfill their responsibilities while balancing confidentiality with transparency. She noted the Commission needs to consider how the rules might be changed to achieve this balance, including how this would be presented to the Council.

Vice Chairman Schirripa recommended a discussion of the financial penalties.

Deputy City Manager Mathews clarified the reference about financial penalties in the Citizen Petition. He noted that according to the Rules of Procedure and City Code, the Commission can recommend a fine for submitting a frivolous or fictitious complaint.

Commissioner Leyvas noted the Commission previously discussed reviewing the defined procedures and how the Commission operationalizes the processes overall. He referenced editing the flow chart process. He asked about the former ethics Task Force recommendations and noted they could be beneficial to review as part of this conversation. He asked if staff could provide these documents for their review.

Chairwoman Sallen added that the ethics policy does not discuss the appearance of impropriety and recommended adding this to the list of discussion topics.

Commissioner Leyvas referenced this review process could take longer than a few meetings and could also include public input and discussions.

Chairwoman Sallen asked if the Commission would recommend any other discussion topics to add to the list to further review and investigate. She asked staff about recommended next steps.

Deputy City Manager Mathews suggested staff find and share any reports from the former ethics Task Force with the Commission. He advised the Commission to review all topics and submit one comprehensive list of recommendations to the City Manager and Council, rather than providing updates individually.

Chairwoman Sallen asked staff to find the final report from the former ethics Task Force and include it on the next meeting agenda for further discussion. She recommended the Commission review the former ethics Task Force's recommendations to identify other items to adopt as part of this process.

Chairwoman Sallen introduced Jeremy Thacker for public comment and stated she looked forward to his comments on the topic.

Mr. Thacker mentioned he had previously submitted best practices to the Commission for their review and consideration during their first meetings. He inquired whether the complaints mentioned in the City Council Meetings and referenced in the Citizen Petition would also remain confidential and on what basis. He asked how decisions were made about what information remains confidential.

Chairwoman Sallen asked if the Commission has any active inquiries that have been discussed at City Council Meetings.

Commission Attorney Nillen noted he may be referring to the action taken by City Council recently that was relating to the 21 inquiries. She stated she was not sure if the names were discussed during the meeting, as she was not in attendance.

Deputy City Manager Mathews noted he did not recall the names of individuals being discussed at the meeting. He noted that complaints are referenced in the Citizen Petition but specifics about the inquiries are not provided.

Chairwoman Sallen stated the Commission would not be making decisions on recommendations today. She asked staff about the documents Mr. Thacker mentioned.

Ms. McCarthy stated she will share the documents mentioned by Mr. Thacker.

Chairwoman Sallen thanked Mr. Thacker for his comments.

## **6. Review of Current Complaints**

Chairwoman Sallen noted there are seven active inquiries left of the 21 submitted in November. She noted EC-25-01 and EC-25-06 are under investigation and asked the Commission Attorney for an update.

Commission Attorney Nillen stated the Commission's procedures allow the Respondent 20 days to provide a response; as indicated in the letter sent on December 31, the Respondent has until January 20 to provide a response. She noted the investigation does not begin until a response has been provided or the date has passed. She stated there would be a more substantive update during the February meeting.

Chairwoman Sallen noted there are four inquiries that the Complainants have requested to withdraw. Regarding EC-25-08, EC-25-09, and EC-25-10, she stated the Complainant has requested these inquiries to be withdrawn. She stated the procedures do not clarify a process on how to handle inquiries that have been requested to be withdrawn by the Complainant. She stated the Commission needs to decide how to process this request. She asked Commission Attorney Nillen if there is anything in the procedures that may address or impact this process.

Commission Attorney Nillen confirmed there is not a documented process for how to handle complaints that have been withdrawn.

Commissioner Leyvas noted that even when a complaint is withdrawn, he may have additional questions beyond the information provided in the initial inquiry and would need more details from an investigation. If the Commission is considering a frivolous filing, he stated he would factor in the Complainant's request to withdraw but may request to proceed with our investigation. He stated the Commission should consider the withdrawal of the inquiry as part of the overall situation rather than automatically halting all actions. He stated he is willing to motion for an executive session to obtain legal guidance on this matter.

Chairwoman Sallen confirmed the Commission did not take action on these items during the last meeting, and they are not currently under investigation.

Commissioner Leyvas clarified that this distinction changes his thoughts. He noted his previous philosophy was based on the understanding that the Commission had already voted to investigate. He recommended that if the inquiry is withdrawn before consideration by the Commission, the inquiry should be dismissed and closed. He recommended that, if the Commission has voted to investigate, they should continue their investigation until they are ready to vote.

Chairwoman Sallen agreed that once the Commission has voted to investigate the inquiry, there are additional considerations. She reiterated that no action had been taken by the Commission on EC-25-08, EC-25-09, and EC-25-10.

Commissioner Leyvas asked for clarification on the language if he were to make a motion to close the matter.

Commission Attorney Nillen recommended language to accept the Complainant's request to withdraw and vote to close the matter.

Commissioner Leyvas motioned to accept the Complainant's request to withdraw EC-25-08, EC-25-09, and EC-25-10 and close the matters. Vice Chairman Schirripa seconded the motion.

Chairwoman Sallen opened the floor to discussion.

Vice Chairman Schirripa requested to add the following topic to the list discussed in Agenda Item 5: add verbiage on how to properly submit a withdraw request.

Commissioner Leyvas asked if the Commission closes the matter, does this action still permit the Commission to recommend sanctions to the City Council for frivolous filings.

Commission Attorney Nillen asked for time to review.

Commissioner Hart expressed her desire to understand the reasons behind their withdrawal. She remarked that it is challenging to determine what qualifies as frivolous and suggested that it would be beneficial for the Commission to understand their reasons. She believes this approach would help the Commission gain clarity and take these considerations into account.

Chairwoman Sallen asked if Commissioner Hart envisions this to be a requirement in the withdrawal process.

Commissioner Hart responded yes and believes it will provide the Complainant ownership of the withdrawal.

Commissioner Leyvas asked if this should be added to the list of future discussion topics.

Commissioner Hart responded yes.

Commissioner Leyvas clarified that he is not recommending these complaints be deemed frivolous, but he believes this should be addressed as a separate consideration.

Commission Attorney Nillen stated she needs to review the current procedures further prior to giving a response to the Commission on this topic.

Chairwoman Sallen asked Commissioner Leyvas to repeat his motion.

Commissioner Leyvas repeated his motion to accept the Complainant's request to withdraw EC-25-08, EC-25-09, and EC-25-10 and close the matters.

Vice Chairman Schirripa agreed that this was the motion he seconded.

Chairwoman Sallen called for the roll call vote. The motion passed 4-0 by the following roll call vote:

**Yes:** 4 – Chairwoman Sallen, Vice Chairman Schirripa,  
Commissioner Leyvas, and Commissioner Hart  
**No:** 0

EC-25-08, EC-25-09, and EC-25-10 are closed.

Chairwoman Sallen noted the Commission voted to investigate EC-25-18 during the December meeting, and the Complainant requested to withdraw the inquiry. She opened the floor for discussion.

Commissioner Leyvas stated he is interested in the results of the investigation. He asked for clarification if only the names of the inquiries are confidential.

Commission Attorney Nillen stated the entire inquiry, including the facts, are to remain confidential.

Chairwoman Sallen clarified he could discuss how he wants to review the answers.

Commissioner Leyvas began to discuss the inquiry and a potential conflict of interest.

Commission Attorney Nillen recommended to stop his discussion.

Chairwoman Sallen clarified and stated he could discuss how to address the issues in a complaint, without itemizing them.

Commissioner Leyvas made a motion to convene in Executive Session to discuss inquiries listed under Agenda Item 6 and to receive legal advice, pursuant to Arizona Revised Statutes Section 38-431.03, as noticed on the agenda. Vice Chairman Schirripa seconded the motion, which passed unanimously 4-0.

The Commission entered Executive Session at 3:44 p.m.

The Commission returned from Executive Session at 4:23 p.m.

Chairwoman Sallen asked if there was a motion on EC-25-18.

There was no motion. The Commission did not take action on EC-25-18.

Chairwoman Sallen asked if there was a motion on EC-25-12.

Commissioner Leyvas motioned to dismiss EC-25-12 because the complaint is facially insufficient to pursue. Vice Chairman Schirripa seconded the motion.

Chairwoman Sallen called for the roll call vote. The motion passed 4-0 by the following roll call vote:

**Yes:** 4 – Chairwoman Sallen, Vice Chairman Schirripa,  
Commissioner Leyvas, and Commissioner Hart

**No:** 0

EC-25-12 was dismissed.

**7. Call to Public**

Chairwoman Sallen stated to preserve the integrity of the investigation process and pursuant to the City Code, all information related to an ethics inquiry is required to remain confidential until there is final action by the Commission; therefore, the Commission will not take public comment on agenda items regarding pending ethics inquiries.

Chairwoman Sallen introduced Jeremy Thacker for public comment.

Staff confirmed Mr. Thacker was no longer online, and there were no other individuals signed up to speak.

**8. Future Agenda Items and Meeting Dates**

Chairwoman Sallen asked to keep the agenda item to discuss the inquiry review process and Citizen Petition. She asked to include the former ethics Task Force recommendations and include Mr. Thacker's document submitted about best practices. She stated the Commission can continue the discussion about topics to propose for revisions.

Commission Attorney Nillen asked if the Chairwoman wants to include an agenda item to discuss the active inquiries.

Chairwoman Sallen asked to add EC-25-01, EC-25-06 and EC-25-18 to the next agenda.

**9. Adjournment**

Chairwoman Sallen adjourned the meeting 4:28 p.m.

**AGENDA ITEM 5 - ATTACHMENT A**

**REPORT OF THE  
PHOENIX ETHICS REVIEW  
AD HOC TASK FORCE**

January 14, 2013



## COVER LETTER

Mayor Stanton and Members of the Phoenix City Council:

On behalf of the City of Phoenix Ethics Review Ad Hoc Task Force, we are pleased to submit our report, which details our recommendations born out of our review of Phoenix ethics policies and procedures. We believe our recommendations help to strengthen Phoenix's reputation as a national leader for transparent and well-managed government. We hope our recommendations serve to inspire Phoenix to continue to establish and follow the highest of ethics standards.

Accordingly, in undertaking this assignment, we sought to consider as many perspectives as possible and received information from a broad spectrum of community leaders, academics, elected officials, Phoenix employees, and Phoenix residents. Over the course of these past four months, we conducted an in-depth review of Phoenix's ethics-related policies, Phoenix's implementation of these policies, and the effectiveness of these policies. The Task Force held 13 public meetings, which included presentations on current ethics policies and procedures, ethics in government, and best practices from other jurisdictions. We received public comment from union representatives, other municipal executives, and concerned residents.

We came to this assignment with the shared belief that the vast majority of Phoenix elected officials, employees, volunteers, and board members are decent, honorable, and hard-working people who strive to do the right thing for our city. After our review, this shared belief remains true.

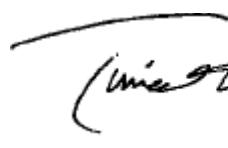
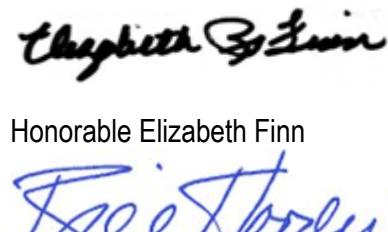
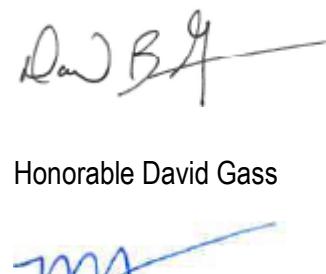
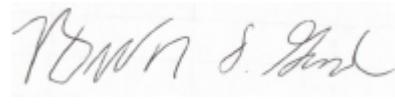
However, for Phoenix to maintain its national leadership role the Task Force believes Phoenix must implement strong preventative measures and endeavor to create an ethical culture built on leadership, education, and best practices. Our recommendations emphasize plain compliance-based rules, on-going training, accessible ethics resources, and uniform enforcement of ethics policies for elected officials, employees, volunteers, and board members.

The Task Force believes public trust in government is essential. To this end, we urge Council to strongly consider the recommendations contained in this report. Further, to emphasize our commitment to Phoenix and the work of this Task Force, we wish to be kept informed of Council's consideration of these recommendations and stand ready to assist with the implementation of the recommendations contained within this report. We trust Council will continue to lead by implementing these serious and fair-minded ethics recommendations that will serve Phoenix and its residents for years to come.

Respectfully submitted this 14<sup>th</sup> day of January, 2013,



Mr. Richard M. Romley, Chair

  
Mr. Timothy Burke  
Honorable Elizabeth Finn  
Mr. William Hardin  
Mr. Ernest Calderon  
  
Honorable David Gass  
Ms. Melissa Ho  
Mr. Michael DeMuro  
  
Mr. Brandon Goad  
Honorable Cecil Patterson

## ACKNOWLEDGEMENTS

The Task Force wishes to thank the Mayor's Office, Council members and their staff, City Manager David Cavazos and his executive team, ethics in government consultant Teri Traaen, union representatives on behalf of AFSCME 2384, AFSCME 2960, ASPTEA, IAFF 493, LIUNA 777, PLEA, PPSLA, former Mesa City Manager Mike Hutchinson, and Phoenix employees who generously shared their experiences and insight with us.

In particular, we wish to thank all the members of the public who sent us comments, attended public meetings, and showed how deeply ethics matter to Phoenix residents, volunteers, elected officials, and employees.

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## EXECUTIVE SUMMARY

In September 2012, the City of Phoenix Ethics Review Task Force was established to review and recommend changes to ethics policies applicable to Phoenix Elected Officials, employees, volunteers, and Board Members. Specifically, the Task Force was charged to evaluate best practices and provide recommendations with respect to the receipt of gifts, familial conflicts, financial conflicts, and professional conflicts.

As part of its review and work over the past four months, the Task Force received comments and heard remarks from Phoenix Elected Officials, Phoenix executives, union representatives, an ethics expert, and a former municipal executive. The Task Force held a televised hearing to receive public comment. The Task Force also reviewed Phoenix Ethics Policies, the application of various policies to Elected Officials, employees, volunteers, and Board Members, and the enforcement of these policies with respect to each group. The Task Force also considered best practices from a number of jurisdictions to fully inform its review.

### **Findings Related to Current Ethics Policies.**

Phoenix first implemented an ethics policy in 1990 and over the years made further enhancements to strengthen the ethics standards for Phoenix employees. In addition to the policies currently in place, Phoenix continues to emphasize ethical conduct by identifying integrity as part of its “Vision and Values Statement” and ensuring that each new employee who joins the Phoenix workforce receives ethics training. However, the Task Force made a number of findings and learned that a number of significant ethics matters should be addressed including:

- A condition exists where employees may be held to a more extensive standard to determine conflicts of interest compared to Elected Officials, volunteers, and Board Members because AR 2.91 includes more than a “relative” to determine a conflicting relationship.
- The interaction of Arizona law applicable to Elected Officials, employees, volunteers, and Board Members and Phoenix administrative regulations applicable to employees results in an inconsistent ethics policy for gifts. For example, an Elected Official may be prohibited from receiving a ticket to an entertainment event, but an employee may be allowed to attend the same event as long as the employee files the proper disclosure form with the Phoenix City Clerk. Conversely, an Elected Official may attend a dinner, but an employee may not accept the same gift of food unless the food is of minimal value and shared with the employee’s entire work unit.
- The Phoenix Charter does not include a provision to investigate ethics violations by Elected Officials, or impose sanctions against an Elected Official, if necessary, for ethics violations. Most levels of government have established a process to impose sanctions against an elected official for ethics violations by a vote of the elected official’s peers.
- Many levels of government publish an ethics handbook or other manual to guide and inform elected officials. Phoenix has adopted the Ethics Handbook, which currently applies to Elected Officials, employees, and Board Members. However, the Task Force has uncovered a number of ethics anomalies and disparities that cannot be cured by simply adopting an appropriate AR and

incorporating it into the existing Ethics Handbook. Such a cure does not recognize the different roles, issues, and conditions that affect Elected Officials, employees, volunteers, and Board Members.

- Phoenix conducts ethics training for new Elected Officials, employees, and Board Members, but Phoenix does not conduct follow up or supplemental training. Phoenix also does not maintain an ethics website. Volunteers currently do not receive ethics training.
- Phoenix has a long legacy of ethics review, but Phoenix's review has been irregular in time and inconsistent in the scope of its ethics review.

The Task Force divided into two subcommittees to discuss and make recommendations in response to these findings. One subcommittee focused on ethics issues and policies related to employees and volunteers while the other focused on ethics issues and policies related to Elected Officials and Board Members. 27 recommendations grew out of the work by the two subcommittees. These recommendations fall into three categories: (1) recommendations for the entire organization; (2) recommendations for Elected Officials and Board Members; and (3) recommendations for employees and volunteers. Each of the recommendations is detailed in this report, but the significant recommendations follow.

### **Recommendations for the Entire Organization.**

The Task Force makes the following recommendations with respect to the entire organization:

- The same Ethics Policies should apply as equally as possible to all Elected Officials, employees, volunteers, and Board Members.
- Phoenix should review and update its Ethics Policies every four years at a minimum.
- Subject to several exceptions listed below, gifts that create the appearance of undue influence and gifts of entertainment should be banned for all groups.
- Phoenix should require ethics training at regular intervals for Elected Officials, employees, volunteers, and Board Members.

### **Recommendations for Elected Officials and Board Members.**

The Task Force makes the following recommendations with respect to Elected Officials and Board Members:

- The publishing of a new ethics handbook for Elected Officials and Board Members to detail the laws, rules, and regulations related to Phoenix Ethics Policies.
- The establishment of a gift policy applicable to Elected Officials and Board Members whereby all gifts, including food, to an Elected Official or Board Member in the amount of fifty dollars (\$50.00) or more are disclosed by the Elected Official or Board Member by filing a form with the Phoenix City Clerk within 48 hours of receiving such gift. The Task Force further recommends that gifts of entertainment such as cultural or sporting events remain banned as provided by law.

- The posting of the Elected Official gift disclosure forms on-line within a searchable database.
- The maintenance and posting of the disclosure forms for the period of the Elected Official's or Board Member's public service plus two years after departure by such Elected Official or Board Member.
- The establishment of an independent Phoenix Ethics Commission to oversee the investigation and enforcement of violations of Phoenix Ethics Policies by Elected Officials and Board Members.<sup>1</sup>
- The Phoenix Ethics Commission should be authorized to receive allegations of ethical violations, investigate, take testimony, and engage in any other action to the extent permitted and established by law to oversee the investigation and enforcement of violations of Phoenix Ethics Policies by Elected Officials and Board Members. The Phoenix Ethics Commission should be authorized to appoint an independent investigator, hearing officer, or neutral mediator as may be necessary to assist the Phoenix Ethics Commission in carrying out its purpose and responsibilities.
- The Phoenix Ethics Commission be authorized to recommend to Council the imposition of the following actions or sanctions: censure, admonishment, reprimand, suspension (if voters approve), removal (if voters approve), reimbursement of costs, or imposition of a fine in an amount up to \$10,000 per violation (if voters approve) for misconduct, unprofessional conduct, incapacity, or Ethics Policy violation by an Elected Official or Board Member.
- The Council should refer to Phoenix voters an amendment to the Charter to allow the suspension, removal from office, or imposition of a fine in an amount up to \$10,000 per violation as sanctions for misconduct, unprofessional conduct, incapacity, or Ethics Policy violation by an Elected Official or Board Member.

### **Recommendations for Employees and Volunteers.**

The Task Force makes the following recommendations with respect to Phoenix employees and volunteers:

- Phoenix should update the Phoenix's Human Resources website to include ethics-related resources.
- Phoenix should add mandatory biennial ethics training to the employee and supervisor training curriculum.
- Phoenix's volunteer website and volunteer application should include a statement acknowledging the volunteer's compliance with Phoenix's Ethics Policies. On-going volunteers should be required to participate in ethics training. Staff should monitor compliance with Phoenix's ethics training requirements.

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<sup>1</sup> See Tab 16 for a flow chart that depicts the proposed ethics investigation and enforcement process for Elected Officials and Board Members.

- Phoenix should add ethics-related components to interview and selection processes for Phoenix employees and volunteers. This recommendation should be accomplished either by utilizing a validated ethics survey or by adding ethics scenarios to interview questions.
- Phoenix should revise the draft AR to include guidance to all Phoenix employees on the use of social media, both professionally and personally.
- The Task Force strongly recommends that hearing officers for planning and zoning matters be paid, full-time Phoenix employees to avoid the perception of a conflict of interest.
- If unpaid volunteers continue to serve as hearing officers in planning and zoning matters, Phoenix should add website language regarding the ethical standards these volunteers must satisfy.
- The Task Force recommends Phoenix re-examine Phoenix policies that prohibit the participation of Phoenix employees in Phoenix election activities.

### **Conclusion.**

The Task Force urges the Council to strongly consider these recommendations. While Phoenix has a legacy of high ethical standards, the Task Force submits these recommendations with the intent to continue and strengthen this legacy. In addition to the adoption of these recommendations, the Task Force recommends Phoenix commit to a regular review of Ethics Policies and to on-going training for Elected Officials, employees, volunteers, and Board Members. Lastly, several matters were brought to the attention of the Task Force during public comments that were outside the Task Force's charge, and therefore, these matters have not been addressed in this report.

## GLOSSARY

For purposes of this report and the recommendations contained within it, the following terms shall have the meaning ascribed as follows. The singular of the term shall include the plural, and the plural of the term shall include the singular.

“AR” means a Phoenix administrative regulation issued by the City Manager as guidance to and applicable to Phoenix employees.

“ARS” means Arizona Revised Statutes, as amended from time to time.

“Board Member” means a member of a Phoenix board, committee, or commission.

“Charter” means the Phoenix City Charter.

“Code” means the Phoenix City Code, as amended from time to time.

“Complainant” means a Phoenix resident, or a person who is affected by an action of an Elected Official or Board Member.

“Complaint” means the legal document the Ethics Commission prepares, or causes to be prepared, containing specific allegations of misconduct, unprofessional conduct, incapacity, or Ethics Policy violations by an Elected Official or Board Member.

“Council” means the Phoenix City Council.

“Elected Official” means an elected or appointed Phoenix official.

“Ethics Commission” means the proposed Phoenix Ethics Commission.

“Ethics Handbook” means the Phoenix Ethics Handbook adopted by the Council in June 1991, as amended from time to time.

“Ethics Policy” means Phoenix ethics policies and standards codified in Chapter XI, Section 1 of the Charter; Section 2-52 of the Code, the Ethics Handbook and the AR’s.

“Hearing Officer” means the person appointed by the Ethics Commission to preside at a hearing to hear and address a Complaint against a Respondent.

“Investigator” means the person appointed by the Ethics Commission to investigate a Request for Inquiry and to prepare and prosecute a Complaint against a Respondent as necessary.

"Judicial Selection Advisory Board" or "JSAB" means the Phoenix board whose establishment, membership, powers, and duties are defined in Code Section 2-96.

"Request for Inquiry" means a specific allegation of misconduct, unprofessional conduct, incapacity, or an Ethics Policy violation by an Elected Official or Board Member.

"Respondent" means the person who must respond to a Request for Inquiry.

"Task Force" means the Phoenix Ethics Review Ad Hoc Task Force established September 10, 2012.

## INTRODUCTION

### A. Why Does Ethics Matter?

*Government is a trust, and the officers of government are trustees; and both the trust and trustees are created for the benefit of the people.<sup>2</sup>*

The Phoenix Ethics Policy emphasizes democratic government can function properly only when residents have confidence in how their government is run.<sup>3</sup> Public trust is built largely upon residents' perception of their Council members, Phoenix employees, and Board Members.<sup>4</sup> Once public confidence is destroyed, it is difficult to reestablish.<sup>5</sup> As a result, government may not be able to function effectively.<sup>6</sup> Moreover, individual careers and reputations may be irrevocably damaged.<sup>7</sup> Hence, it is imperative that Council members, Phoenix employees, and Board Members foster the highest standards of personal integrity and honesty in discharging their public duties.<sup>8</sup>

Further, ethics is a critical issue in contemporary governance.<sup>9</sup> Corruption, even the perception of corruption, can be measured not only in wasted dollars, but also in lost confidence.<sup>10</sup> Government that promotes transparency and accountability will also encourage Elected Officials, employees, and Board Members to be responsive to those they serve, and effective in discharging their public duties.<sup>11</sup> The result is public trust and confidence in government, and a government that is able to innovate and tackle challenges, free from the inefficiencies that waste and corruption entail.<sup>12</sup> These fundamental principles of good governance are at the core of the Task Force's review and work.

### B. The History of Phoenix's Ethics Policies.

By Charter election in 1971, Phoenix residents adopted the provisions of state law governing conflicts of interest for Elected Officials and employees. In addition, the Charter sets out the laws for the recall of Elected Officials, but does not address the removal of Elected Officials who violate Phoenix Ethics Policies.

Beginning about September 1990, the City of Phoenix Ad Hoc Committee on Ethics for Boards and Commission Members drafted ordinances establishing the Phoenix Ethics Policy and a process for the

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<sup>2</sup> Henry Clay speech at Ashland, Kentucky, March 1829, quoted in *House Ethics Manual*, pg. 2.

<sup>3</sup> Comment, City of Phoenix Ethics Policy, *City of Phoenix Ethics Handbook*, pg. 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Report of the Chicago Ethics Reform Task Force Part I*, dated April 30, 2012 pg. 9.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

removal of Board Members for ethics violations. As part of this work, the 1990 committee drafted a proposed ethics handbook. These ordinances were adopted by the Council in June 1991 and codified as Code Sections 2-52 and 2-53 respectively. The Phoenix Ethics Policy applies to Council members, Phoenix employees, and Board Members. The Ethics Handbook sets out the standards of conduct and provides ethics guidance to Council members, Phoenix employees, and Board Members. Minor amendments have been made to the Ethics Handbook from time to time.

To provide additional ethics guidance to Phoenix employees, the City Manager has published a number of ARs. These ARs, including AR 2.91 (Conflicts in Employment, Supervisory and Contractual Relationships) and AR 2.93 (City Employee Gift Policy), have been amended from time to time.

On July 7, 1993, the Council adopted an ordinance that requires the registration of lobbyists and the disclosure of their activities related to lobbying.

In October 1994, the Council adopted a process for the removal of Board Members found in Code Section 2-53. This process was amended in 2006 to reflect its present form.

The Arizona State Legislature adopted changes in 2000 to ARS Section 41-1232.08 that banned the receipt of gifts of entertainment by municipal Elected Officials.

## **TASK FORCE: ITS CHARGE, APPROACH, AND FINDINGS**

### **A. Task Force Charge.**

On September 10, 2012, the Task Force was established with 11 appointed members: Richard Romley, Chair, Tim Burke, Ernest Calderon, Michael DeMuro, the Honorable Elizabeth Finn, the Honorable David Gass, Wayne George (resigned 10/29/12), Brandon Goad, Bill Hardin, Melissa Ho, and the Honorable Cecil Patterson. It was requested that the Task Force review and recommend changes to the Ethics Policies applicable to Phoenix Elected Officials, employees, volunteers, and Board Members as follows:

1. Based on observed and potential conflicts of interest with respect to local government, evaluate the strengths and weakness of Phoenix Ethics Policies as compared to accepted best practices; in particular, with respect to: (i.) receipt of gifts; (ii.) familial conflicts; (iii.) financial conflicts; and (iv.) professional conflicts;
2. Make recommendations related to the documentation, implementation and enforcement of Ethics Policies; and
3. Evaluate best practices and recommend the process to review Ethics Policies on a regular basis.

The charge further requested the Task Force to present its findings and recommendations to the Phoenix City Council Public Safety, Veterans, Transparency, and Ethics Subcommittee for further review and action as necessary. The original deadline for the Task Force to complete its work was December 31, 2012; however, the date was extended to February 28, 2013, by Mayor Stanton.

### **B. Approach.**

After opening remarks from Mayor Stanton and Chairman Romley, the Task Force began its work on September 17, 2012, with a review of Arizona open meeting laws<sup>13</sup>, the legal framework of Phoenix Ethics Policies<sup>14</sup>, and current Phoenix Ethics Policies and practices<sup>15</sup>. On October 1, 2012, the Task Force heard remarks from Councilman Daniel Valenzuela, a presentation from City Manager David Cavazos and other City executives regarding the status of ethics compliance by Phoenix as an organization<sup>16</sup>, a presentation from Teri Traaen with Traaen & Associates, LLC regarding ethics in government<sup>17</sup>, and concerns from union representatives on behalf of AFSCME 2384, AFSCME 2960, ASPTEA, IAFF493, LIUNA 777, PLEA, and PPSLA.

To promote transparency and public discussion, the Task Force meeting on October 15, 2012, was recorded and televised on Phoenix Channel 11. After a presentation by Mike Hutchinson, former Mesa, Arizona City Manager regarding best ethics practices for municipal government, most of the meeting was dedicated to receive public comment related to Phoenix ethics standards and policies. Approximately 13 residents presented testimony to the Task Force and several more presented written comment. Most of the public comment centered on specific facts and conditions, but two themes emerged: (1) government should

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<sup>13</sup> See Tab 7 for presentation by Deputy City Clerk, Joey Casto.

<sup>14</sup> See Tab 8 for presentation by Acting Chief Counsel, Daniel Brown.

<sup>15</sup> See Tab 9 for presentation by Human Resources Department Director, Janet Smith.

<sup>16</sup> See Tab 10 for presentation by Phoenix executives.

<sup>17</sup> See Tab 11 for presentation by Teri Traaen.

lead in ethics principles of honesty and transparency, and set high standards such as those followed by the United States military; and (2) for zoning and village planning matters, Phoenix should revisit the use of private hearing officers and should adopt transparent processes.

Best practices related to peer review and ethics enforcement for Elected Officials and Board Members were presented to the Task Force on October 29, 2012. Practices and procedures from the City of Mesa, Arizona, the Arizona State Legislature, and Congress were described and detailed.<sup>18</sup> A summary of ethics violations by Phoenix employees and best practices related to employees and volunteers were also presented to the Task Force at the same meeting.<sup>19</sup>

To more fully review and discuss specific recommendations, the Task Force split into two subcommittees. A subcommittee chaired by the Honorable Elizabeth Finn was charged to develop additional policies and recommendations for employees and volunteers including the discussion of ethics standards and policies related to the use of social media. Another subcommittee chaired by Mr. Romley was charged to discuss and develop recommendations for Elected Officials and Board Members. Each subcommittee met on three occasions to develop specific recommendations for their charge. These recommendations were presented to the entire Task Force for review and discussion on November 26, 2012.<sup>20</sup>

### **C. Task Force Findings Related to Current Ethics Policies.**

During the course and scope of the Task Force's review of current Phoenix Ethics Policies and best practices from other jurisdictions, the Task Force uncovered a number of disparities among Phoenix Ethics Policies for Elected Officials, employees, volunteers, and Board Members. These disparities include: (1) a different standard to determine prohibited relationships when addressing conflicts of interest; (2) the lack of a uniform and comprehensive gift policy for Elected Officials, employees, volunteers, and Board Members; (3) the lack of an ethics investigation and enforcement process for Elected Officials; (4) the lack of a uniform and comprehensive source of guidelines to advise Elected Officials and Board Members; (5) the lack of on-going training and a comprehensive ethics website as a resource for Elected Officials, employees, volunteers, and Board Members; and (6) the lack of a process for regular review of Phoenix Ethics Policies.

#### **1. Conflicts of Interest—Different Standard for Relationships.**

As part of its review, the Task Force learned the standard applied to Phoenix employees for familial conflicts of interest is broader than the standard applied to Elected Officials and Board Members. ARS Section 38-502, which applies to Elected Officials, employees, volunteers, and Board Members through the Charter, defines "relative" as the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half-blood and their spouses, and the parent, brother, sister, or child of a spouse. AR 2.91, which applies to Phoenix employees but does not apply to Elected Officials, volunteers, or Board Members, establishes a standard for familial conflicts of interest that includes ARS Section 38-502 plus any relationships, which "may create the appearance of a conflict". Examples of the additional relationships analyzed under AR 2.91 include a court appointed guardian, an individual who acts as a parent substitute, or a person who resides in the person's household as a member of the family. AR 2.91 also encourages the disclosure of roommates or other individuals who share a substantial financial interest with the employee to

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<sup>18</sup> See Tab 12 for presentation by Acting Chief Counsel, Daniel Brown.

<sup>19</sup> See Tab 13 for presentation by Human Resources Department Director, Janet Smith.

<sup>20</sup> See Tabs 14 and 15 for presentations by Judge Finn and Mr. Romley respectively.

avoid the appearance of a conflict. Consequently, to determine when a conflict of interest exists, the Task Force has uncovered a condition where employees may be held to a more extensive standard compared to Elected Officials and Board Members.

## **2. Lack of Uniform and Comprehensive Gift Policy.**

As a general principle for the receipt of gifts, ARS Section 38-505, as adopted by the Charter, prohibits an Elected Official, employee, volunteer, or Board Member from the direct or indirect receipt of compensation other than provided by law. This principle means any gift to an Elected Official, employee, volunteer, or Board Member is prohibited if the gift creates the appearance of an undue influence. Further, with some exceptions, ARS Section 41-1232.08 prohibits an Elected Official from receiving an “expenditure” for entertainment from a person who seeks to influence a proposed or pending matter before the Council.

AR 2.93 prohibits employees from accepting any gift that leads to favoritism or gives the appearance of favoritism. Token gifts of minimal value that are shared with the entire work unit are permitted. Under AR 2.93, an employee may accept a gift of entertainment or tickets to a cultural event if there is no appearance of favoritism and the employee discloses the gift by filing a form with the Phoenix City Clerk.

These two bodies of law result in an inconsistent gift policy as applied to Elected Officials, employees, volunteers, and Board Members. For example, an Elected Official may be prohibited from receiving a ticket to an entertainment event, but an employee may be allowed to attend the same event as long as the employee files the proper disclosure form with the Phoenix City Clerk. Conversely, an Elected Official may attend a dinner, but an employee may not accept the same gift of food unless the food is of minimal value and shared with the employee’s entire work unit.

## **3. Lack of an Ethics Investigation and Enforcement Process for Elected Officials.**

As part of its review of best practices from other jurisdictions, the Task Force learned the Charter does not include a provision to investigate ethics violations by Elected Officials, nor a process by which progressive sanctions may be imposed. Most levels of governments have established a process to sanction an elected official for ethics violations by a vote of the Elected Official’s peers. Many of the processes are complex, such as the Ethics Rules and Manual published by Congress, while others are more direct such as the City of Mesa Charter provision that requires a super majority of its council to sanction a fellow council member.

Code Section 2-53 includes a provision for the removal of Board Members for violating the Charter or Code, and employees may be terminated or receive discipline for ethics violations as established by the AR’s. While the Charter includes a provision for the recall of Elected Officials by residents, it is silent regarding the removal of an Elected Official by a vote of their peers.

## **4. Lack of a Uniform and Comprehensive Source of Guidelines to Advise Elected Officials and Board Members.**

Many levels of government publish an ethics handbook or other manual to guide and inform elected officials. Phoenix has adopted the Ethics Handbook, which currently applies to Elected Officials, employees, volunteers, and Board Members. However, the Task Force has uncovered a number of ethics

inconsistencies and disparities that cannot be cured by simply adopting an appropriate AR and incorporating it into the existing Ethics Handbook. To do so does not recognize the different roles, issues, and conditions that affect Elected Officials, employees, volunteers, and Board Members. Accordingly, many jurisdictions have adopted an ethics handbook tailored to the specific group within an organization. This approach allows for the application of substantially similar ethics policies to various conditions and groups throughout an organization.

**5. Lack of On-Going Training and a Comprehensive Ethics Website as a Resource.**

The Task Force learned that many jurisdictions conduct on-going ethics training and have a comprehensive website for Elected Officials, employees, supervisors, volunteers, and Board Members. In addition, the Task Force learned Phoenix conducts ethics training for new Elected Officials, employees including supervisors, and Board Members. However, Phoenix but does not conduct mandatory follow up or supplemental training. Phoenix does not currently maintain an ethics website.

**6. Lack of Regular Review of Ethics Policies.**

Because of constant change in the conditions and circumstances to which ethics apply, the Task Force learned that many jurisdictions conduct a regular review of ethics policies. The Task Force learned further that Phoenix has a long legacy of ethics review, but Phoenix's review has been irregular in time and inconsistent in the scope of its ethics review.

These Task Force findings are the genesis for the following recommendations adopted by the Task Force on January 7, 2013. The recommendations fall into three categories: (1) recommendations for the entire organization; (2) recommendations for Elected Officials and Board Members; and (3) recommendations for employees and volunteers.

## RECOMMENDATIONS FOR THE ENTIRE ORGANIZATION

Based on its review and findings, the Task Force presents the following recommendations to the Phoenix City Council Public Safety, Veterans, Transparency, and Ethics Subcommittee related to the entire Phoenix organization.

**Recommendation No. 1.** It is the strong belief of the Task Force that Phoenix Ethics Policies must apply as equally as possible to all Elected Officials, employees, volunteers, and Board Members.

**Recommendation No. 2.** The Task Force recommends the Council adopt a policy to review Phoenix Ethics Policies at a minimum of every four years.

**Recommendation No. 3.** Subject to the particular exceptions detailed in this report for Elected Officials and Board Members, and those detailed in this report for employees and volunteers, the Task Force recommends a uniform gift policy applicable to Elected Officials, employees, volunteers, and Board Members whereby gifts that create the appearance of undue influence and gifts of entertainment should be banned.

**Recommendation No. 4.** The Task Force believes its review is just a beginning. It is essential Phoenix develops an on-going process to address specific ethics issues as they may arise.

## RECOMMENDATIONS FOR ELECTED OFFICIALS AND BOARD MEMBERS

Based on its review and findings, the Task Force presents the following recommendations to the Phoenix City Council Public Safety, Veterans, Transparency, and Ethics Subcommittee related to Elected Officials and Board Members.

**Recommendation No. 1.** The Task Force recommends publishing a new ethics handbook for Elected Officials and Board Members to detail the Phoenix Ethics Policies applicable to them.

**Recommendation No. 2.** The Task Force recommends the establishment of a gift policy applicable to Elected Officials and Board Members whereby all gifts, including food, to an Elected Official or Board Member in the amount of fifty dollars (\$50.00) or more are disclosed by the Elected Official or Board Member by filing a form with the Phoenix City Clerk within 48 hours of receiving such gift. This recommendation applies to gifts of fifty dollars (\$50.00) or more that do not create an appearance of undue influence or a conflict of interest; gifts that create an appearance of undue influence or conflict of interest are recommended to be banned in their entirety in accordance with Recommendation No. 3 applicable to the entire Phoenix organization. The Task Force further recommends gifts of entertainment such as cultural or sporting events remain banned as provided by law.

**Recommendation No. 3.** The Task Force recommends the posting of the gift disclosure forms on-line within a searchable database.

**Recommendation No. 4.** The Task Force recommends the maintenance and posting of the disclosure forms for the period of the Elected Official's or Board Member's public service plus two years after departure by such Elected Official or Board Member.

**Recommendation No. 5.** The Task Force recommends the establishment of an independent ethics commission to oversee the investigation and enforcement of Ethics Policies and proposed ethics handbook for Elected Officials and Board Members as follows:

### **Ethics Commission Members.**

The Ethics Commission is established to oversee the investigation and enforcement of Ethics Policies and (proposed) City of Phoenix Ethics Handbook for Elected Officials and Board Members. The Commission shall consist of five members who shall serve a term of three years unless otherwise specified. The Phoenix Judicial Selection Advisory Board (JSAB) shall recommend to the Council for Council approval the appointment of five Commission members who satisfy the following requirements. One member shall: (i) be a Phoenix resident who has not held public office nor been appointed to a Phoenix board or commission; (ii) be knowledgeable of or an expert in government ethics; and (iii) serve a full initial term. One member shall: (i) be an active or former municipal elected official from a jurisdiction within Maricopa County, Arizona; and (ii) serve an initial one-year term. One member shall: (i) be an active or former superior court or appellate judge; and (ii) serve a two-year initial term. Two at-large members shall be Phoenix residents. By coin flip, one at-large member shall serve a full initial term and the other shall serve an initial term of two years. Any

Commission vacancy shall be filled by a candidate recommended by the JSAB, approved by Council, and who satisfies the particular requirements for the vacant position.

**Recommendation No. 6.** The Task Force recommends the establishment of the Ethics Commission with the following authority:

**Ethics Commission Authority.**

The Ethics Commission is authorized to receive allegations of ethical violations, investigate, take testimony, and engage in any other action to the extent permitted and established by law to oversee the investigation and enforcement of the Ethics Policies and (proposed) City of Phoenix Ethics Handbook for Elected Officials and Board Members. The Commission may appoint an independent investigator and hearing officer as may be necessary to assist the Commission in carrying out its purpose and responsibilities.

**Recommendation No. 7.** The Task Force recommends amending Code Section 2-96 to add as a new responsibility of the Phoenix Judicial Selection Advisory Board the solicitation of candidates, review of candidates and recommendation of candidates to Council to serve as members of the Ethics Commission.

**Recommendation No. 8.** The Task Force recommends Phoenix should bear all reasonable Commission costs including the reasonable costs related to an Investigator or Hearing Officer as may be necessary.

**Recommendation No. 9.** The Task Force recommends Commission members shall not receive a salary or otherwise be compensated except for the reimbursement of parking charges and mileage from the member's residence to Phoenix City Hall. Mileage shall be paid at the per diem rate allowed by the Internal Revenue Service.

**Recommendation No. 10.** The Task Force recommends the Commission be authorized to recommend to Council the imposition of the following actions or sanctions: censure, admonishment, reprimand, suspension (if approved by voters), removal (if approved by voters), reimbursement of costs, or imposition of a fine in an amount up to \$10,000 per violation (if approved by voters) for misconduct, unprofessional conduct, incapacity, or Ethics Policy violation by an Elected Official or Board Member.

**Recommendation No. 11.** In addition, the Task Force recommends that the Council refer to Phoenix voters an amendment to the Charter to allow the suspension, removal, or imposition of a fine in an amount up to \$10,000 per violation as a sanction for misconduct, unprofessional conduct, incapacity, or Ethics Policy violation by an Elected Official or Board Member.

**Recommendation No. 12.** The Task Force recommends a process to investigate and enforce the Ethics Policy applied to Elected Officials and Board Members<sup>21</sup> as follows:

**1. Initiation of Proceedings.**

- a. A Complainant may file with the Phoenix City Clerk a written Request for Inquiry containing specific allegations of misconduct, unprofessional conduct, incapacity, or an Ethics Policy violation by any

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<sup>21</sup> See Tab 16 for a flow chart that depicts the proposed ethics investigation and enforcement process for Elected Officials and Board Members.

Elected Official or Board Member. The Phoenix City Clerk shall not accept the submission of an anonymous Request for Inquiry.

- b. Within five business days of receiving the Request for Inquiry, the City Clerk shall assign a matter number to the Request for Inquiry, refer the Request for Inquiry to the Commission for evaluation and send a copy of the Request for Inquiry to the Respondent.
- c. For the period that begins with the assignment of the matter number by the City Clerk through the completion of the investigation by the Commission, the Request for Inquiry shall solely be referenced by matter number, and the Request for Inquiry, investigation and any Commission proceedings related to its evaluation shall remain confidential. The Commission may discuss the Request for Inquiry in executive session. All records related to the Request for Inquiry shall be made public in accordance with Arizona law after the Commission votes in open session to: (i) dismiss the Request for Inquiry in whole or in part; or (ii) recommend to the Council an informal settlement of the Request for Inquiry by consent decree; or (iii) issue an order for a formal hearing of the Request for Inquiry.

## **2. Initial Evaluation by Commission.**

- a. Each Request for Inquiry received by the Commission shall be evaluated by the Commission to determine if the allegations in the Request for Inquiry are within the Commission's jurisdiction and are facially sufficient to warrant investigation by the Commission.
- b. If by unanimous vote the Commission determines the allegations in the Request for Inquiry are outside of its jurisdiction or facially insufficient to warrant investigation, the Commission in the exercise of its discretion may dismiss the Request for Inquiry. The Commission's dismissal of allegations in the Request for Inquiry is not subject to review.
- c. If by majority vote the Commission determines the allegations in the Request for Inquiry, in whole or in part, are within its jurisdiction and are facially sufficient to warrant investigation, the Commission shall cause the additional evaluation and investigation of the allegations in the Request for Inquiry.
- d. If by majority vote the Commission determines the allegations in the Request for Inquiry may involve a crime, the Commission shall refer the Request for Inquiry to the proper authority for investigation and prosecution. If the Commission refers the Request for Inquiry to another authority for criminal investigation or prosecution, the Commission shall stay all action related to the Request for Inquiry until the criminal investigation and any related proceedings are resolved.
- e. If the Commission fails to make a determination by unanimous or majority vote as required in subsections (b) through (d), the Request for Inquiry shall be deemed dismissed. The Commission shall give notice to the Complainant and Respondent if the Commission dismisses the Request for Inquiry.

## **3. Investigation by Commission.**

- a. The Commission may appoint an independent Investigator to assist with the evaluation and investigation of any Request for Inquiry received by the Commission.
- b. The Respondent shall be given written notice of the investigation and the nature of the Request for Inquiry. The Respondent may submit a written response to the Commission or Investigator within 20 days of the notice requesting a written response. For good cause, the Commission or Investigator may grant an extension of time to respond to the Request for Inquiry.
- c. A Respondent may request the Request for Inquiry and response be made public. Any such request shall not apply to the Commission's discussions in executive session, its investigation or

related Commission proceedings, which shall remain confidential until a vote in open session by the Commission on the merits of the Request for Inquiry.

- d. The Commission shall forward a copy of the Respondent's response to the Complainant. The Commission or the Investigator may ask the Complainant to provide additional information.
- e. The Commission and its Investigator may conduct interviews, obtain records or other necessary information and undertake appropriate research. All Respondents and Complainants must cooperate with the Commission and its Investigator. All Respondents and Complainants must provide requested information unless the request violates Arizona law. A Respondent or Complainant who fails to cooperate with the Commission or Investigator must cite the specific legal basis for doing so. If the Commission finds there is no legal basis for the Respondent's or Complainant's failure to cooperate, the uncooperative party shall pay for all costs incurred by the Commission directly related to that party's failure to cooperate.
- f. The Commission shall prepare or cause the preparation of a report and recommendations to Council related to the allegations in the Request for Inquiry.
- g. The Commission shall make its findings and recommendations to Council based on clear and convincing evidence.

#### **4. Commission Recommendation for Dismissal, Consent Decree, or Formal Hearing after Investigation.**

If by majority vote the Commission finds clear and convincing evidence exists to proceed, the Commission shall issue a written order setting the Request for Inquiry for formal hearing. Also by majority vote, the Commission may recommend to Council to: (i) dismiss the Request for Inquiry, in whole or in part; or (ii) informally settle the Request for Inquiry by consent decree. If the Commission fails to make a determination by majority vote, the Request for Inquiry shall be deemed dismissed. The Commission shall provide notice of any order to the Respondent and Complainant, and shall submit to Council for approval any order recommending dismissal, with or without prejudice, or informal settlement by consent decree.

#### **5. Filing of Complaint; Formal Hearing.**

- a. The Commission may appoint a Hearing Officer, who must be a member in good standing of the State Bar of Arizona, to preside at a formal hearing of the Complaint.
- b. Upon issuance of the order for formal hearing, the Commission or appointed Investigator shall prepare a Complaint and present its report and findings to the Hearing Officer and request a formal hearing. The Commission and the Respondent may or may not be represented by legal counsel, in their respective discretion.
- c. The Respondent shall file an answer within 20 calendar days after service of the Complaint. Service of all legal documents shall be made by certified, first class U.S. mail, return receipt unless otherwise agreed to by the parties.
- d. After the answer is filed, the matter shall be set for a settlement conference and formal hearing. The Commission and the Respondent must participate in a settlement conference held no less than 30 calendar days but no more than 60 calendar days prior to the formal hearing. A neutral mediator appointed and approved by the Commission and the Respondent shall facilitate the settlement conference.
- e. If no agreement is reached in the settlement conference, the matter shall proceed to a contested hearing before the Hearing Officer. The Hearing Officer may receive testimony and other information

related to the Complaint and answer. The Arizona Rules of Evidence, as amended, shall apply to all proceedings before the Hearing Officer.

- f. Within ten business days of the completion of the hearing, the Hearing Officer shall prepare and issue a written recommendation to the Council that contains findings of fact and conclusions of law related to the merit of the Complaint, and any proposed sanctions for a violation.
- g. The Hearing Officer must find that any allegation of misconduct, unprofessional conduct, incapacity, or Ethics Policy violation is supported by clear and convincing evidence. The Hearing Officer may recommend the Council dismiss the Complaint, in whole or in part, or find the Respondent has violated the Phoenix Ethics Policy, and recommend the imposition of sanctions for any such violation. Permissible sanctions include any one or more of the following: censure, admonishment, reprimand, or reimbursement of costs [*Note: include suspension, removal, and fines if approved by Charter amendment*].

## **6. Council Review and Action.**

- a. For matters proposed to be resolved by dismissal or consent decree, the Council must approve the action by a majority vote. If the Council does not approve the action by a majority of the members, excluding the Respondent, the matter shall be remanded to the Commission for further consideration.
- b. For matters proposed to be resolved based on the Hearing Officer's report, the Council must approve any action by a majority of the members, excluding the Respondent. The Council may approve or reject, in whole or in part, the Hearing Officer's recommended sanctions. The Council may impose sanctions not recommended by the Hearing Officer. If the Council does not resolve the matter by a majority vote of the members, excluding the Respondent, no sanctions shall be imposed and the matter shall be dismissed.
- c. The Council shall take action on any proposed dismissal, consent decree, or Hearing Officer's report at the earliest, regularly scheduled meeting within 30 calendar days of the date of the recommended action. The Council may delay action beyond the 30 calendar days by a majority vote of the Council.
- d. A Respondent who prevails in defending a Complaint may seek, and the Council may authorize payment to reimburse the Respondent for the Respondent's reasonable attorney's fees and costs incurred from the date of filing the Complaint in a formal hearing through and up to Council action.

## **7. Appeal.**

Except for the Council's approval of a consent decree, within 30 calendar days of Council action, either the Commission or the Respondent may appeal the Council action by special action to the superior court. The Council's approval of a consent decree is a final action and is not subject to review.

**Recommendation No. 13.** The Task Force recommends the review and establishment of Ethics Policies for the use of social media by Elected Officials and Board Members. The Task Force further recommends as part of this review Phoenix should include guidance to Elected Officials and Board Members for the use of social media in the proposed ethics handbook for Elected Officials and Board Members. The Task Force believes the establishment of Ethics Policies for the use of social media is important, and the lack of specific Task Force recommendations related to the use of social media in this report should not be construed to mean this issue is of less importance.

## RECOMMENDATIONS FOR EMPLOYEES AND VOLUNTEERS

Based on its review and findings, the Task Force presents the following recommendations to the Phoenix City Council Public Safety, Veterans, Transparency, and Ethics Subcommittee related to employees and volunteers.

**Recommendation No. 1.** The Task Force recommends updates to Phoenix's Human Resources website to include ethics-related resources.

### **Ethics Resources**

The Ethics Handbook is currently available on Phoenix's internal web site; and, Phoenix policies, including ARs and personnel rules, are also available on the Phoenix's internal web site.

The Task Force recommends developing a web page that provides ethics-related resources such as "Frequently Asked Questions" and examples of situations that create ethical dilemmas, links to ethics-related policies and procedures, contact information for questions, inquiries, and complaints, and other information as determined by Phoenix.

**Recommendation No. 2.** The Task Force recommends adding mandatory and biennial ethics training to the employee training curriculum.

### **Ethics Training**

Following approval of the Ethics Handbook in 1991, over 500 training sessions were delivered to Phoenix employees over the following two year period and ethics was added as a component to the Phoenix's New Employee Orientation training. Refresher training was provided after the 1997 Ethics Handbook revisions. Currently, staff provides customized refresher courses to departments as needed; and ethics training continues to be a significant component of new employee training programs.

The Task Force recommends mandatory ethics training to occur every two years. Topics should include the "Top 10" ethical dilemmas faced by employees in addition to updates on ethics related to new information and technology. If possible, Phoenix should try to include both court and non-court employees in classes to further the exchange of ethics knowledge and explore classroom as well as on-line training to fill the requirement for ethics training. Also, specialized training should be developed for supervisors to help them comply with their responsibility for enforcement of Ethics Policies.

**Recommendation No. 3.** The Task Force recommends updates to the Phoenix's Human Resources website to include information regarding the Civil Service Board and progressive discipline.

### **Civil Service Board Information**

It is important to the public trust that employee violations of ethics or other Phoenix policies are dealt with in a timely, fair, and reasonable manner. Currently, information regarding the Phoenix's Civil Service Board process is provided to employees upon the receipt of discipline. Additionally, supervisors receive mandatory training regarding discipline and the Civil Service Board, but typically employees do not receive this training.

The Task Force recommends Phoenix include information on the Phoenix's Human Resources Department website regarding the Civil Service Board process, "Frequently Asked Questions", and the roles of the hearing officer, Civil Service Board members, and staff. The website should also contain information that explains Phoenix's use of progressive discipline to correct inappropriate behavior, deter reoccurrence of violations, and to help the employee comply with Phoenix policies.

**Recommendation No. 4.** The Task Force recommends the use of paid zoning hearing officers instead of volunteers, and recommends adding website language regarding the ethical standards that zoning hearing officers are required to meet.

### **Zoning Hearing Officers**

Concerns have been raised that the use of private land use attorneys as zoning hearing officers gives the perception of a conflict of interest. In the past, zoning hearing officers were paid for their services. In March 2010, a transition was made to use volunteer zoning hearing officers because of budgetary constraints. To avoid any conflict of interest, the respective volunteer zoning hearing officer may be recused from serving as a hearing officer in a particular matter. Even with these measures, based on public comment heard by the Task Force, the public perceives that a conflict of interest exists. Therefore, the Task Force recommends Phoenix return to the practice of utilizing paid zoning hearing officers.

**Recommendation No. 5.** If Phoenix must utilize volunteer zoning hearing officers, the Task Force recommends adding language to the Planning and Development Department's website to make the public aware of the standards the volunteer attorneys who serve as zoning hearing officers are required to meet. The Task Force suggests the following language:

"Phoenix enlists the assistance of volunteers to act as hearing officers in the administration of zoning matters. These individuals are appointed on the basis of their training and experience, which qualify them to conduct hearings, and to make findings and conclusions on the matters they hear. These individuals must be neutral and impartial. In addition, attorneys who volunteer as zoning hearing officers for Phoenix are bound by the Rules of Professional Conduct prescribed by the Arizona Supreme Court, and as such must declare conflicts of interest if they are present."

Also, the Planning and Development Department has indicated formal zoning interpretations will soon be added to their department's public website.

**Recommendation No. 6.** The Task Force recommends revising the Ethics Handbook for employees and revising Phoenix's gift policy.

### **Ethics Handbook**

The Ethics Handbook, which is available in both hard copy and on Phoenix's intranet, was originally developed by an ad-hoc committee comprised of Phoenix staff, an official with the State Solicitor General's Office, and local business people. It was approved by the Council in 1991. The Ethics Handbook was revised in 1997 to reflect new Phoenix policies and provide practical examples of situations that might arise regarding use of ethical standards. The Ethics Handbook is issued to all new hires, along with training during New Employee Orientation.

The Task Force recommends amending the Ethics Handbook with updated information, including references to new or revised Phoenix policies. The Task Force also recommends when an employee is presented with a gift, supervisory approval must be obtained even if the gift is declared. The supervisor should use good judgment, without regard to the dollar amount of the gift, to determine whether the employee should accept and declare the gift. To determine whether to approve the employee's acceptance of a gift, the supervisor should exercise his or her judgment to avoid a potential conflict of interest, the appearance of a conflict of interest, or favoritism. The Task Force further recommends gifts of entertainment such as cultural or sporting events should not be allowed and references to such in the Ethics Handbook, Sample List of Tickets/Entertainment Gifts to Declare, should be removed to avoid any appearance of impropriety.

Consistent with existing policy, token gifts of minimal value offered to a group of employees should be allowed provided they are not perceived as influencing decisions. Examples include, but are not limited to, items such as pens, toothbrushes, cookies, muffins, and donuts.

### **Phoenix's Gift Policy**

In conjunction with the above recommendation, the Task Force recommends revising Phoenix's gift policy to reflect gifts of entertainment such as cultural or sporting events should not be allowed to avoid any appearance of impropriety.

**Recommendation No. 7.** The Task Force recommends changes to Phoenix's draft policy on social media.

### **Social Media Policy**

A draft social media policy was developed by a city-wide task force during 2012 in response to the growth of social media and the need to identify guidelines for both official and personal use by Phoenix employees. The original approach to the draft focused on authorized professional use of social media; protected employees and Phoenix; and support of existing policies, personnel rules, and technical standards.

The Task Force recommends revising the draft policy to include guidance to all employees on the use of social media, both professionally and personally. This recommendation includes the consideration of the following components:

- Employees must not appear to represent Phoenix on their own personal social media sites.
- Employees must not post other individual's confidential or personally-identifiable information on social media.
- Employees may not access or post to personal social media sites during working hours or use Phoenix resources.
- Employees may be subject to investigations by the Phoenix Human Resources or Equal Opportunity Departments when posting items on social media sites related to co-workers and supervisors.
- Employees can be held accountable for postings that violate Phoenix's anti-harassment standards or Civil Treatment policy even if the employee posts to a personal site at home, on their own time.
- If information is brought to Phoenix's attention that an employee has engaged in a potential violation of a Phoenix policy through the use of social media and this information is not otherwise available, the employee must allow the Phoenix Human Resources Department to have access to the employee's social media site. The information from the employee's social media site shall be held confidential by the Human Resources Department unless the information is material to an investigation or unless ordered otherwise by a court.

- A hiring authority is allowed to search for information about a prospective employee on a public domain and utilize the information as one component of the selection process. (This item will be included in the Phoenix's *Supervisor's Toolkit for Selection Interviews and Hiring Process Guidelines*).

**Recommendation No. 8.** The Task Force recommends adding ethics-related components to interview and selection processes.

#### **Interview and Selection Processes**

Phoenix currently utilizes testing procedures for certain job classifications to gauge an applicant's propensity for unethical behavior. Additionally, interview questions are incorporated into some selection processes as needed to assess a candidate's ethics and best fit with Phoenix values.

The Task Force recommends adding ethics-related questions to the interview selection process or the use of an assessment testing tool or instruments. This item will be included in the *Supervisor's Toolkit for Selection Interviews and Hiring Process Guidelines*.

**Recommendation No. 9.** The Task Force recommends Phoenix's volunteer website and volunteer application include a statement acknowledging adherence to Phoenix's Ethics Policies. On-going volunteers will be required to participate in ethics training. Staff will monitor compliance with Phoenix's ethics training requirements.

**Recommendation No. 10.** The Task Force recommends Phoenix re-examine Phoenix policies that prohibit the participation of Phoenix employees in Phoenix election activities.

## CONCLUSION

Survey results from 2007 to 2011 show Phoenix employees strongly believe their co-workers and supervisors display honesty and integrity. After its review, the belief of the Task Force mirrors this strong belief.

Accordingly, the Task Force urges Phoenix to continue this legacy of honesty and integrity by establishing and following the highest ethics standards. The Task Force believes its recommendations, while numerous and wide-ranging, not only continue Phoenix's legacy of high ethics standards, but are also the beginning of new, ever-higher standards as much work remains. For example, even though the Task Force has recommended a detailed process to investigate and enforce Ethics Policy violations by Elected Officials and Board Members, it will be Phoenix's task to continue this work by the further development of Ethics Policies and standards for Elected Officials and Board Members, and to include these standards in an ethics handbook. These ever-higher standards will be strengthened by Phoenix's commitment to on-going ethics review and training for Elected Officials, employees, volunteers, and Board Members as recommended by the Task Force.

Finally, the Task Force recognizes there are matters brought to its attention that have not been addressed in this report or certain matters have been presented broadly in this report. The Task Force wishes to emphasize that the failure to address certain matters or the Task Force's broad presentation of the matter does not reflect the importance of the matter. Instead, the lack of a discussion regarding a matter or a broad presentation of the matter is a reflection of the Task Force's time constraints or a full presentation of the matter was outside the Task Force's charge. Resources permitting, the Task Force recommends Phoenix further review these matters, especially those matters presented broadly in this report.

## APPENDICES

Tab 1 - Task Force Members

Tab 2 – Meeting Agenda

Tab 3 – Meeting Results

Tab 4 – Meeting Minutes

Tab 5 – Applicable Laws, Rules, and Regulations

Tab 6 – Research/Best Practices from Other Cities

Tab 7 – Presentation by Deputy City Clerk, Joey Casto

Tab 8 – Presentation by Acting Chief Counsel, Daniel Brown

Tab 9 – Presentation by Human Resources Department Director, Janet Smith

Tab 10 – Presentation by Phoenix executives

Tab 11 – Presentation by Teri Traaen

Tab 12 – Presentation by Daniel Brown, “Best Practices Elected Officials”

Tab 13 – Presentation by Janet Smith, “Best Practices – Employees”

Tab 14 – Presentation by the Honorable Elizabeth Finn--Employees and Volunteers Subcommittee  
Draft Recommendations

Tab 15 – Presentation by Chairman Richard M. Romley--Elected Officials and Board Members  
Subcommittee Draft Recommendations

Tab 16 – Proposed Ethics Investigation and Enforcement for Elected Officials and Board Members  
Process Flow Chart dated January 14, 2013

**CITY OF PHOENIX**  
**ETHICS REVIEW AD HOC TASK FORCE**  
**TASK FORCE MEMBER INFORMATION**  
**AUGUST 2012**

<b>Name</b>	<b>Title</b>	<b>Organization/Affiliation</b>
Rick Romley, Task Force Chairperson	President	RMR, PLC
Tim Burke	Attorney/Director	Fennemore Craig, P.C.
Ernest Calderón	President	Calderon Law Offices
Michael DeMuro	President	Regency Consulting
Elizabeth Finn	Presiding Judge	Glendale City Court
David Gass	Judge	Maricopa County Superior Court
Brandon Goad	Senior Manager	Maximus
Wayne George*	Retired Community Activist	Neighborhood Blockwatch Fund Oversight Committee (member)
Bill Hardin	Attorney	Osborn Maledon, P.A.
Melissa Ho	Attorney	Polsinelli Shugart, P.C.
Cecil Patterson	Retired Judge	Arizona Court of Appeals

\* Resigned from Task Force effective 10/29/12

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **September 17, 2012, at 4:30 p.m. located in the Adams Street Training Center, 140 North 3<sup>rd</sup> Avenue, Phoenix, Arizona.**

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Introductions of Task Force Members and Staff This item is for discussion and possible action.	Rick Romley, Chairperson
3.	Message from the Mayor This item is for discussion only.	Greg Stanton, Mayor
4.	Discussion of the Task Force Charge This item is for discussion and possible action.	Greg Stanton, Mayor / Rick Romley, Chairperson / Task Force
5.	Message from the Chairperson This item is for discussion only.	Rick Romley, Chairperson
6.	Open Meeting Law Training This item is for discussion only.	Joey Casto, City Clerk Department
7.	Review of Ethics Legal Framework This item is for discussion only.	Law Department Staff
8.	Review of Current Ethics Policies and Practices This item is for discussion only.	Janet Smith, Human Resources Department
9.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
10.	Call to the Public	Rick Romley, Chairperson
11.	Next Meeting Date This item is for discussion and action.	Rick Romley, Chairperson
12.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

September 10, 2012

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **October 1, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of Meeting Minutes from September 17, 2012 This item is for discussion and action.	Rick Romley, Chairperson
3.	Message from Members of the Phoenix City Council This item is for discussion only.	Daniel Valenzuela, Councilman
4.	Presentation from the Phoenix City Manager's Office This item is for discussion only.	David Cavazos, City Manager
5.	Ethics Presentation This item is for discussion only.	Teri Traaen, Traaen & Associates, LLC
6.	Employee Unions/Associations Panel Discussion <ul style="list-style-type: none"><li>• AFSCME 2384</li><li>• AFSCME 2960</li><li>• ASPTEA</li><li>• IAFF 493</li><li>• LIUNA 777</li><li>• PLEA</li><li>• PPSLA</li></ul> This item is for discussion only.	Union/Association Representatives
7.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
8.	Call to the Public	Rick Romley, Chairperson
9.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
10.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

September 27, 2012

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **October 15, 2012, at 4:30 p.m. located in the Council Chambers, 200 West Jefferson, Phoenix, Arizona 85003.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of Meeting Minutes from October 1, 2012 This item is for discussion and action.	Rick Romley, Chairperson
3.	Presentation from Mike Hutchinson  This item is for discussion only.	Mike Hutchinson, Former City Manager, City of Mesa
4.	Public Comment The purpose of this item is to invite public comment on how to strengthen the City of Phoenix's ethics codes. This item is for discussion only.	Rick Romley, Chairperson
5.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
6.	Call to the Public	Rick Romley, Chairperson
7.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
8.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

October 10, 2012

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **October 29, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of Meeting Minutes from October 15, 2012 This item is for discussion and action.	Rick Romley, Chairperson
3.	Presentation on Best Practices Pertaining to Elected Officials and Board and Commission Members – Law Department This item is for discussion only.	Daniel L. Brown, Law Department
4.	Presentation on Best Practices Pertaining to Employees and Volunteers – Human Resources Department This item is for discussion only.	Janet Smith, Human Resources Department
5.	Discussion of Subcommittee Work This item is for discussion and possible action.	Rick Romley, Chairperson
6.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
7.	Call to the Public	Rick Romley, Chairperson
8.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
9.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

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October 25, 2012

**NOTICE OF PUBLIC MEETING**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED**  
**OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** will hold a meeting open to the public on **November 5, 2012, at 4:30 p.m. located in the Conference Room 7-A, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Discussion of the Applicability of Administrative Regulations for Elected Officials This item is for discussion only.	Rick Romley, Chairperson
2.	Discussion of Potential Enforcement Mechanisms This item is for discussion only.	Rick Romley, Chairperson
3.	Discussion of Additional Subcommittee Work This item is for discussion only.	Rick Romley, Chairperson
4.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
5.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
6.	Adjournment	Rick Romley, Chairperson

For further information, please call Jeff Stapleton, Senior Policy Advisor, Mayor's Office 602-261-8983.

For reasonable accommodations, call Jeff Stapleton at Voice/602-261-8983 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

Parking Accommodations are available for an hourly fee on-site. The parking garage will close at approximately 7:30 p.m.

November 1, 2012

**NOTICE OF PUBLIC MEETING**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES,**  
**VOLUNTEERS AND HEARING OFFICERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** will hold a meeting open to the public on **November 8, 2012, at 3:30 p.m. located in the Executive Training Room, 5<sup>th</sup> Floor, Personnel Building, 135 North 2<sup>nd</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Elizabeth Finn, Chairperson
2.	Presentation on Civil Service Board This item is for discussion and possible action	Janet Smith, Human Resources
3.	Presentation on Social Media This item is for discussion and possible action	Kathy Haggerty, Human Resources
4.	Ethics Gap Analysis This item and sub-items are for discussion and possible action	Janet Smith and Kathy Haggerty, Human Resources
5.	Presentation on Zoning Hearing Officers This item is for discussion and possible action	Derek Horn, Planning and Development
6.	Future Agenda Items This item is for discussion only.	Elizabeth Finn, Chairperson
7.	Next Meeting Date This item is for information only.	Elizabeth Finn, Chairperson
8.	Adjournment	Elizabeth Finn, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 6, 2012

**NOTICE OF PUBLIC MEETING**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED**  
**OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** will hold a meeting open to the public on **November 8, 2012, at 4:30 p.m. located in the Conference Room 7-A, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of Meeting Minutes from November 5, 2012 This item is for discussion and action.	Rick Romley, Chairperson
3.	Discussion of Potential Enforcement Mechanisms This item is for discussion only.	Rick Romley, Chairperson
4.	Discussion of Additional Subcommittee Work This item is for discussion only.	Rick Romley, Chairperson
5.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
6.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
7.	Adjournment	Rick Romley, Chairperson

For further information, please call Jeff Stapleton, Senior Policy Advisor, Mayor's Office 602-261-8983.

For reasonable accommodations, call Jeff Stapleton at Voice/602-261-8983 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

Parking Accommodations are available for an hourly fee on-site. The parking garage will close at approximately 7:30 p.m.

November 6, 2012

**NOTICE OF PUBLIC MEETING**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES,**  
**VOLUNTEERS AND HEARING OFFICERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** will hold a meeting open to the public on **November 15, 2012, at 3:30 p.m. located in the Executive Training Room, 5<sup>th</sup> Floor, Personnel Building, 135 North 2<sup>nd</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Elizabeth Finn, Chairperson
2.	Approval of Meeting Minutes from November 8, 2012 This item is for discussion and action.	Elizabeth Finn, Chairperson
3.	Social Media Discussion This item is for discussion and possible action	Janet Smith, Human Resources
4.	Ethics Gap Analysis This item is for discussion and possible action	Janet Smith and Kathy Haggerty, Human Resources
5.	Future Agenda Items This item is for discussion only.	Elizabeth Finn, Chairperson
6.	Next Meeting Date This item is for information only.	Elizabeth Finn, Chairperson
7.	Adjournment	Elizabeth Finn, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 14, 2012

**NOTICE OF PUBLIC MEETING**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES,**  
**VOLUNTEERS AND HEARING OFFICERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** will hold a meeting open to the public on **November 19, 2012, at 3:30 p.m. located in the Executive Training Room, 5<sup>th</sup> Floor, Personnel Building, 135 North 2<sup>nd</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Elizabeth Finn, Chairperson
2.	Approval of Meeting Minutes from November 15, 2012 This item is for discussion and action.	Elizabeth Finn, Chairperson
3.	Review of Public Comments from the Previous Meeting This item is for discussion and possible action.	Elizabeth Finn, Chairperson
4.	Volunteer Discussion This item is for discussion and possible action.	Janet Smith, Human Resources
5.	Review and Adoption of Subcommittee Recommendations This item is for discussion and action.	Elizabeth Finn, Chairperson
6.	Next Meeting Date This item is for information only.	Elizabeth Finn, Chairperson
7.	Adjournment	Elizabeth Finn, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

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November 16, 2012

**NOTICE OF PUBLIC MEETING**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED**  
**OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** will hold a meeting open to the public on **November 19, 2012, at 4:30 p.m. located in the Conference Room 7-A, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of Meeting Minutes from November 8, 2012 This item is for discussion and action.	Rick Romley, Chairperson
3.	Presentation and Discussion on Subcommittee's Draft Recommendations This item is for discussion and possible action.	Daniel L. Brown, Law Department
4.	Adoption of Subcommittee Recommendations This item is for discussion and action.	Rick Romley, Chairperson
5.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
6.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
7.	Adjournment	Rick Romley, Chairperson

For further information, please call Jeff Stapleton, Senior Policy Advisor, Mayor's Office 602-261-8983.

For reasonable accommodations, call Jeff Stapleton at Voice/602-261-8983 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

Parking Accommodations are available for an hourly fee on-site. The parking garage will close at approximately 7:30 p.m.

November 15, 2012

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **November 26, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of October 29, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes This item is for discussion and action.	Rick Romley, Chairperson
3.	Approval of November 19, 2012, Subcommittee on Elected Officials and Boards and Commissions Members Meeting Minutes This item is for discussion and action.	Rick Romley, Subcommittee Chairperson
4.	Approval of November 19, 2012, Subcommittee on Employees, Volunteers and Hearing Officers Meeting Minutes This item is for discussion and action.	Elizabeth Finn, Subcommittee Chairperson
5.	Presentation of Employees, Volunteers and Hearing Officers Subcommittee Recommendations This item is for discussion and possible action.	Elizabeth Finn, Subcommittee Chairperson
6.	Presentation of Elected Officials and Boards and Commissions Members Recommendations This item is for discussion and possible action.	Rick Romley, Subcommittee Chairperson
7.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
8.	Call to the Public	Rick Romley, Chairperson
9.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
10.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 21, 2012

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **December 10, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of November 26, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes  This item is for discussion and action.	Rick Romley, Chairperson
3.	Review of Draft Version Report of Task Force Recommendations  The purpose of this item is to review the draft report and make amendments to it, as motioned by members.  This item is for discussion and possible action.	Task Force Members
4.	Future Agenda Items  This item is for discussion only.	Rick Romley, Chairperson
5.	Call to the Public	Rick Romley, Chairperson
6.	Next Meeting Date  This item is for information only.	Rick Romley, Chairperson
7.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

December 7, 2012

**NOTICE OF PUBLIC MEETING  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** will hold a meeting open to the public on **January 7, 2013, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The agenda for the meeting is as follows:

1.	Call to Order	Rick Romley, Chairperson
2.	Approval of December 10, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes This item is for discussion and action.	Rick Romley, Chairperson
3.	Discussion of City Budget Process  This item is for discussion only.	Jeff DeWitt, Finance Director / Mario Paniagua, Budget & Research Director / Michelle Kirby, Deputy Finance Director
4.	Review of Edits to the Draft Report of Task Force Recommendations This item is for discussion and possible action.	Dan Brown, Law Department
5.	Review of Feedback Received on Draft Recommendations This item is for discussion and possible action.	Rick Romley, Chairperson
6.	Potential Adoption of Draft Report This item is for possible action.	Rick Romley, Chairperson
7.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
8.	Call to the Public	Rick Romley, Chairperson
9.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
10.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

January 4, 2013

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **September 17, 2012, at 4:30 p.m. located in the Adams Street Training Center, 140 North 3<sup>rd</sup> Avenue, Phoenix, Arizona.**

The results of the meeting were as follows:

<b>RESULTS</b>		
<b>Called to Order</b>	1. Call to Order	Rick Romley, Chairperson
<b>No Action Taken</b>	2. Introductions of Task Force Members and Staff This item is for discussion and possible action.	Rick Romley, Chairperson
<b>Discussed</b>	3. Message from the Mayor This item is for discussion only.	Greg Stanton, Mayor
<b>No Action Taken</b>	4. Discussion of the Task Force Charge This item is for discussion and possible action.	Greg Stanton, Mayor / Rick Romley, Chairperson / Task Force
<b>Discussed</b>	5. Message from the Chairperson This item is for discussion only.	Rick Romley, Chairperson
<b>Presentation Made</b>	6. Open Meeting Law Training This item is for discussion only.	Joey Casto, City Clerk Department
<b>Presentation Made</b>	7. Review of Ethics Legal Framework This item is for discussion only.	Law Department Staff
<b>Presentation Made</b>	8. Review of Current Ethics Policies and Practices This item is for discussion only.	Janet Smith, Human Resources Department
<b>Discussed</b>	9. Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Comments Received</b>	10. Call to the Public	Rick Romley, Chairperson
<b>Discussed Meeting Schedule</b>	11. Next Meeting Date This item is for discussion and action.	Rick Romley, Chairperson
<b>Adjourned</b>	12. Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

September 18, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **October 1, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2.	Approval of Meeting Minutes from September 17, 2012 This item is for discussion and action.	Rick Romley, Chairperson
<b>Discussed</b>	3.	Message from Members of the Phoenix City Council This item is for discussion only.	Daniel Valenzuela, Councilman
<b>Presentation Made</b>	4.	Presentation from the Phoenix City Manager's Office This item is for discussion only.	David Cavazos, City Manager
<b>Presentation Made</b>	5.	Ethics Presentation This item is for discussion only.	Teri Traaen, Traaen & Associates, LLC
<b>Discussed</b>	6.	Employee Unions/Associations Panel Discussion <ul style="list-style-type: none"><li>• AFSCME 2384</li><li>• AFSCME 2960</li><li>• ASPTEA</li><li>• IAFF 493</li><li>• LIUNA 777</li><li>• PLEA</li><li>• PPSLA</li></ul> This item is for discussion only.	Union/Association Representatives
<b>Discussed</b>	7.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Comments Made</b>	8.	Call to the Public	Rick Romley, Chairperson
<b>Discussed</b>	9.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	10.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

October 2, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **October 15, 2012, at 4:30 p.m. located in the Council Chambers, 200 West Jefferson, Phoenix, Arizona 85003.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>		
<b>Called to Order</b>	1. Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2. Approval of Meeting Minutes from October 1, 2012 This item is for discussion and action.	Rick Romley, Chairperson
<b>Presentation Made</b>	3. Presentation from Mike Hutchinson  This item is for discussion only.	Mike Hutchinson, Former City Manager, City of Mesa
<b>Comments Received</b>	4. Public Comment  The purpose of this item is to invite public comment on how to strengthen the City of Phoenix's ethics codes.  This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	5. Future Agenda Items  This item is for discussion only.	Rick Romley, Chairperson
<b>Comments Received</b>	6. Call to the Public	Rick Romley, Chairperson
<b>Discussed</b>	7. Next Meeting Date  This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	8. Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

October 16, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **October 29, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2.	Approval of Meeting Minutes from October 15, 2012 This item is for discussion and action.	Rick Romley, Chairperson
<b>Presentation Made</b>	3.	Presentation on Best Practices Pertaining to Elected Officials and Board and Commission Members – Law Department This item is for discussion only.	Daniel L. Brown, Law Department
<b>Presentation Made</b>	4.	Presentation on Best Practices Pertaining to Employees and Volunteers – Human Resources Department This item is for discussion only.	Janet Smith, Human Resources Department
<b>Discussed</b>	5.	Discussion of Subcommittee Work This item is for discussion and possible action.	Rick Romley, Chairperson
<b>Discussed</b>	6.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>No Comments Received</b>	7.	Call to the Public	Rick Romley, Chairperson
<b>Discussed</b>	8.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	9.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

October 30, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON ELECTED OFFICIALS AND  
BOARDS AND COMMISSIONS MEMBERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** held a meeting open to the public on **November 5, 2012 at 4:30 p.m. located in the Conference Room, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Discussed</b>	2.	Discussion of the Applicability of Administrative Regulations for Elected Officials This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	3.	Discussion of Potential Enforcement Mechanisms This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	4.	Discussion of Additional Subcommittee Work This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	5.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	6.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	7.	Adjournment	Rick Romley, Chairperson

For further information, please call Jeff Stapleton, Senior Policy Advisor, Mayor's Office at 602-261-8983.

For reasonable accommodations, call Jeff Stapleton at Voice/602-261-8983 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 6, 2012

**NOTICE OF RESULTS**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** held a meeting open to the public on **November 8, 2012, at 3:30 p.m. located in the Executive Training Room, 5<sup>th</sup> Floor, Personnel Building, 135 North 2<sup>nd</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>		
<b>Called to Order</b>	1. Call to Order	Elizabeth Finn, Chairperson
<b>Presentation Made</b>	2. Presentation on Civil Service Board This item is for discussion and possible action.	Janet Smith, Human Resources
<b>Presentation Made</b>	3. Presentation on Social Media This item is for discussion and possible action.	Kathy Haggerty, Human Resources
<b>Tabled to Future Agenda</b>	4. Ethics Gap Analysis This item and sub-items are for discussion and possible action.	Janet Smith and Kathy Haggerty, Human Resources
<b>Presentation Made</b>	5. Presentation on Zoning Hearing Officers This item is for discussion and possible action.	Derek Horn, Planning and Development
<b>Discussed</b>	6. Future Agenda Items This item is for discussion only.	Elizabeth Finn, Chairperson
<b>Information Provided</b>	7. Next Meeting Date This item is for information only.	Elizabeth Finn, Chairperson
<b>Adjourned</b>	8. Adjournment	Elizabeth Finn, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 9, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON ELECTED OFFICIALS AND  
BOARDS AND COMMISSIONS MEMBERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** held a meeting open to the public on **November 8, 2012 at 4:30 p.m. located in the Conference Room, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2.	Approval of Meeting Minutes from November 5, 2012 This item is for discussion and action.	Rick Romley, Chairperson
<b>Discussed</b>	3.	Discussion of Potential Enforcement Mechanisms This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	4.	Discussion of Additional Subcommittee Work This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	5.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	6.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	7.	Adjournment	Rick Romley, Chairperson

For further information, please call Jeff Stapleton, Senior Policy Advisor, Mayor's Office at 602-261-8983.

For reasonable accommodations, call Jeff Stapleton at Voice/602-261-8983 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

December 7, 2012

**NOTICE OF RESULTS**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS**  
**AND HEARING OFFICERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** held a meeting open to the public on **November 15, 2012, at 3:30 p.m. located in the Executive Training Room, 5<sup>th</sup> Floor, Personnel Building, 135 North 2<sup>nd</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>		
<b>Called to Order</b>	1. Call to Order	Elizabeth Finn, Chairperson
<b>Approved with Amendment</b>	2. Approval of Meeting Minutes from November 8, 2012  This item is for discussion and action.	Elizabeth Finn, Chairperson
<b>Discussed</b>	3. Social Media Discussion  This item is for discussion and possible action.	Janet Smith, Human Resources
<b>Discussed</b>	4. Ethics Gap Analysis  This item is for discussion and possible action.	Janet Smith and Kathy Haggerty, Human Resources
<b>Discussed</b>	5. Future Agenda Items  This item is for discussion only.	Elizabeth Finn, Chairperson
<b>Information Provided</b>	6. Next Meeting Date  This item is for information only.	Elizabeth Finn, Chairperson
<b>Adjourned</b>	7. Adjournment	Elizabeth Finn, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 16, 2012

**NOTICE OF RESULTS**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS**  
**AND HEARING OFFICERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS** held a meeting open to the public on **November 19, 2012, at 3:30 p.m. located in the Executive Training Room, 5<sup>th</sup> Floor, Personnel Building, 135 North 2<sup>nd</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Elizabeth Finn, Chairperson
<b>Approved</b>	2.	Approval of Meeting Minutes from November 15, 2012 This item is for discussion and action.	Elizabeth Finn, Chairperson
<b>No Comments Received</b>	3.	Review of Public Comments from the Previous Meeting This item is for discussion and possible action.	Elizabeth Finn, Chairperson
<b>Approved Recommendations</b>	4.	Volunteer Discussion This item is for discussion and possible action.	Janet Smith, Human Resources
<b>Approved Revised Recommendations</b>	5.	Review and Adoption of Subcommittee Recommendations This item is for discussion and action.	Elizabeth Finn, Chairperson
<b>Information Provided</b>	6.	Next Meeting Date This item is for information only.	Elizabeth Finn, Chairperson
<b>Adjourned</b>	7.	Adjournment	Elizabeth Finn, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 20, 2012

**NOTICE OF RESULTS**  
**ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED**  
**OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE SUBCOMMITTEE ON ELECTED OFFICIALS AND BOARDS AND COMMISSIONS MEMBERS** held a meeting open to the public on **November 19, 2012, at 4:30 p.m. located in the Conference Room 7-A, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2.	Approval of Meeting Minutes from November 8, 2012 This item is for discussion and action.	Rick Romley, Chairperson
<b>Discussed</b>	3.	Presentation and Discussion on Subcommittee's Draft Recommendations This item is for discussion and possible action.	Daniel L. Brown, Law Department
<b>Discussed</b>	4.	Adoption of Subcommittee Recommendations This item is for discussion and action.	Rick Romley, Chairperson
<b>Discussed</b>	5.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Discussed</b>	6.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	7.	Adjournment	Rick Romley, Chairperson

For further information, please call Jeff Stapleton, Senior Policy Advisor, Mayor's Office, 602-261-8983.

For reasonable accommodations, call Jeff Stapleton at Voice/602-261-8983 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 20, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **November 26, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2.	Approval of October 29, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes This item is for discussion and action.	Rick Romley, Chairperson
<b>Approved</b>	3.	Approval of November 19, 2012, Subcommittee on Elected Officials and Boards and Commissions Members Meeting Minutes This item is for discussion and action.	Rick Romley, Subcommittee Chairperson
<b>Approved with Amendment</b>	4.	Approval of November 19, 2012, Subcommittee on Employees, Volunteers and Hearing Officers Meeting Minutes This item is for discussion and action.	Elizabeth Finn, Subcommittee Chairperson
<b>Presentation Made</b>	5.	Presentation of Employees, Volunteers and Hearing Officers Subcommittee Recommendations This item is for discussion and possible action.	Elizabeth Finn, Subcommittee Chairperson
<b>Presentation Made</b>	6.	Presentation of Elected Officials and Boards and Commissions Members Recommendations This item is for discussion and possible action.	Rick Romley, Subcommittee Chairperson
<b>Discussed</b>	7.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>No Comments Received</b>	8.	Call to the Public	Rick Romley, Chairperson
<b>Discussed</b>	9.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	10.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

November 27, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **December 10, 2012, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved with Amendment</b>	2.	Approval of November 26, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes This item is for discussion and action.	Rick Romley, Chairperson
<b>Discussed</b>	3.	Review of Draft Version Report of Task Force Recommendations The purpose of this item is to review the draft report and make amendments to it, as motioned by members. This item is for discussion and possible action.	Task Force Members
<b>Discussed</b>	4.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Comments Received</b>	5.	Call to the Public	Rick Romley, Chairperson
<b>Discussed</b>	6.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	7.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

December 11, 2012

**NOTICE OF RESULTS  
ETHICS REVIEW AD HOC TASK FORCE**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **ETHICS REVIEW AD HOC TASK FORCE** and to the general public, that the **ETHICS REVIEW AD HOC TASK FORCE** held a meeting open to the public on **January 7, 2013, at 4:30 p.m. located in the Adams Street Training Center, 304 West Adams Street, Phoenix, Arizona.**

One or more Task Force members may participate via teleconference.

The results of the meeting were as follows:

<b>RESULTS</b>			
<b>Called to Order</b>	1.	Call to Order	Rick Romley, Chairperson
<b>Approved</b>	2.	Approval of December 10, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes This item is for discussion and action.	Rick Romley, Chairperson
<b>Discussed</b>	3.	Discussion of City Budget Process  This item is for discussion only.	Jeff DeWitt, Finance Director / Mario Paniagua, Budget & Research Director / Michelle Kirby, Deputy Finance Director
<b>Actions Taken</b>	4.	Review of Edits to the Draft Report of Task Force Recommendations This item is for discussion and possible action.	Dan Brown, Law Department
<b>Discussed</b>	5.	Review of Feedback Received on Draft Recommendations This item is for discussion and possible action.	Rick Romley, Chairperson
<b>Adopted with Amendments</b>	6.	Potential Adoption of Draft Report This item is for possible action.	Rick Romley, Chairperson
<b>Discussed</b>	7.	Future Agenda Items This item is for discussion only.	Rick Romley, Chairperson
<b>Comments Received</b>	8.	Call to the Public	Rick Romley, Chairperson
<b>Discussed</b>	9.	Next Meeting Date This item is for information only.	Rick Romley, Chairperson
<b>Adjourned</b>	10.	Adjournment	Rick Romley, Chairperson

For further information, please call Tiana Roberts, Management Assistant II, Human Resources Department 602-495-5715.

For reasonable accommodations, call Tiana Roberts at Voice/602-495-5715 or TTY/602-261-8687 as early as possible to coordinate needed arrangements.

January 8, 2013

**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, September 17, 2012**

Adams Street Training Center, 140 North 3<sup>rd</sup> Avenue, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member; Ernest Calderón, Member; Michael DeMuro, Member (arrived late); Elizabeth Finn, Member; David Gass, Member; Wayne George, Member; Brandon Goad, Member; Bill Hardin, Member; Melissa Ho, Member; and, Cecil Patterson, Member

Absent: None

Also

Present: Greg Stanton, Mayor, Jeff Stapleton, Senior Policy Advisor, and Carolyn Augustyn - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, James May, Deputy Human Resources Director, Tiana Roberts, Management Assistant II (Recording Secretary), and Theresa Faull, Administrative Assistant II - Human Resources Department; Gary Verburg, City Attorney, and Daniel L. Brown, Acting Chief Counsel – Law Department; and, Joey Casto, Administrative Assistant I - City Clerk Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, September 17, 2012, in the Adams Street Training Center located at 140 North 3<sup>rd</sup> Avenue, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:32 p.m.

**2. Introductions of Task Force Members and Staff**

Members of the Ethics Review Ad Hoc Task Force and staff provided introductions, noting their name and affiliation.

**3. Message from the Mayor**

Mayor Greg Stanton thanked the members for serving on the Task Force and explained that he brought together some of the best diversified minds and business leaders in the City to examine whether the City was engaged in best practices and at the cutting edge as it should be. He expressed that he wanted the Task Force to see what improvements could be made so that the public has the maximum level of confidence in the decisions that are made at the City.

**4. Discussion of the Task Force Charge**

The Mayor discussed the Task Force's charge. He explained there were gray areas and issues surrounding gifts, meals, and conflicts of interest. He expressed that the Task Force could help the City think through these gray areas and eliminate them if possible, or outline additional reporting requirements.

## **5. Message from the Chairperson**

Mr. Romley stated that the manner by which elected officials, board and staff conduct themselves is critical to building public confidence. Mr. Romley also discussed timelines and noted the Task Force would sunset on December 31, 2012.

Mayor Stanton added comments regarding transparency and his efforts to make key documents, such as financial disclosure reports, open, online and easily searchable. He stated the work produced from the Task Force was part of a larger package to increase public confidence in the City of Phoenix.

Mr. Romley stated the Task Force will be presenting their report to the Public Safety, Veterans, Transparency, and Ethics (PSVTE) Subcommittee. He explained that he and Ms. Janet Smith will be attending the September 25, 2012, PSVTE Subcommittee meeting to provide an initial presentation. Mr. Romley stated the charge of the Task Force is very broad with very few limitations, which would be defined more as the Task Force moves forward. He stated the first meetings would be devoted to listening and learning about City policies and future meetings would include invitees such as the City Manager, labor organizations, and others to discuss what works and does not work.

Mayor Greg Stanton left the meeting.

## **6. Open Meeting Law Training**

Mr. Romley introduced Joey Casto with the City Clerk Department to provide a presentation to the Task Force on Open Meeting Law (OML). The following items were addressed during Mr. Casto's presentation:

- Applicability of OML and that it is mandated by State of Arizona, Arizona Revised Statute, 38-431;
- Quorums;
- Meeting agendas;
- Methods of voting (roll call or voice vote, no secret ballots or voting by proxy);
- Communication among board members;
- Public records (e-mail, social media tweets, or Facebook posts);
- Conflict of interest
- Calls to the public

In response to a question by Mr. Hardin, Mr. Casto stated public meeting postings are available online on phoenix.gov.

Mr. Romley asked for an official roll call to ensure a quorum. Mr. Verburg, City Attorney, conducted the roll call. All Task Force members were noted as present.

## 7. Review of Ethics Legal Framework

Mr. Romley introduced Daniel L. Brown with the Law Department to provide a presentation to the Task Force on Ethics Legal Framework. The following items were addressed during Mr. Brown's presentation:

- Significant Arizona Revised Statutes (ARS) related to ethics applicable to the City;
- ARS 38-481, related to Employment of relatives;
- ARS 38-503, related to Conflict of Interest;
- ARS 38-504 (A), (B), and (C) related to Prohibited Acts;
- ARS 38-505 (A), related to Additional Income Prohibited;
- ARS 38-510, related to Penalties;
- ARS 41-1232.08 (B), related to Entertainment Ban; Political Subdivisions;
- Significant City of Phoenix ethics laws and regulations;
- City Charter, Chapter XI§1, regarding Conflict of Interest, state law applies;
  - In response to a question on this topic by Mr. Romley, Mr. Verburg stated the City could adopt more restrictive provisions (does not require a change to the Charter), but not more lenient provisions.
- City of Phoenix Ethics Policy, P.C.C. § 2-52;
- Complaints of Ethics Policy violations, P.C.C. § 2-53;
- P.C.C. § 2-1001(6)(7) – Lobbyists; and,
- Administrative Regulations – AR 2.91, Conflicts in Employment, Supervisory, and Contractual Relationships, and, AR 2.93, City Employee Gift Policy

In response to a question by Mr. DeMuro, Mr. Verburg stated the policies make distinctions between employees and officers, although some policies may apply to both. He provided an example that the administrative regulations do not apply to elected officials because the City Manager does not have authority over elected officials.

Mr. Romley asked about the ambiguities in the policies and suggested that at a future meeting, staff could highlight areas the Task Force needs to focus on from a legal perspective.

In response to a question by Mr. Romley, Mr. Verburg stated the City's ethics policy and Charter incorporates state law by reference. He added that the City's ethics policy applies to both officers and employees although there was no penal provision for officers in the Ethics Handbook; whereas employees could be disciplined for violating the City's ethics policy.

Mr. Verburg explained that most of the City's elected officials will declare conflicts not based upon state statute, but rather on the City's ethics policies, if there is an appearance of impropriety, which the City's ethics policy touches upon.

Mr. Romley asked if the City requires anything in addition to what is required by state law in reference to declaring a conflict to which Mr. Verburg stated disclosure is made in the minutes and there is no requirement of a standing declaration. He added that

requiring a standing list was a debatable point; there are legal implications and it is attorney/client communication, therefore not subject to disclosure.

Mr. Romley asked if declaring conflicts was tied to an elected official's duties or an officer's personal matter to which Mr. Verburg stated the elected official has to make the choice, but the Law Department is available to give advice.

## **8. Review of Current Ethics Policies and Practices**

Mr. Romley introduced Janet Smith with the Human Resources Department to provide a presentation to the Task Force on Ethics Policies and Practices. The following items were addressed:

- Ethics policy;
- Ethics Handbook history – designed by Committee in 1990/91;
- Ethics training;
- Ethics Handbook revision – 1997;
- Ethics history – 2003-2005, developed FAQs for board and commission members and revised the Ethics handbook;
- City's commitment – core training classes are customer service, civil treatment, and ethics ;
- Value statements – highlighted “We Work with Integrity”;
- Electronic communications – governs acceptable use of City's information systems;
- Political activity – falls under ethics umbrella – defines prohibited activities;
- Solicitation by or of City employees;
- Work conduct – harassment or discrimination not tolerated;
- Outside employment;
- Conflicts of interest – employee work/personal relationships with relatives, roommates, and individuals who share a financial interest;
- Contract or rehire of retirees;
- Gift policy – no employee shall accept gift which could lead to favoritism;
- Ethics relation violations – misuse of City resources for personal use/gain, may not use a City vehicle for personal use; an example of scavenging from City landfill;
- Components of Ethics Program; and,
- Integrity Committee – outlet for City employees to report fraudulent or unethical behavior – members include the City Auditor, City Attorney, and a Deputy City Manager.

In response to a question by Mr. Romley, Bill Greene, City Auditor, who was in the audience, confirmed that he reported to the City Manager, but added that he also reported to the Audit Committee, which is made up of three residents and three elected officials.

In response to a question by Mr. Hardin, Ms. Smith stated the Integrity Committee was available for anonymous complaints.

## **9. Future Agenda Items**

The Mayor's Office provided a handout of a tentative schedule of meetings and future agenda items and presenters. Mr. Romley reviewed this document with the Task Force. Mr. Romley opened this item for discussion. He explained that he envisioned the Task Force would meet every two weeks and that the meetings would be divided into phases: Phase I, listen and learn; Phase II, discussion, legal research, recommendations; and, Phase III, presentation to subcommittee.

Ms. Ho suggested that someone from the business industry and a social media expert be invited as presenters.

Tim Delaney and Mary Ann Jennings were recommended as potential future speakers.

Mr. DeMuro suggested the Task Force focus attention on loopholes and issues that have had the biggest impact on the public losing confidence in government, such as those items in newspaper articles and research on where there have been public relations issues.

Mr. Burke stated that, regarding relationships, remote interest and substantial interest were defined in different ways and proposed whether there should be a zero tolerance policy rather than trying to carve out exceptions.

Mr. Patterson proposed looking at jurisdictions beyond Phoenix.

Mr. DeMuro left the room.

Mr. Gass stated it is important to have consistency between staff and elected officials and consistency in the definition.

Mr. DeMuro returned to the room.

Mr. Patterson suggested it may be possible to invite a presenter from the Cronkite School.

Ms. Finn suggested inviting a presenter who had already developed ethical standards.

Mr. Calderon expressed caution about drilling down too deep and recommended, instead, having the Task Force deal with big ticket items and headline items.

Ms. Finn stated that the law has not caught up with social media and she believed it was an issue the Task Force needed to address; although, she agreed it needed to be kept at a high level.

Mr. Verburg reminded the Task Force that if the social media issue is reviewed to be aware of First Amendment concerns.

Mr. DeMuro suggested identifying two or three ethical issues that would concern citizens and use those issues to develop agenda items.

Mr. Romley addressed the Task Force and encouraged everyone to develop a list of items for consideration at future meetings

Mr. Calderon left the meeting.

## **10. Call to the Public**

Mr. Romley asked for a call to the public after discussing Item 11, Next Meeting Date.

Mr. Joseph Patrick "Pat" Vinn provided comments to the Task Force.

Mr. Romley noted the Tuesday, November 13, 2012, meeting would be devoted to the public to provide comments.

Mr. John Rusnek provided comments to the Task Force and inquired if the Task Force's recommendations would be accepted. Mr. Verburg stated he would talk with the resident regarding his questions.

Ms. Diane Barker provided comments to the Task Force and inquired if the meetings were going to be televised.

## **11. Next Meeting Date**

This item was taken out of order. Mr. Romley announced the date of the next meeting: October 1, 2012 at 4:30 p.m.

## **12. Adjournment**

A **MOTION** was made by Mr. Patterson and **SECONDED** by Mr. DeMuro to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (7-0)**.

The meeting was adjourned at 6:20 p.m.

**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, October 1, 2012**

Adams Street Training Center, 304 West Adams Street, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member (via teleconference); Michael DeMuro, Member; Elizabeth Finn, Member; Wayne George, Member; Brandon Goad, Member; and Melissa Ho, Member

Absent: David Gass, Member; Bill Hardin, Member; Cecil Patterson, Member; Ernest Calderõn, Member

Also  
Present: David Cavazos, City Manager, and Sam Feldman, Management Assistant II, City Manager's Office; Jeff Stapleton, Senior Policy Advisor, and Carolyn Augustyn - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, James May, Deputy Human Resources Director, Tiana Roberts, Management Assistant II (Recording Secretary), and Theresa Faull, Administrative Assistant II - Human Resources Department; Gary Verburg, City Attorney, and Daniel L. Brown, Acting Chief Counsel – Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, October 1, 2012, in the Adams Street Training Center located at 304 West Adams Street, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:32 p.m.

**2. Approval of Meeting Minutes from September 17, 2012**

A **MOTION** was made by Mr. Goad and **SECONDED** by Mr. George to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (6-0)**.

**3. Message from Members of the Phoenix City Council**

Councilman Daniel Valenzuela, District 5, thanked the Task Force members for their service and stressed the importance of reviewing ethics.

Mr. Romley referenced the presentation at the Public Safety, Veterans, Transparency, and Ethics (PSVTE) Subcommittee meeting held on September 25, 2012. Mr. Valenzuela stated the PVSTE meeting was televised and he recognized the efforts of the City Manager, David Cavazos.

**4. Presentation from the City Manager's Office**

Mr. Cavazos thanked the Task Force members for their service. Mr. Cavazos introduced City staff participating in the presentation: Janet Smith, Human Resources Director, Toni

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Maccarone, Public Information Director, Cris Meyer, City Clerk, Bill Greene, City Auditor, Jeff DeWitt, Finance Director, and James Scarboro, Deputy Finance Director.

Mr. Cavazos opened the presentation by discussing "The Phoenix Way". He reviewed the code of conduct expected of City staff. He added that ethics was regularly reviewed and the City sought to constantly improve. He provided an example of outreach efforts to include customers and the community in the budget process.

Ms. Smith reviewed the "City of Phoenix Code of Ethics". She stressed that ethics training was a significant part of new employee orientation. She explained that in addition to Citywide training, departments also had ethics training specific to departmental needs. She provided two examples: The Police Department had "Operations Orders" and the Fire Department had a "Professional Standards" booklet.

Ms. Finn joined the meeting.

In response to a question by Mr. DeMuro, Ms. Smith replied ethical violations were coded by violation of a Personnel Rule, if discipline was imposed.

Mr. DeMuro requested the Human Resources (HR) Department provide general information and statistics related to ethical violations for a three-year period.

In response to a question by Mr. Romley, Ms. Smith replied HR is informed of violations when the act resulted in discipline (written reprimand or higher); oral reprimand was not tracked by HR.

Ms. Finn stated the Court also had a code of ethics that was stricter and applied to judges and Court staff.

Mr. Verburg reviewed the rules and regulations for City employees participating in City Elections. He distributed A.R. 2.16, Political Activity Administrative Regulation.

In response to a question by Mr. Romley, Mr. Verburg stated, under current policy, there was not a mechanism in place to report a violation of ethics by an elected official and no process for discipline; however, there may be enforcement under a penal provision in the state statutes. He added although the City Charter was expressed for City employees and the City Manager, under which discipline could be imposed, there was a provision within it that allowed for an elected official's removal from office for inappropriately interfering with employment issues.

In response to a question by Mr. Romley, Mr. Verburg stated the body (City Council) implicitly has power to censure its members and could adopt an ethics policy.

In response to a question by Mr. DeMuro, Mr. Verburg stated City employees can take a leave of absence to participate in campaigns.

Mr. Cavazos reviewed sample industry policies which City employees must also follow.

He provided several examples, one of which was from the American Institute of Certified Planners Code of Ethics and Professional Conduct. He explained that if an employee was aware of certain pending zoning, the employee was prohibited from using that knowledge to seek special advantage such as purchase of the land.

In response to a question by Mr. Romley, Ms. Smith replied the City's practice was to provide a complainant the final decision regarding a complaint against an employee.

Mr. Greene, Chairman of Integrity Committee, stated that in regards to the Integrity Committee, the complainant will be asked if he/she wants to be briefed on the outcome, if it was not already requested.

Ms. Maccarone reviewed "Increased Transparency in Decision-Making." She explained the City's efforts to become more transparent and highlighted the following areas: broadcasting City Council and Subcommittee meetings and replaying the broadcasts on PHX 11 and YouTube; communication through the use of Facebook, Twitter, and YouTube; live budget hearing posted to YouTube; and improved online placement for the search of Public Records.

In response to a question by Mr. Romley, Ms. Maccarone replied Task Force and Board meetings could be televised if held in the Subcommittee Room at City Hall.

In response to a question by Mr. Romley, Ms. Maccarone stated the City's social media policy was in draft form, but could be provided to the Task Force.

In response to a question by Mr. Romley, Ms. Maccarone replied most elected officials have separate Twitter and Facebook pages. Mr. Verburg explained that if an elected official used a government-sponsored site, the argument could be made that it was a public forum not subject to restriction; therefore, elected officials were encouraged to have their own sites.

Mr. Romley expressed that Congress had some ability to censure conduct.

In response to a question by Mr. Goad, Mr. Meyer explained that lobbyist information and elected official financial disclosure statements were now available online.

Mr. Meyer reviewed "Increased Transparency through Website Improvements" and the "Formal Meeting Page". He explained that work was being done to develop an on-line searchable database so that Public Records could be more easily attained.

In response to a question by Mr. Romley, Mr. Meyer stated Council packets were available Wednesday or Thursday the week prior to the meeting and the agenda was posted on the Wednesday prior to the meeting. He added that some board agendas were often posted up to three days prior to the meeting.

Mr. DeMuro stated he was impressed with the openness of the City and asked if any city did more than the City of Phoenix. Mr. Cavazos replied the City was a leader and had

received the Sunny Award for its transparency efforts. He added the philosophy of the City was to encourage public input and participation in public meetings.

Mr. Green reviewed the makeup of the Integrity Committee and his role as City Auditor. He explained that when a complaint came in, it was logged and addressed. He stated that complaints not recommended for corrective action were still reviewed for consistency. He added that workplace discrimination complaints were referred to the Equal Opportunity Department.

In response to a question by Mr. DeMuro regarding a recent Arizona Republic news article about a City employee, Mr. Greene stated if a complaint comes through the Integrity Committee, there was usually a counseling and education component in addition to HR's involvement. Ms. Smith stated HR reviews the employee's history and supports progressive discipline.

Mr. Romley asked about Civil Service Board (CSB) rights and Ms. Smith replied most employees have a right to appeal to the CSB, and the Board ultimately decides the level of discipline for those appealed. Mr. Cavazos stated the individual mentioned in the article was not an executive, as noted by the Arizona Republic; this person was equivalent to an administrative assistant level with CSB rights; an executive would have been fired.

In response to a question by Mr. Romley, Ms. Smith replied the City has disciplined supervisors periodically if they did not adequately take action or provide oversight of the employee.

Mr. Romley asked if the Integrity Committee can instruct Mr. Greene to look into specific issues, to which Mr. Greene replied in the affirmative.

Mr. Greene stated Integrity Committee reports go to all members of the City Council and are posted on the Auditor's web page.

In response to a question by Mr. Goad regarding allegations against an elected official coming before the Integrity Committee, Mr. Greene replied that a criminal issue would require police involvement and for non-criminal issues staff would discuss how best to proceed.

Mr. DeWitt reviewed "Recent Developments" in "Ensuring Ethical Procurement". He explained recent changes to the City's procurement process including consolidated procurement websites, vendor management system, transparency policy, and appeal process.

In response to a question by Mr. Goad, Mr. Verburg replied an individual hired to advocate on behalf of a company would need to register as a lobbyist, but the Chief Executive Officer (CEO) of the company would not need to register since that is not the CEO's profession/business.

In response to a question by Mr. Romley, Mr. DeWitt replied purchases over \$50,000 for general goods and services were handled centrally; professional services were handled in the soliciting department.

Mr. Scarboro reviewed “Upcoming Developments” in “Ensuring Ethical Procurement”. He explained a working committee comprised of representatives from City departments was drafting a new procurement policy. He added that centralized training and compliance support from the City Auditor would be included to ensure consistency throughout the City.

In response to a question by Mr. DeMuro regarding suppliers who act inappropriately, Mr. Scaboro replied information was noted in the contract file which was available as a public record. He explained that a company's past performance could be taken into consideration in future procurement offerings. He added a company could also be precluded from participating in a solicitation for a specific period of time.

In response to a question by Mr. DeMuro regarding the City notifying the public of suppliers who have acted inappropriately, Mr. Verburg replied the City could be sued for defamation in those cases.

Mr. Cavazos concluded the presentation. Mr. Romley asked if the City Manager could provide a presentation at a future meeting regarding receipt of gifts, familial conflicts, financial conflicts, and professional conflicts.

In response to a question by Ms. Ho, Ms. Smith replied an employee under investigation is issued a Notice of Investigation (NOI) in which the allegation is outlined, and the employee can respond to the allegation in writing or verbally.

## 5. Ethics Presentation

***Mr. Romley tabled item 5 and moved to item 6 out of order.***

Mr. Romley provided background on Ms. Traaen's credentials. Ms. Traaen stated she was a 30-year public servant and approached ethics from the public's perspective. Ms. Traaen provided a presentation to the Task Force addressing the following areas:

- Defining Ethics
  - Doing the right thing at the right time
  - Optimum timing is preventative
- Public Perceptions and Ethics
  - Real issues, borrowed issues, unfounded issues, and unknown issues
  - Do not assume government is flawed; assume government is trying to do the right things
- Best Practices – Perceptions Public Service Values
  - Trustworthiness, fairness, responsibility, respect, compassion and loyalty
  - Creating a common language

- Best Practices – Key Methods

- Elected body should have same level of expectations
- If ethics is not embedded in performance management, opportunity is being missed
- Embed an expectation of tangible ethical behavior with the help of employee groups

In response to a question by Mr. Romley, Ms. Smith replied many of the City's Vision and Values were addressed in performance evaluations and the City Manager has asked staff to revisit the value statements.

Ms. Traaen continued her presentation.

- Best Practice – Barriers

- Ill conceived goals; motivated blindness; indirect blindness, slippery slope, overvaluing outcomes

- Social Media

- Active social networkers show a higher tolerance for activities that could be considered unethical
- Communication for younger workers is different than for older generation

Ms. Traaen read policy statements on social media and then continued her presentation.

- Best Practices – Social Media

- Members of elected body attend the same training as employees

- Bonus Recap – Checklist

- Ethics Within High Performing Organizations
- Is the organization conducting continuous ethical improvement
- Vendor perceptions on award process and recommendations for improving the contract award process.

- Resources

Ms. Traaen opened the discussion for comments and stated that a copy of the presentation would be provided to the Task Force.

Mr. DeMuro left the meeting.

Ms. Smith described the Integrity Committee process and stated outside investigators have occasionally been used.

## **6. Employee Unions/Associations Panel Discussion**

The following members of the City's employee unions and associations participated in a panel question and answer process: Rae Kell, Unit 3, American Federation of State, County and Municipal Employees (AFSCME 2960); Pete Gorraiz, Unit 5, City of Phoenix and Phoenix Firefighters Association ( IAFF 493); Ron Ramirez, Unit 7, Administrative,

Supervisory, Professional & Technical Employees Association, (ASPTEA); Ken Crane, Unit 4, Phoenix Law Enforcement Association (PLEA); Rufino Uribe, Unit 1, Laborers' International Union of North America, (LIUNA 777); and James Tierney, Unit 2, American Federation of State, County, and Municipal Employees, (AFSCME 2384).

Mr. Romley invited the panels response to the three questions provided to the panel in advance of the meeting:

- What kind of common situations cause ethical dilemmas for employees?
- Do you believe there are gaps in City policies/programs that increase the risk of employees being exposed to compromising situations?
- What are your recommendations for the Task Force?

Mr. Tierney described a situation in which he was accused of vandalizing a City Councilman's vehicle and being the recipient of negative email blasts by the City Councilman. Mr. Tierney stated he had a right as a citizen to sign a petition to recall a Councilperson.

In response to a question by Mr. DeMuro, Mr. Verburg replied an employee would be in violation of City policy if, on his own time, the employee participated in a petition for a City recall. Mr. Verburg provided background as to why prohibitions on political activity were in place.

Mr. Gorraiz stated he could not identify specific situations that were problematic. He explained that departments did a good job of letting employees know what was and was not appropriate. He expressed through progressive discipline repeat offenders get taken care of through the process. He stated the City should make a distinction between what was in the City Charter versus an Administrative Regulation (A.R.). He expressed that he believed A.R.s go beyond what was legal, such as an employee not being allowed to sign a petition. Mr. Gorraiz stated he would like to see the Task Force recommend that employees be allowed to be involved in City elections during off duty, and develop a process that includes penalties to address elected officials who violate provisions and have the City Council vote on it

Ms. Kell outlined an example of an employee issue related to ethical violations and progressive discipline and requested the Task Force to keep the front line workers in mind when reviewing ethics.

In response to a question from Mr. Romley about what information was provided to employees about their rights, Ms. Smith replied in addition to some departments having a checklist, an employee is advised of his/her rights when the employee receives an NOI.

In response to a question by Mr. Romley, Mr. Gorraiz stated City unions/associations were required to represent all employees.

Mr. Uribe stated the union tries to educate employees about their rights by visiting job sites daily. He explained that union representatives have been allowed to sit in during supervisory counseling and that Unit 1 had a good relationship with employees and management.

Mr. Tierney stated employees do not know where to make an ethical complaint. Mr. Tierney referenced a Goldwater report and noted he would provide it to Mr. Romley for reference.

Mr. Gorraiz stated there was a process to address employee behavior. He expressed that problems occur when a manager takes an issue to HR. In response to a question by Mr. Romley as to where it should go, Mr. Gorraiz replied the issue could be taken to the union.

Ms. Finn stated she, prior to being a judge, represented a garbage workers' union. She expressed she did not regard absence issues or progressive discipline as ethics issues. Ms. Kell expressed that her example was brought up because the employee was initially disciplined based on ethics.

Mr. Ramirez expressed concerns with an HR employee who serves as Secretary to the CSB and also administers and signs discipline. He stated policies appear to be guidelines for managers and rules for employees. He added there should be an independent group that listens to the facts to issue discipline, as the Grievance Committee was only comprised of managers. Mr. Ramirez commented on the Phoenix Employee Relation Board (PERB), grievance and discipline processes.

Mr. Romley asked if there were different processes. Ms. Smith replied most employees have CSB rights for disciplinary appeals. She explained the CSB was a five-member board appointed by the Mayor. Ms. Smith described PERB, which hears unfair labor practices and applies to the five Meet and Confer groups. She added supervisory groups were Meet and Discuss which did not have the same access to PERB as the Meet and Confer groups.

Mr. Crane stated PLEA employees were subject to Hatch Act violations and it was not clear to employees about what constitutes an ethical violation and how to make a complaint. He explained in Police, everything gets lumped into "unprofessional conduct" and the process was more forgiving for higher level employees. Mr. Crane stated there were problems with internal investigations in which some were perceived as unethical.

Mr. DeMuro made an observation that management was doing a good job, public officials' behavior can taint the public perspective; and he has heard the unions/associations references to overtures of double standards for elected officials.

Mr. Romley added he was also hearing double standards expressed in the ranks and inquired if the process could be enhanced. He emphasized the Task Force wanted to hear from everyone, which included unions/associations, management and the public.

Mr. Ramirez commented it was a difficult time for employees in the current climate with elected officials and the public.

Mr. Romley acknowledged that equal treatment and equal standards were items that would be addressed.

## **7. Future Agenda Items**

Mr. Romley stated that in addition to Mike Hutchinson presenting at the next meeting, public comment would also be an item rather than waiting until November. After some discussion among the Task Force, Mr. Romley expressed the importance of public involvement and five minutes with a timer was agreed to for public comments.

Mr. Romley stated the Task Force may break into subcommittee groups. Ms. Finn inquired if staff could review what other jurisdictions do in relation to elected officials. Mr. Romley replied in the affirmative and suggested that other elected bodies/entities also be looked at.

## **8. Call to the Public**

Mr. Luis Acosta provided comments to the Task Force outlining his employment and discipline history with the City of Phoenix (documentation provided to the Task Force and available upon request to the meeting recording secretary).

Mr. Burke left the meeting (via teleconference).

Ms. Gail LaGrander provided comments to the Task Force and inquired about public participation. She asked whether she could provide the Task Force with research, to which Mr. Romley replied that she provide the information to staff for distribution to the Task Force.

## **9. Next Meeting Date**

The next meeting date is Monday, October 15, 2012.

## **10. Adjournment**

A **MOTION** was made by Mr. George and **SECONDED** by Mr. Goad to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (5-0)**.

The meeting was adjourned at 7:30 p.m.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, October 15, 2012**

Council Chambers, 200 West Jefferson, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member; Ernest Calderón, Member; Michael DeMuro, Member; Elizabeth Finn, Member; David Gass, Member; Wayne George, Member; Brandon Goad, Member; Bill Hardin, Member; Melissa Ho, Member; and, Cecil Patterson, Member

Absent: None

Also

Present: Jeff Stapleton, Senior Policy Advisor, and Carolyn Augustyn - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, Tiana Roberts, Management Assistant II (Recording Secretary), and Theresa Faull, Administrative Assistant II - Human Resources Department; and Daniel L. Brown, Acting Chief Counsel – Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, October 15, 2012, in the Council Chambers located at 200 West Jefferson, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:32 p.m.

**2. Approval of Meeting Minutes from October 1, 2012**

A **MOTION** was made by Mr. Goad and **SECONDED** by Ms. Ho to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (8-0)**. Mr. Patterson noted he abstained from voting on the minutes because he was not present at the last meeting.

**3. Presentation from Mike Hutchinson**

Mr. Romley introduced Mr. Mike Hutchinson, noting that Mr. Hutchinson was the former City Manager for the City of Mesa, Arizona, and outlining Mr. Hutchinson's career accomplishments.

Mr. Hutchinson opened his presentation by thanking the Task Force and outlining the City of Mesa's efforts to develop an ethics program. He explained Mesa adopted its first code of ethics in 1996, which was driven by the desire to have more organizational awareness about ethics and align conduct with the City's values. Mr. Hutchinson outlined the components of Mesa's handbook and discussed the implementation of the ethics program which included publicity, such as employee newsletters and staff meetings, training, such as new employee orientation, and that ethics was incorporated into the performance evaluation system. He stated the handbook was revised in 2000, soon after Mr. Hutchinson was appointed as City Manager. Mr. Hutchinson added that an ethics handbook for elected officials and city advisory board members was developed in 1998.

Mr. Hardin joined the meeting.

Mr. Hutchinson explained that the handbook was developed by an Ad Hoc Committee after extensive deliberation and careful consideration of the issues, such as: general character, conflicts of interest, legal compliance, open meeting law, attendance at meetings, political activities, use of city equipment, expense reports, travel and reporting procedures, and penalties and sanctions for those elected or appointed officials. He stated the code was adopted initially through a resolution but city charter changes required a public vote, which occurred in March 2000. He explained the approved charter changes allowed for sanctions for elected officials: Section 206-B of the Mesa City Charter gives the City Council the option to suspend, censure, reprimand, impose a monetary penalty, letter of warning, or other form of discipline or combination of the above on the affirmative vote of five out of seven members; and Section 207 of the charter outlines the review process and the rights of those accused. He added that the Mesa City Attorney's office provided ongoing training for new councilmembers and advisory board members.

Mr. Hutchinson expressed the following observations in regards to ethics: leadership has to come from the top of the organization, e.g. "model the way"; provide ongoing training; include ethical standards as an integral part of the performance evaluation system; establish a strong audit function; apply consistent discipline procedures and sanctions; adjust to changes in technology and discuss the appropriate use of new technology; and, provide a clear and simple reporting mechanism to report unethical situations.

Mr. Hutchinson asked for questions from the Task Force.

In response to a question from Mr. Romley, Mr. Hutchinson stated elected officials had to follow state law regarding conflicts and gifts, but a code of ethics was not adopted until 2000. He added that once adopted, the ethics policies were generally consistent with the policies that applied to employees. He explained the Ad Hoc Committee of citizens looked at different standards and heard various experts and believed it was important to have consistency.

Mr. Burke asked for two or three examples of the most common ethics lapses observed among City officials and employees. Mr. Hutchinson replied that occasionally there was not an understanding of conflict of interest in terms of voting and land use/zoning issues. He explained that staff would advise officials about conflict of interests and declaring a conflict, noting that the issues were sometimes complex and hard to understand. He added there were occasional travel, entertainment and gift issues, most of it minor; and issues in public safety regarding inappropriate behavior, which was related to character and standards in performance.

Mr. DeMuro asked why elected officials required a separate handbook from City employees if the policies were consistent. Mr. Hutchinson explained there were two distinct roles that required separate handbooks.

Mr. Calderon asked if an employee could be terminated at the first instance of dishonesty; could that work in a city and, if not, why? Mr. Hutchinson stated most cities had well-established personnel systems and rules and there were different levels of discipline. He explained terminating on the first offense would depend on the degree of dishonesty and would need to be determined on a case-by-case basis.

Mr. Goad asked how often Section 206 has been invoked to which Mr. Hutchinson stated Mesa has not had to invoke it at all, as there has not been any serious issues to address.

Mr. Goad asked how the process works and how issues are brought before the City Council for review. Mr. Hutchinson explained the City Attorney's Office addresses questions of ethics and hires an independent investigator, whose report is then shared with the City Council. He added the process has a mechanism to allow the accused redress and an opportunity for a public hearing.

In response to a question by Mr. Goad regarding a similar process for Phoenix, Mr. Brown said there was not one for elected officials.

Mr. Romley inquired whether a charter amendment would be required. Mr. Brown replied not necessarily for Boards and Commissions as there was language in the City code.

#### **4. Public Comment**

Mr. Romley explained that the first few meetings of the Ethics Review Ad Hoc Task Force were designed to listen and learn from experts in the field, including City management and union representatives. He expressed the Task Force also wanted to provide an opportunity for the public to address the Task Force, which was the purpose of tonight's meeting. He added that the amount of time for each comment had been increased from the City Council standard of two minutes to four minutes. In response to a question from Mr. Romley, Mr. Brown stated the Task Force could respond to questions from the public in this format.

Members of the public providing comment:

##### **Greta Rogers**

Ms. Rogers stated she had no objections to the Task Force but did not know why the Task Force was formed. She expressed that the City of Phoenix did not have a systemic or endemic ethics problem to her knowledge and if it did, she would be aware of it. Ms. Rogers stated she was not discouraging the Task Force, but found no foundation or need for the review and noted this was a solution looking for a problem. Mr. Rogers referenced handbooks given to employees and board/commission members when asked to serve.

Mr. Gass joined the meeting.

Mr. DeMuro stated the Task Force was formed because it had been a period of time since the present policy had been developed. He explained that one issue, social media, had evolved through technology and may require policies to be clarified or modified. He added it was possible the current handbook could be revised.

##### **John Rusinek**

Mr. Rusinek discussed an issue he had with the City regarding two houses in his neighborhood, one involving several vehicles on a non-dust proof driveway and the other involving animals. Mr. Rusinek discussed meetings he has had with the City where he believes false accusations were made against him and noted the City surveyed his house and property in an effort to

quash complaints. Mr. Rusinek stated he felt discriminated against by the City. He added that Judy Wallace, City Inspector, measured his property and found nothing wrong. Mr. Romley invited Mr. Rusinek to provide copies of written documents and comments to the Task Force.

**Joseph "Pat" Vint**

Mr. Vint expressed he could not give his comments in five minutes. He stated the City's charter was 100 years out of date and, for 40 years, Phoenix was controlled by 40 businessmen. Mr. Vint stated the City should operate very simply, with a Mayor/Council developing the rules and ordinances, and a City Manager managing the departments, but he did not believe the City was well-managed. Mr. Vint discussed a shopping center he owned and built in 1980 and criticized comments and actions by former Mayor Paul Johnson. Mr. Vint stated he was confronted by a City employee at a separate City meeting. Mr. Romley stated he understood the issues were very personal and invited Mr. Vint to provide written comments to the Task Force. Mr. Vint stated the visions and values noted on the back of City business cards were written by a few employees to get Phoenix an award and that nobody read them.

**Gail LaGrander**

Mr. LaGrander stated she would submit her comments in writing.

**Roy Miller**

Mr. Miller stated there was a problem with ethics in Phoenix, but not necessarily worse than anywhere else. He appreciated this issue being addressed and noted the way to address honesty and ethics was through standards. He stated programs, policies, and seminars were approaches that were unsuccessful and instead recommended reviewing organizations that have had success, such as service academies. He explained high standards were the only way to ensure ethical behavior. He expressed if an employee lies in an official capacity, the employee should be terminated; this would cause behavior to change. Mr. Miller stated he would like to see the City be a leader in ethics and discussed recent statistics from military academies regarding honor violations. Mr. Romley stated the Task Force will be looking at best practices and asked staff to review practices at military academies.

**Paul Barnes**

Mr. Barnes stated the ethics issue was mainly with perception and provided the City's zoning hearing officer process as an example. He explained the City no longer staffs the meetings with paid City employees but instead uses non-paid zoning attorneys which gives the perception of a conflict of interest. He added that more than one attorney was needed because some attorneys declare conflicts. Mr. Barnes questioned whether that process was best. He expressed concern with e-mail addresses of Village Planning Committee members not being available; however, zoning attorneys were able to reach committee members. He stated either e-mail lists should be made available or the zoning attorney should be limited from lobbying. Mr. Barnes noted two cases where individuals had to recuse themselves and stated the City should be looking more closely at who is appointed to zoning boards. He thanked the Task Force and stated it was a good step forward.

**George Pauk**

Mr. Pauk stated he was a retired physician with a background in academic medicine and practice, and expressed his appreciation for the Task Force's efforts. Mr. Pauk asked the Task

Force to not overlook large ethical dilemmas, such as health care. He explained thousands of people die unnecessarily each year due to inadequate healthcare and thousands of others suffer from problems with health that are unmet. He stated most personal bankruptcy cases were caused by healthcare issues. Mr. Pauk expressed that for-profit insurance was a failure and a national health plan was needed. He stated many progressive cities have created resolutions based on the ethics of this problem and he would provide copies of those resolutions. Mr. Pauk requested the Task Force consider this an ethical problem.

Mr. DeMuro asked if Mr. Pauk believed the City should take an official position on national health care to which Mr. Pauk replied it should at least be a resolution by the City Council. In response to a question by Mr. DeMuro, Mr. Brown stated it is something the City Council is authorized to do under the City Charter, if they so choose.

#### **Diane Harris**

Ms. Harris stated one aspect of ethics was transparency and she would have preferred to know the meeting start time instead of the time for public comment. She expressed the City's website was difficult to browse and she must frequently call to find information. She stated members of boards/committees are often the same people and the City needs fresh voices and no conflicts of interest. Ms. Harris asked why the text amendment process was removed from the Village Planning Committee and noted the current process for text amendments is not subject to Open Meeting Law. Ms. Harris expressed concern with police officer salaries and stated salaries should increase and police academies reopen so the City can hire more officers. She expressed concern with the redistricting plan and stated there was not enough public input or vetting on the final plan. She stated even though the Department of Justice approved the plan, it did not appear ethical. Ms. Harris expressed there was bad faith in pension reform regarding employee pension benefits; employee pensions were costly to the City and the pension system needed to be reinvented to not burden the taxpayer.

Mr. Romley stated pension reform was a different committee and noted the Village Planning Committee was subject to Open Meeting Law. Mr. Romley directed staff to obtain information on the change of policy regarding the text amendment process and Village Planning Committee.

#### **John Boggs**

Mr. Boggs provided his background and noted the City states they are dedicated to serving customers; however, he would rather be called a citizen rather than a customer. Mr. Boggs provided comments regarding information on several pages of the City's Ethics Handbook: page three did not speak to evaluation comments; page six spoke of gifts, however, he stated there were some gifts that must be accepted, because if not, would be considered an insult in some cultures; and page 16 did not address purposeful false accusations. He questioned what would happen if someone made a false accusation. Mr. Boggs stated if the Task Force intended to research the military to look at service Inspector Generals rather than the military academies. He explained Inspector Generals deal with civilian issues, whereas academies deal with uniform code of justice and rules of evidence do not apply.

#### **Luis Acosta**

Mr. Acosta stated he is a former employee with the City of Phoenix and a resident. He

explained at a prior Task Force meeting, he discussed the City's unethical practices and what he refers to as bullying by the City. Mr. Acosta referred to two e-mails outlining an employee grievance he had regarding longevity and stated he retired out of fear. He explained he has 16 years of documents. Mr. Acosta stated he was always found guilty of discipline and believes it was because he was a "whistleblower". He stated he received four suspensions and will be defending his actions on a website to be developed. Mr. Acosta expressed concern that documents he previously provided were not included in the prior meeting's minutes to which Mr. Romley explained the minutes reflect that Mr. Acosta's documentation was provided to the Task Force and is available to the public upon request. Mr. Acosta expressed concern that his documents could have been edited prior to submission to the Task Force. Mr. Romley invited Mr. Acosta to provide any written documents to the Task Force and if Mr. Acosta believes the documents are not provided to the Task Force, to let him know.

### **Rachel Phillips**

Ms. Phillips expressed her appreciation to speak to the Task Force. She stated this is a state where an individual can be terminated without reason, which she considered unethical. Ms. Phillips provided her background as a former employee with the City Parks and Recreation Department and a volunteer advocate teaching children. She provided examples of what she believed to be unethical behavior while she worked for the City. She explained when she reported an employee for removing an under-aged student from a program without notifying the parent, she was asked to leave the program. She stated she was terminated for being outspoken and reporting a co-worker's driving incident. Mr. Romley stated Ms. Phillips could provide her comments in writing to the Task Force.

### **Bev Konik**

Ms. Konik discussed transparency in zoning and development. She stated informal decisions made by zoning hearing officers become unpublished precedents. Ms. Konik stated she inquired why they were not published and was told there was a limit on what could be put on the servers. Ms. Konik emphasized her concerns with transparency in conflicts of interest. She expressed that volunteer zoning hearing officers were from an industry (attorneys) where there could be an inherent conflict of interest. Ms. Konik stated text amendments are zoning decisions that apply to the entire city and she was told those meetings are not open to the public. Mr. Romley asked Mr. Brown if the text amendment committee is open to the public to which Mr. Brown stated there are various working groups and committees and Law would have to review and report back to the Task Force.

### **Dianne Barker**

Ms. Barker noted she previously worked for City contractors where she received repercussions for complaining about not being promoted. Mr. Barker said she has not been heard in Court or given the right to sue. Mr. Romley thanked Ms. Barker for her comments.

### **Tony Bracamonte**

Mr. Bracamonte thanked the Task Force for the opportunity to speak before it. He requested the Task Force provide straightforward direction regarding SB 1070 and review the Intergovernmental Agreement for county jail services between Maricopa County and the City, which outlines how the City refers criminals, and determine how ethics policies impact that agreement.

Mr. Romley concluded the public comment by thanking all attendees.

## **5. Future Agenda Items**

Mr. Romley noted the next Task Force meeting is scheduled for October 29, 2012 at 4:30 p.m. He requested presentations by Human Resources regarding best practices for employees and staff, and by Law regarding best practices for elected and appointed officials.

Mr. Romley stated he had identified two subcommittees and will be asking Task Force members which subcommittee or subcommittees on which they would like to serve. He explained the Task Force will not meet the following two meetings after October 29<sup>th</sup> so that the subcommittees can meet to develop recommendations.

In response to a question by Mr. DeMuro, Mr. Romley stated the November 13th meeting would not be held. Mr. Gass asked if proposed revisions to ethics policies and procedures would be drafted by the subcommittees to which Mr. Romley stated it was too early to determine.

Mr. Romley stated the Task Force may focus on major issues that need to be addressed; and, regarding policies, such as the draft social media policy, the Task Force may complement those efforts by providing areas for staff to review. Mr. Romley reminded the Task Force also has a charge from the Mayor to look at specific areas.

Mr. Gass suggested considering the issue of volunteers (e.g., zoning hearing officers), and how policies affect them, and what happens when a City employee makes a false accusation.

## **6. Call to the Public**

Mr. Luis Acosta expressed that all the meetings should be held in the Council Chambers, to which other members of the public concurred. Mr. Romley stated he will attempt to have meetings in the Council Chambers.

Mr. Vint provided additional comments to the Task Force regarding a shopping center he owns and asked for the e-mail addresses of all Task Force members.

Ms. Finn requested clarification about the subcommittees to which Mr. Romley stated information would be provided at the next meeting.

## **7. Next Meeting Date**

The next meeting date is October 29, 2012.

## **8. Adjournment**

A **MOTION** was made by Mr. Patterson and **SECONDED** by Mr. Burke to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (10-0)**.

The meeting was adjourned at 6:42 p.m.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, October 29, 2012**

Adams Street Training Center, 304 West Adams Street, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member; Michael DeMuro, Member; Elizabeth Finn, Member; David Gass, Member; Brandon Goad, Member; Bill Hardin, Member; Melissa Ho, Member; and, Cecil Patterson, Member

Absent: Ernest Calderon, Wayne George (resigned from Task Force effective 10/29/12)

Also

Present: Jeff Stapleton, Senior Policy Advisor, and Carolyn Augustyn - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human Resources Director, Tiana Roberts, Management Assistant II (Recording Secretary), and Theresa Faull, Administrative Assistant II - Human Resources Department; and Daniel L. Brown, Acting Chief Counsel – Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, October 29, 2012, in the Adams Street Training Center located at 304 West Adams Street, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:34 p.m.

Mr. Romley noted Mr. George will be resigning from the Task Force as he will be unable to attend several upcoming meetings.

**2. Approval of Meeting Minutes from October 15, 2012**

A **MOTION** was made by Mr. Burke and **SECONDED** by Mr. Goad to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (6-0)**.

**3. Presentation on Best Practices Pertaining to Elected Officials and Board and Commission Members – Law Department**

Judge Finn joined the meeting.

Mr. Brown stated his presentation was meant to be a catalyst for questions and was broken into the following major jurisdictions: municipal (Phoenix and Mesa), state, and federal (Department of Defense). The following items were addressed during Mr. Brown's presentation:

- Phoenix City Code, Section 2-52, which sets out the City of Phoenix Ethics Policy.
- Enforcement of Ethics Policy – employees are under the jurisdiction and authority of the City Manager; Section 2-53 outlines specific practice for Boards and Commissions. Absent is enforcement related to elected officials. Under the Charter, there is broad authority for the City Attorney or City Manager to enforce violations of the Charter and ordinances, but it is not specific to ethics.

- City of Mesa – single ethics policy applies to elected officials, boards and commissions and employees. Mr. Brown explained Mesa amended its charter to allow the Mesa City Council to impose enforcement of ethical violations by elected officials. He stated the Phoenix City Charter did not contain language that allowed for removal of an elected official and to do so, would require a Charter amendment; however, the addition of censure or some form of discipline would only require an ordinance or revision to City Code. Mr. Romley inquired if Administrative Regulations (ARs) applied to City of Phoenix elected officials to which Mr. Brown stated they did not. Ms. Smith stated ARs include components of the City's ethics policy. Judge Patterson inquired if ARs were managed by the City Manager and did not apply to elected officials, to which Ms. Smith affirmed. Mr. Hardin inquired how Mesa amended its charter and who referred it to the ballot, to which Mr. Brown replied the answer could be researched. Mr. Hardin inquired what the process would be for Phoenix, if the Task Force recommended an amendment to the Phoenix City Charter, to which Mr. Brown replied the recommendation would go to City Council and then referred to the ballot.

Judge Gass joined the meeting.

Mr. DeMuro joined the meeting.

- Arizona Legislature – Arizona Revised Statute (ARS) 38-519 establishes an Ethics Committee with regard to the Senate and House (Senate Rule 29 and House Rule 34), but it is silent with regard to the Executive Branch. Mr. Brown explained the rules were very specific and contained guidelines for enforcement, whereas city codes were very broad and general statements. The rules included references to gifts, financial benefit, the exercise of discretion, and disclosure of information. Mr. Brown stated, according to an individual in the Attorney General's Office, there was not one code of ethics applicable to everyone in the State. He added the Governor and Attorney General had their own Executive Branch policies.
- State Boards and Commissions – the only law located was ARS 38-501, which was a general statement. Mr. Romley stated it just covered conflicts of interest, to which Mr. Brown concurred. Mr. Brown outlined the definition of gift under the State Legislature. Judge Gass stated there was a gift ban from lobbyists although it was not applied equitably between the Senate and House and their respective members and staff. Mr. Brown stated the law did not contain an enforcement component, which was the problem with taking action related to the Fiesta Bowl. Mr. DeMuro inquired if the statute filtered down to all agencies of the State and whether there were any State statutes regarding gifts to elected officials or employees. Mr. Brown stated there was not a State law that determines what gifts are prohibited relative to the City of Phoenix. In response to a question from Mr. DeMuro, Mr. Brown concurred the City's gift policy was derived from the Phoenix City Charter. Judge Finn stated the language under the gift definition includes an exception regarding "not provided to members of the public at large". Judge Gass provided reasoning for why that exception was included in the definition.
- Congress - Code of Ethics for Government Service – very straightforward statement and code; adopted in 1958 and, from there, developed the House Ethics Rules and Commission and enforcement policies. Mr. Brown outlined the best practices and stated they were broad general statements and allowed each branch of government to enforce and apply it to their particular area.

- House Committee on Ethics – the United States Constitution has an article that authorizes each house to punish members and includes expelling and removal from office. Mr. Brown explained the enforcement mechanism in the House is the Standards Committee and reporting of substantial violations requires approval of the House or two-thirds of the Standards Committee. In response to a question by Mr. DeMuro, Mr. Brown affirmed staff has been involved with City ethics policies. Mr. Brown stated he works with the City Council Chief of Staff and references Section 2-52 of the City Code, noting that section states: “avoid any improprieties in their roles as public servants and never use their City position or powers for improper personal gain.” Mr. Brown described scenarios that frequently arise for discussion and noted the review is very fact-intensive.
- Military Code of Ethics- Specific Department of Defense regulation which was recently changed. Mr. Brown explained general statements were replaced with several pages of human goals, general ethical values, primary ethical values, and ethical decision-making; and, it contained enforcement regulations. He added there was also a committee for complaints and investigation.

Mr. Brown stated the Task Force had requested a matrix and he provided a one-page matrix as hand-out to Task Force members (also included as a slide in the presentation).

Mr. Brown concluded his presentation stating generally, the same ethical code applied to all three groups (elected officials, employees, and boards/commissions) and on the elected official side, enforcement was by peer review. He explained most jurisdictions allowed peers to work with staff to advise the body as necessary. He reminded that for Phoenix, a Charter amendment would be required to recommend removal of an elected official, although other remedies may be adopted by ordinance.

Judge Gass stated volunteers were addressed under State law and gifts were defined very specifically.

Mr. Romley inquired if ARs could be applied to elected officials and if any jurisdictions impose an outright ban on gifts. Mr. Brown replied he has seen outright bans on employees or boards/commissions, but not an outright ban with regard to elected officials. He added he has generally seen a list of gifts and exclusions or reasonable delineations. He expressed one of the reasons was access to constituency.

Mr. DeMuro stated there were legitimate reasons for certain events and he inquired if officials could have their own fund as it would remove the conflict or appearance of conflict. Mr. Romley stated that option was not available at the County. He provided an example of situations in which an elected official receives an award and the agency may offer to pay for expenses so the elected can travel to receive the award.

Mr. Burke expressed the individual needs to determine if there is some quid pro quo. He added if the individual is going to accept a gift, there has to be clearly no quid pro quo; that decision is made by the employee or elected official, but guidance should be made available.

Mr. Hardin expressed there may need to be a more rigorous public disclosure process, which makes it easier to draw a line closer to a complete ban.

Judge Patterson agreed with Mr. Hardin and emphasized the importance of disclosure.

Judge Finn provided an example where an organization may have the expectation of having access to an elected official following an event to which the official was invited. She added disclosure does not solve the problem regarding perception.

Mr. Burke provided an example of federal officials including a budget to educate lawyers, such as lawyers with the Arizona Bar Association. He explained the federal officials would not accept paid invitations to speak at conventions in order to avoid the appearance of a conflict of interest.

Judge Gass stated two different definitions of gift caused problems with the Fiesta Bowl incident. He expressed a zero tolerance policy could prevent the attendance of the Mayor or Council at some events in which their attendance would be beneficial for the City. He added if funds were established to pay expenses of officials at these events, it would create perception issues.

Mr. Brown responded to a previous question by Mr. Romley by stating that ARs can apply to elected officials if Council adopts them. He cautioned that the application of all ARs, such as the gift policy, could be problematic if applied to elected officials.

#### **4. Presentation on Best Practices Pertaining to Employees and Volunteers – Human Resources Department**

Ms. Smith introduced Kathy Haggerty, Deputy Human Resources Director of Support Services. The following items were addressed during Ms. Smith's presentation:

- Ethical Violations – State of New York Information Technology official; Fiesta Bowl; Bell, California salary issues; and Baltimore Transportation employees gambling and drinking on the job.
- City of Phoenix Headlines – two recent headlines: one regarding inappropriate behavior and another regarding an employee diverting City funds to a contractor for personal gain. Ms. Smith stated the employee has since retired, was arrested and charged.
- Disciplinary actions – over the last 3 years (total 14,000 employees) approximately 1,800 disciplinary actions were imposed, of which 360 violations might be considered ethics violations. Mr. Smith explained 271 were related to wasting City resources or using inappropriate language and she provided examples of taking too long during a break or taking a City vehicle home for personal use. She added there were a handful of violations regarding anti-harassment policies (sexual harassment or racial discrimination), falsifying records (employees failed to submit a leave slip or inflated overtime hours), conflicts of interest, and stealing or unauthorized possession. She explained discipline ranges from written reprimand to termination.
- Best Practices identified by the Ethics Resource Center (ERC) include vision and value statements which define behavior expected in the organization; ethics committee that oversees policies, looks for trends; ethics officer whom employees can report wrongdoing and seek guidance on policy interpretation; strong communication strategy

and training, including required training; ethics help line; measurements and rewards, which many include in performance evaluations; monitoring and tracking compliance; and, ethical leadership by setting the example and tone.

In response to a question from Mr. Romley regarding social media, Ms. Haggerty discussed the City's draft social media policy and the items that were considered in developing the policy. Ms. Smith noted the City was holding off on publishing the policy until the Task Force had a chance to review.

## **5. Discussion of Subcommittee Work**

Mr. Romley noted two Subcommittees have been developed: one for employees and one for elected officials and input has been requested from Task Force members.

Judge Finn stated a reminder was sent regarding the Employees Subcommittee dates which are November 8, 15, and 19 at 3:30 p.m.

Mr. Romley outlined the timeline for the remainder of the Task Force's meetings and stated the meetings on November 5 and 8 for the Elected Officials Subcommittee will be devoted to developing basic philosophical points to include in a report. He explained a written report is due from each subcommittee by November 19 and the reports should be in a semi-final format. He added the reports will be discussed at the full Task Force meeting on November 26; where the Task Force will begin deliberations to create one final report due by the end of December. Mr. Goad stated he may be able to conference call-in for some subcommittee meetings.

Judge Finn confirmed the Employee Subcommittee members include Tim Burke, Bill Hardin and Cecil Patterson and noted the preference was to have the meeting location downtown.

Judge Finn stated the social media policy is the most difficult. She added First Amendment rights are not broad. Judge Finn noted concerns with employees not understanding progressive discipline. She stated the Task Force heard from the public that it is not a clear message and the issue needs to be addressed.

## **6. Future Agenda Items**

Review draft Subcommittee recommendations at next full Task Force meeting.

## **7. Call to the Public**

A call to the public was made and no comments were received.

## **8. Next Meeting Date**

The next meeting of the full Task Force was announced as Monday, November 26. In the interim, subcommittees will be meeting three times and possibly more depending on decision of the chairs. The Subcommittees will come to the November 26 meeting prepared with a report.

**9. Adjournment**

A **MOTION** was made by Judge Patterson and **SECONDED** by Mr. Hardin to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (9-0)**.

The meeting was adjourned at 6:20 p.m.

**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON ELECTED OFFICIALS AND  
BOARDS AND COMMISSIONS MEMBERS  
Monday, November 5, 2012**

Conference Room, 7<sup>th</sup> Floor, Public Tranist Building, 302 North 1<sup>st</sup> Avenue,  
Phoenix

Present: Rick Romley, Chair; Ernest Calderón, Member; David Gass, Member; and Melissa Ho, Member

Absent: Michael DeMuro, Member

Also

Present: Jeff Stapleton, Senior Policy Advisor, Mayor's Office, Carolyn Augustyn- Mayor Greg Stanton's Office, and Daniel L. Brown, Acting Chief Counsel- Law Department, Bill Greene, City Auditor, Penny Parrella, Executive Assistant to the City Council

**1. Call to Order**

The Ethics Review Ad Hoc Task Force Subcommittee on Elected Officials and Boards and Commissions Members met on Monday, November 5, 2012, in the 7<sup>th</sup> Floor Conference Room located in the Public Transit Building at 302 North 1<sup>st</sup> Avenue, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:39 p.m.

**2. Discussion of the Applicability of Administrative Regulations for Elected Officials**

Mr. Romley began the meeting by encouraging an open discussion of the meeting topics. He went on to clarify that while the City of Phoenix's Ethics Handbook does apply to Elected Officials and Boards and Commissions Members, Administrative Regulations (ARs) do not necessarily apply. Mr. Romley asked Mr. Brown to review the Administrative Regulations that apply to ethical issues within the City.

Mr. Brown specified that he chose twelve Administrative Regulations for the Subcommittee to consider and review. Mr. Brown began with AR 1.63- Electronic Communications and Information Acceptable Use. He clarified that this AR discussed the use of electronic communication, especially emails, and employees' entitlement to the use of this means of communication. Mr. Brown advised that parts of this regulation could apply to Elected Officials and noted that this Administrative Regulation was heavily used by the City as it is the definitive AR with regards to electronic use.

Ethics Review Ad Hoc Task Force Subcommittee on Elected Officials and Boards and Commissions Members Minutes  
November 5, 2012

In response to Mr. Romley's question, Mr. Brown replied stating that it was his understanding that another AR would be passed specifically to cover social media concerns and work in conjunction with AR 1.63.

Mr. Brown continued the discussion by moving on to summarize AR 1.64- City Policy on Cellular Equipment and Service. He noted that while parts of the language were dated, the Subcommittee should be aware of the City's policy with regards to cell phone cost management, cellular plans for departmental use, and employee use of personal cell phones for city business. The regulation also states that the Information Technology Department oversees all cell phone usage by City employees.

Mr. Romley asked for further clarification on the matter of employees purchasing a personal phone and being reimbursed for cell phone use for City business on the personal device.

In response to Mr. Romley's question, Mr. Brown acknowledged that the City did have a number of allowances available, including communication allowances or reimbursement plans. Mr. Brown stated that this was a complex matter and varied on a case-by-case basis.

In response to a follow up question from Mr. Romley, Mr. Brown noted that City business conducted on a personal device (computer or phone) could become subject to public record, as dictated in AR 1.63- Electronic Communications and Information Acceptable Use.

Mr. Brown went on to discuss AR 1.90- Information Privacy and Protection, which requires staff and employees to protect confidential information and prevents the release of information to 3<sup>rd</sup> party individuals, outside of public records requests. He stated that AR 1.91- Information Privacy and Protection Supplement- Data Shared with Third Parties was a supplement to AR 1.90 and included similar language with regards to 3<sup>rd</sup> party individuals.

Mr. Brown discussed AR 1.92- City of Phoenix Presence on the Public Internet and the direct effect this AR would have on elected officials. The regulation limits the use of the City of Phoenix's logo, City servers and other internet web pages. Elected officials are not allowed to utilize City internet presence for personal campaign matters.

Mr. Brown continued the discussion with the summarization of AR 2.33- Solicitation by or of City Employees During Working Hours, which prohibits the use of City resources to raise money. Mr. Brown stated that this could be applicable to elected officials or board members.

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Mr. Brown then reviewed AR 2.62- Work Notices for Outside Employment, Mr. Brown clarified that this regulation requires the disclosure of outside employment, in an effort to diminish conflicts of interest. The related regulation, AR 2.91- Conflicts in Employment, Supervisory and Contractual Relationships, covers other conflicts of interest. Mr. Brown referred to a previous presentation made by Janet Smith, Human Resources Director, and restated that the City's definitions of conflicts went beyond that of Arizona State Statutes.

Mr. Brown moved on to AR 2.93- City Employee Gift Policy. He stated the regulation maintained that no City employee can accept any gift, service, or favor that would lead towards favoritism, regardless of gift value.

Mr. Romley suggested the possible need for a de minimis amount for disclosure of gifts but also suggested the possibility of denying all gifts, as referenced in Mr. DeMuro's submitted written comments. Mr. Brown admitted that a set de minimis value for gifts would make legal sense but banning gifts all together would create administrative issues rather than solving ethical issues. He suggested that accepting gifts over the de minimis value would require disclosure of the gift.

Mr. Calderón suggested a de minimis value for elected officials of \$50.

In response to a clarification request from Mr. Romley, Mr. Brown noted that disclosure of gifts is generally up to the employee but usually employees are advised to submit a written form for City files. He also noted that current AR literature requires disclosure within two days of acceptance of the gift.

Mr. Romley stated that transparency was a major concern and suggested that there be some sense of immediacy for disclosure for gifts and possibly an online record search available to the public. Mr. Calderón agreed that this was a good idea and would ensure that elected officials would act ethically. Mr. Calderón also suggested there be a public awareness that all gifts over the de minimis value would have to be reported by the elected official.

Ms. Ho suggested that elected officials should perhaps be required to sign an affirmation stating the dedication to stay impartial in all decision making following the acceptance of the gift, along with the submitted gift disclosure form. Mr. Calderón agreed with Ms. Ho's idea, stating the signing of a letter is a strong and conscious statement towards ethical action.

Mr. Brown warned Task Force members that this affirmation idea could become legally difficult if future actions change and the acceptance of a gift becomes a conflict of interest. Mr. Romley responded with the suggestion that if future conflicts occur, the elected official would be required to file an updated disclosure form. Mr. Brown responded to this comment by saying this would be difficult because the official doesn't always know what is going on with other

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organizations or possess all of the information. Mr. Brown concluded by stating the need to encourage officials to disclose all gifts but reconsider the affirmation idea.

Mr. Romley and Mr. Brown at this point asked Penny Parrella, Executive Assistant to City Council, for her input with regards to council. Ms. Parrella noted that a given council member could be in office for twelve years and council staff changes regularly. She worried that council staff would have a hard time keeping track of all signed affirmations and wouldn't always know all of the details for past trips that occurred previous to staff being hired. Mr. Romley suggested the idea of electronic filing, which would allow for the parties to be involved to be tracked or searched for at a later date.

Mr. Brown at this point noted that council members all have different and complicated City business and each councilmember maintains a "running list" of relatives or other relations so all actual conflicts are known about up front, in accordance to state law. The legal department alerts council members if City business is involved with a member of the list, so the given councilmember is aware of any potential conflict or appearance of conflict. The City Ethics Code prohibits the appearance of favoritism, so council members are encouraged to avoid the appearance of conflicts as well.

Mr. Brown returned back to the list of twelve Administrative Regulations to summarize AR 5.14- Use of City Property by Elected Officials of Other Political Jurisdictions, an AR that does apply to elected officials outside of the City of Phoenix council. Mr. Brown also summarized AR 6.11- City-Owned Motor Vehicles and Other Fleet Equipment which restricts city staff from using vehicles for personal use. Finally, Mr. Brown touched upon AR 6.21- Use of Privately Owned Vehicles and Aircraft on City Business, which allows for the possibility of travel allowances or reimbursement.

Mr. Brown noted that the most relevant regulations to the Mayor's charges for the Task Force included AR 1.63- Electronic Communications and Information Acceptable Use, AR 2.91- Conflicts in Employment, Supervisory and Contractual Relationships, and AR 2.93- City Employee Gift Policy.

Mr. Romley asked the members of the subcommittee if the ethics handbook, as well as the Administrative Regulations, should be applicable to elected officials and boards and commissions members. Ms. Ho and Mr. Calderón agreed that it should be. Mr. Romley agreed with this decision, stating leadership should want to follow the same regulations as employees in an effort to maintain strong leadership skills.

In response to a question from Mr. Romley, Mr. Brown clarified that staff is not allowed to accept a gift of any amount or perceived value if there is any

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perception of favoritism. Mr. Romley posed the following question to the members: should elected officials be held to the same standards? Can an elected official avoid influence entirely?

Mr. Brown stated that adopting the employee's gift rule exactly as written to elected officials would not be advisable but did suggest a threshold amount be the guiding rule for gifts. Mr. Romley agreed, stating that a no-tolerance policy would be impractical for elected officials.

Mr. Romley, Mr. Calderón, and Ms. Ho agreed to a suggestion that elected officials should report any gift over \$50 in value, regardless of the gift itself, within two days of accepting the gift. They suggested this should be done electronically in the interest of transparency and ease of public record requests.

Mr. Brown then posed the following question to the subcommittee: how long after an elected official's term expires should the disclosed reports be kept on record? Mr. Brown notes that state legislature has a similar provision and reports are kept for one year after expired terms. Mr. Romley suggested to the subcommittee that these reports should be held on record for two years following the expiration of a councilmember's term. Mr. Calderón and Ms. Ho agree to this suggestion.

Mr. Brown went on to ask the subcommittee to further define gifts and exactly what the term "gifts" will include (food, for example). He notes that state law excludes food as a gift item, for example.

Judge Gass joined the meeting.

Mr. Calderón and Ms. Ho both agree that food should be considered a gift, which would help officials be very clear about the acceptance of gifts.

In a response to a question from Judge Gass, Mr. Brown verifies that gifts from familial relations or significant others are not required to be disclosed. Mr. Romley, Mr. Calderón, Judge Gass, and Ms. Ho agree that this exemption should hold for elected officials.

Judge Gass brings up the issue of lobbyist relations, especially if a family member or significant other is a lobbyist. Mr. Romley suggests that in this instance disclosure of any gift should be required. Mr. Brown notes that there is a City lobbyist provision that requires the disclosure of any gift, irrespective of value, even if spouse is a lobbyist. The subcommittee agrees to add the lobbyist provision to apply to elected officials.

Judge Gass proposes a discussion point to the subcommittee to consider whether the proposed regulations for elected officials should also apply to the

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officials' family members. The subcommittee agrees to keep this point in mind and will discuss at further meetings.

Mr. Romley suggests to the subcommittee that a standing ethics review committee should continue to review the City's ethics codes in the future. Mr. Calderón agrees with this, stating a review committee should at the minimum be commissioned every ten years. Mr. Romley went on to suggest that perhaps a different group be commissioned to handle boards and commissions ethics issues separately, as the subcommittee is not as well versed in the intricacies of certain boards, like the Village Planning Commissions. This item will be discussed at future meetings.

Mr. Brown brought up the issue of corporations or LLCs being treated as a person with regards to the gift policy. Mr. Romley asserted that transparency is of the utmost importance and that this issue will need to be considered further.

The subcommittee reviewed anonymous comments and questions received by Human Resources staff. Mr. Romley asked that the subcommittee take the comments received into consideration.

Mr. Romley again suggested that the Task Force suggest to the Mayor the commission of a separate group to handle the specific needs of these other commissions, making note of the number of public comments regarding the Village Planning Commissions the Task Force has received. Mr. Romley also, again, suggested a standing need for routine review of the City's ethics.

Mr. Stapleton suggested a continual review once every four years, ensuring a review with each new administration. He noted that San Jose, CA has a similar review process that meets every two years. Judge Gass and Mr. Calderón agree that this idea makes sense and is a valid suggestion.

### **3. Discussion of Potential Enforcement Mechanisms**

Mr. Romley began a discussion on the possible enforcement methods for elected officials. Mr. Brown stated that the City Charter allows for most punishment for ethical or legal violations, except for the removal of an official. He went on to explain that City Council can be removed from office for violations to City Charter, but not for City Code.

Mr. Romley goes on to open a discussion for the need of an independent standing body that would review violation cases. He maintained that there is a need for independence and is necessary in ensuring cases are handled ethically and suggested that the board would investigate the issue and forward recommendations on to City Council for final decisions. Mr. Calderón agreed with

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this idea, citing the independent complaint review committee that exists for the state bar.

Mr. Romley suggested that appointments to this board could be made by a variety of sources; from the Mayor, from the City Manager, from the Ethics Task Force, among other departments. Mr. Calderón went on to suggest that a citizen also serve on this independent review board. Judge Gass and Ms. Ho agreed to the independent board idea.

Judge Gass brought up the issue of public records with regards to complaints brought to the independent review board. Mr. Calderón stated that he believed complaints should not be open to the public until probable cause is decided. Mr. Brown noted that the City's policy is similar to this issue and situations under investigation are not released to the public until after the investigation is complete and recommends the proposed independent review board follow this guideline and make complaints public following the termination of the investigation.

Mr. Romley suggests allowing a councilmember or mayor involved in a complaint the opportunity to go to a court and argue for the complaint to not be released as a public record. He asserted that this would not be at cost to the City's budget; the council member would have to pay for their own counsel. Mr. Brown shared his concerns with this matter, stating that conflicts between council members could make the situation very difficult. He asserted that it would be a conflict between one council member's use of City funded legal counsel and the other member being forced to fund his or her own legal counsel. Mr. Brown finished by saying this would be a difficult position to pass as the issue varies from case to case.

Mr. Calderón agreed that Mr. Romley's ideas had some merit but also acknowledged that Mr. Brown's position made more practical sense. Judge Gass commented that by not releasing information to the public, the public loses faith in the competency or ethics of the elected officials.

Mr. Brown suggests that council follow the same investigation rules and regulations that already exist and that the subcommittee not codify council's right to challenge the release of the investigation or complaint. Mr. Romley agrees that this will need to be visited again at future meetings and the wording of this given action would need to be given serious consideration.

Ms. Ho exited the meeting.

Mr. Brown clarified for Judge Gass that approving the removal of City Council members would require an amendment to City Charter and would have to be approved by City Council. Mr. Calderón and Judge Gass both supported this

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measure to move forward to the subcommittee's recommendations and Mr. Romley acknowledged the need to discuss this matter further in future meetings.

**4. Discussion of Additional Subcommittee Work**

Mr. Romley asserted that the subcommittee should continue to consider the issues brought up at the November 5<sup>th</sup> meeting and to be ready to discuss the topics further. Mr. Romley asked the subcommittee to especially consider how an independent review board could function and to come prepared with thoughts on this matter.

**5. Future Agenda Items**

Mr. Romley stated that further discussion on the issues from this meeting will be continued at the next subcommittee meeting, including further discussion with regard to enforcement methods.

**6. Next Meeting Date**

The next meeting date is Thursday, November 8, 2012.

**7. Adjournment**

A **MOTION** was made by Mr. Gass and **SECONDED** by Mr. Calderón to adjourn the meeting, **MOTION CARRIED UNANIMOUSLY (3-0)**.

The meeting was adjourned at 6:32 p.m.

**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS  
Thursday, November 8, 2012**

Executive Training Room, 5th Floor, Personnel Building, 135 North 2nd Avenue, Phoenix,  
Arizona

Present: Elizabeth Finn, Subcommittee Chair; Tim Burke, Member; and Cecil Patterson,  
Member

Absent: Bill Hardin, Member

Also

Present: Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human  
Resources Director, and Theresa Faull, Administrative Assistant II (Recording  
Secretary) - Human Resources Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force Subcommittee on Employees, Volunteers and Hearing Officers met on Thursday, November 8, 2012, in the Executive Training Room located on the 5<sup>th</sup> Floor of the Personnel Building, 135 North 2<sup>nd</sup> Avenue. Judge Finn, Subcommittee Chairperson, opened the meeting at 3:54 p.m.

**2. Presentation on Civil Service Board**

Ms. Smith began her presentation by explaining the purpose of civil service systems and the protections they provide to employees. She explained the City's civil service system was a merit system established in 1924 and part of the City Charter. She stated while the majority of City employees were in "classified" positions and covered under civil service rules, there were "non-classified" positions such as trainees, attorneys, and executives that were considered at-will employees who work under the discretion of the City Manager.

In response to a question by Mr. Burke, Ms. Smith replied all City attorneys worked at-will and added that staff members within the elected officials' offices were non-classified employees.

Ms. Smith explained the City's practice of progressive discipline. She stated it included imposing the lowest level of discipline to correct behavior and the gravity of the infraction determined the level of penalty.

In response to a question by Judge Finn, Ms. Smith replied "coaching" was not considered discipline. She added a written reprimand was the first level of discipline.

Ms. Smith explained discipline was rarely issued for performance, and, repeated performance issues were often due to an employee's lack of skills to perform a particular job rather than lack of effort. She added in these types of cases an employee may voluntarily demote into a more suitable position, if one is available.

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Ms. Smith described the role and makeup of the Civil Service Board. She explained Board members were volunteers appointed by the Mayor. She stated employees in classified service can appeal discipline to the Board.

In response to a question by Mr. Burke, Ms. Smith replied Board members were not necessarily trained in Human Resources (HR).

In response to a question by Judge Finn, Ms. Smith replied an employee is served discipline by his/her department; however, the discipline must be approved by HR and Law. She added an employee may appeal discipline at the suspension to termination level.

In response to a question by Mr. Burke, Ms. Haggerty replied the City is represented by its counsel and employees may also be represented by counsel or act as their own counsel. She added the process for an appeal is a Hearing Officer will hear the case, write a report, and make a recommendation to either sustain or reduce the discipline. She stated the report goes to the Board for a final decision on the matter.

Mr. Burke asked if an employee has the right to a hearing before the Board, to which Ms. Smith replied not at present.

Mr. Burke asked if an employee can respond to the Hearing Officer, to which Ms. Haggerty replied in the affirmative, at the business meeting. She added if the employee disagrees with the Board's decision, there is no appeal process; rather, the employee must file in court.

Judge Patterson joined the meeting.

In response to a question by Mr. Burke, Ms. Haggerty replied there were three Hearing Officers and they were not full-time positions.

Ms. Smith explained the role of Secretary to the Board. She stated the Secretary staffed the meetings, provided orientation materials and training to Board members, and responded to questions relative to citywide matters and policies. She added the Secretary was a non-voting member of the Board.

Ms. Haggerty explained the Secretary often reminded the Board of Open Meeting Law requirements.

In response to a question by Mr. Burke, Ms. Haggerty explained the Board is represented by its counsel, which is chosen by the Board but paid for by the City. She added because the Board is a quasi-judicial board, it and its members can be sued.

In response to a question by Judge Finn, Ms. Smith replied supervisors receive mandatory training regarding discipline and the Civil Service Board, but typically employees do not receive this training.

Judge Finn expressed often an employee's first experience with civil service rights is when a notice of discipline is issued.

Ms. Smith suggested perhaps on-line training or resources regarding progressive discipline and the Civil Service Board could be provided which employees could reference when needed.

### **3. Presentation on Social Media**

Ms. Haggerty explained the draft social media policy was developed by a task force in response to the growth of social media being used by the City and the need to identify guidelines for both official and personal use by City employees. She stated the task force's approach was to create a policy that focused on authorized professional use of social media; protected employees and the City; and supported existing policies, personnel rules, and technical standards and procedures. She stated the NLRB (National Labor Relations Board) has ruled 'unlawful' a number of social media policies established in the private sector. She explained that policies are viewed as too restrictive if they prohibit the use of a company name and discussion about policies, pay, benefits, and treatment of employees in general. She added the NLRB does not govern City practices and unions.

Ms. Smith noted although the NLRB does not apply to the City of Phoenix, the City's Phoenix Employee Relations Board often considers the NLRB's position on similar issues.

Judge Patterson stated the Peoria Police Department had a prohibition that employees cannot identify themselves in their city uniform.

Ms. Haggerty stated some situations are not delineated such as when an employee in uniform (e.g. police officer) receives an award or medal at an event and wants to post the picture taken with family on a Facebook page.

Ms. Haggerty explained when supervisors "Friend" their subordinates it can create potential problems. She provided an example of a supervisor learning of inappropriate behavior on a subordinate's Facebook page and the supervisor was put in a position where he/she must now act on that information. She added a flyer, note or verbal negative action about a protected category can also be disciplined.

Ms. Smith explained the City can advise or caution supervisors on "Friending" subordinate employees but the City could not prohibit supervisors from being a "Friend".

Judge Patterson expressed that First Amendment issues come into play.

Judge Finn inquired on the status of the draft social media policy, to which Ms. Smith replied the policy was in its final draft form but was not being published until this subcommittee could review it and provide input.

Judge Finn recommended the subcommittee focus on looking closer at recent NLRB rulings and how its rulings could impact Phoenix. She also suggested providing more specific

guidelines or examples in the policy.

#### **4. Ethics Gap Analysis**

This item was tabled to a future meeting agenda.

#### **5. Presentation on Zoning Hearing Officers**

A **MOTION** was made by Mr. Burke and **SECONDED** by Judge Patterson to take this item out of order. **MOTION CARRIED UNANIMOUSLY (3-0)**.

This item was presented after Item 2.

Derek Horn, Planning and Development Department Director, presented an overview of Zoning Hearing Officers. He explained the difference between Variances and Use Permits. He stated City Council, elected officials or City staff cannot get involved in the decision of Hearing Officers. He added a Hearing Officer can make a finding and add stipulations. He explained appeals of a Hearing Officer's decision are heard by the Board of Adjustment. He stated an appeal can be made by the applicant, any party to the matter, or any citizen, even if the citizen is unrelated to the case.

Judge Finn expressed that some citizens voiced concern, during a previous public comment session, over Hearing Officers also holding positions as land attorneys in private practice. Judge Finn asked if Hearing Officers were voluntary attorneys, unpaid. Mr. Horn responded in the affirmative.

Mr. Horn explained at present there were four Hearing Officers; three land use attorneys, and one retired Zoning Administrator from the city of Glendale.

Judge Finn expressed the roles of the Hearing Officers were significant because in one role they sit as a judge and in the other they are advocating for who they represent.

Mr. Horn explained the Hearing Officers do not want to be in a situation where a potential conflict exists; therefore, they recuse themselves as necessary.

Judge Finn explained some citizens believed that by Hearing Officers having to recuse themselves it gave a perception issue of unfairness.

Mr. Horn explained Hearing Officers were paid contractors until March 2010, when due to budgetary issues a transition was made to use volunteer Hearing Officers. He added the budgetary solution saved two Planning Department positions.

Judge Finn left the meeting.

In response to a question by Ms. Smith, Mr. Horn replied Hearing Officers are not a budgeted item and on occasion staff will fill in as a Hearing Officer.

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In response to a question by Judge Patterson, Mr. Horn replied he is not aware of any complaints regarding the use of staff as Hearing Officers, although it does create a workload-management issue.

In response to a question by Mr. Burke, Mr. Horn replied in the past Hearing Officers were paid and served in that capacity for a number of years.

Judge Finn rejoined the meeting.

Mr. Burke inquired whether there were any marked changes in the decisions of the volunteer Hearing Officers, to which Margaret Wilson, Assistant City Attorney, replied opinion findings were better when written by the volunteer attorneys, since they were more accustomed to that type of thinking.

Mr. Burke inquired whether there were any complaints that the decisions were not fair, to which Ms. Wilson replied there have been no observed problems with the decisions.

Judge Finn expressed it appeared to be a perception issue, as one day the volunteer attorney is serving as a Hearing Officer and the next day representing clients with zoning cases. She inquired whether a Request for Qualifications (RFQ) has ever been performed and if so, what type of response was received.

Mr. Horn explained there was an RFQ in 2008, although the insurance requirements and cost was a deterrent for responders.

Judge Finn expressed to obtain a larger pool of responders, perhaps consideration could be given to releasing a new RFQ with the City paying for the insurance.

Mr. Burke expressed that regardless of the process to obtain volunteer Hearing Officers, it is almost impossible to eliminate the perception issue.

Ms. Wilson explained the City solicits individuals to serve on Boards and Commissions who have experience in the area of the respective Board or Commission.

Mr. Burke suggested applying rules of professional conduct for Hearing Officers and he provided an example of how the judicial canon prohibits even the appearance of a conflict.

Judge Patterson expressed the judiciary continually focuses on education and discusses conflicts.

Judge Finn expressed there was no easy balance between using a volunteer Hearing Officer whose expertise is in land use and creating an appearance that no conflict of interest exists because they practice in the land use arena.

Judge Patterson stated a retired zoning administrator who is also a lawyer would serve as the perfect Hearing Officer. He suggested focusing on education and information about the

problem of the perception of conflicts.

Mr. Burke suggested in advance of the hearings, publish on a site the cases and which Hearing Officer will hear them and allow the public to request a different Hearing Officer if the public member believes there is a conflict.

Mr. Horn replied that Hearing Officers were unpaid volunteers and putting a cumbersome process in place could discourage participation in this voluntary process. He added any third party, regardless if they live in the neighborhood, can file appeals of Hearing Officers' decisions.

Judge Finn inquired if that was in the City Ordinance, to which Ms. Wilson replied in the affirmative.

Judge Finn expressed some citizens had concerns about unpublished precedents and she requested an explanation of this subject, to which Ms. Wilson explained there were two types of zoning administrative actions: interpreting and resolving single property issues.

Mr. Burke left the meeting.

Ms. Wilson explained there are about 100 decisions a month made about properties and most are not published; however, citywide items are written down and soon will become published on the Planning and Development Department's website. She explained when an interpretation of a zoning ordinance comes before a Hearing Officer, precedent is reviewed. She stated the interpretations are currently available in hard copy. She added variances are site specific and do not have precedent.

Judge Finn inquired how other cities handle the issue of Zoning Hearing Officers, to which Ms. Wilson replied they do not have the volume that Phoenix has and she provided Scottsdale as an example with only one to two variances a month. She added Phoenix also has a large mix of commercial property.

Judge Finn inquired whether there was any existing statement or code of conduct, to which Ms. Wilson replied no, although the attorneys have copies of the attorney ethical code.

Judge Finn suggested making the public aware of the standards attorney are required to meet, perhaps using language from the professional rules that govern attorneys, City requirements, and State Bar requirements.

Ms. Wilson inquired whether the language should be brought back to this subcommittee at a future meeting, to which Judge Finn replied in the affirmative.

## **6. Future Agenda Items**

Judge Finn expressed the Ethics Gap Analysis presentation would be considered on the next agenda. She also requested further discussion regarding the City's draft social media policy.

**7. Next Meeting Date**

The next meeting date is November 15, 2012.

**8. Adjournment**

A **MOTION** was made by Judge Patterson to adjourn the meeting. A quorum was not present at the end of the meeting.

The meeting was adjourned at 6:00 p.m.



MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON ELECTED OFFICIALS AND  
BOARDS AND COMMISSIONS MEMBERS  
Thursday, November 8, 2012

Conference Room, 7<sup>th</sup> Floor, Public Tranist Building, 302 North 1<sup>st</sup> Avenue,  
Phoenix

Present: Rick Romley, Chair; David Gass, Member; and Melissa Ho,  
Member

Absent: Ernest Calderón, Member; Michael DeMuro, Member

Also

Present: Jeff Stapleton, Senior Policy Advisor- Mayor Greg Stanton's Office;  
Carolyn Augustyn- Mayor Greg Stanton's Office; and Daniel L.  
Brown, Acting Chief Counsel- Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force Subcommittee on Elected Officials and Boards and Commissions Members met on Thursday, November 8, 2012, in the 7<sup>th</sup> Floor Conference Room located in the Public Transit Building at 302 North 1<sup>st</sup> Avenue, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 5:13 p.m.

**2. Approval of Meeting Minutes from November 5, 2012**

A **MOTION** was made by Ms. Ho and **SECONDED** by Judge Gass to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (2-0)**.

**3. Discussion of Potential Enforcement Mechanisms**

Mr. Romley opened the meeting by reviewing the enforcement mechanism ideas from the previous meeting. He clarified that the subcommittee had decided that an independent review body was critical to handle any potential ethical disputes concerning elected officials and boards and commissions members serving the City of Phoenix. He went on to ask the subcommittee to consider how the independent board would operate and function.

Mr. Romley began by introducing his plan, based on previous meeting discussions and similar to the procedures used by the Arizona Bar Association. Mr. Romley noted that once a complaint was brought to the attention of the independent review board, the case would enter into the investigative stage. During this stage the board first hears the facts of the case before rendering a

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decision to conduct a more thorough investigation. If there are merits of truth, the board would then appoint an impartial investigator to further investigate the claims brought before the board. The investigator represents the board and reports all findings to the board. He shared that an unbiased attorney would work well for the investigator role.

In response to a clarification from Judge Gass, Mr. Romley stated that a given case could be dismissed at any point in the proceedings if the board deemed the information to be frivolous or outside of the City's interests.

Mr. Romley continued, saying that once the appointed investigator had completed the investigative routine, the accused party would be brought in to enter a negotiation stage. The reports of the findings would be made known to the accused individual, at which point he or she could admit to any wrong doing and receive sanctions from City Council. If he or she did not admit to the results or disputes the investigations findings, a hearing for further investigation into the matter could be requested. The ethical violation case would become public information following the investigative and negotiation process.

Judge Gass clarified at this point, making sure that the accused party would be able to provide input into the investigation and would be able to make statements. Mr. Romley agreed with this statement and stated that the accused individual could also have a legal representation at this point; however, the attorney fees would not be covered by the City. Mr. Romley further noted however, that beyond the independent review body phase, reimbursement for attorney fees for the accused party may be considered by the City Council if it is found the accused party is ultimately found to not be in violation of the charges.

Mr. Romley explained his ideas for a hearing process, in which a hearing officer, appointed by the review board, would hear the case made by the investigator, representing the independent review board, and from the accused party. Mr. Romley felt that having the multiple investigative layers and steps would help to ensure impartial and fair results for possible ethical violations within the city.

In response to a clarification item from Judge Gass, Mr. Romley said that the hearing officer would make a recommendation for sanction to the City Council but would not be the ultimate enforcement mechanism. City Council would be the only group that would approve sanctions, including removal.

Judge Gass agreed with Mr. Romley's ideas, stating that this process set the standards high, which the public would ultimately feel more comfortable with.

Mr. Romley moved back to the independent ethical review board creation and posed the following question to the subcommittee; how would the City select members for this board?

Mr. Romley and Ms. Ho suggest the board should consist of five members.

The subcommittee felt it would be necessary to label the different chair categories so new members could be more easily identified and selected. Mr. Romley suggested having one retired judge member (from the superior court level or higher), one citizenry member with noted ethical background, and one former elected official. He stated the other two positions could be filled by general citizens selected by the three appointed members.

Judge Gass stated his concerns with the broad "elected official" term, noting that there were many positions available that might not fit the review board's needs. Mr. Romley agreed, further suggesting the clarification of a former City Mayor or City Councilmember. Judge Gass then suggested that these officials should be from another city within Maricopa County so that certain local nuances could be better understood.

Mr. Romley brought up concerns to the subcommittee with regards to who would appoint the members to this board. Judge Gass postulated that interested parties could self-nominate, with certain standards and regulations, so as to create a qualified pool. Judge Gass moved that perhaps one appointment could be made by the mayor and one appointment could be made by majority vote of City Council, etc.

Judge Gass went on to suggest that perhaps the mayor could select the individual for the ethicist position, the municipal court judge could select the retired judge position and the city council, by majority vote, could select the former elected official for the board.

Ms. Ho agreed with this idea, stating that this provided enough layers to diminish bias in the process. Mr. Romley also agreed with this selection process, further suggesting that the chair of the independent review board would be selected by the board itself.

In response to a question from Mr. Stapleton, Mr. Romley stated that the board would fill vacancies on the board in the case of resignation or termination. He added that the board would become self-sustaining in order to remain more unbiased.

With regards to the idea of term limits, Mr. Brown suggested a five year term, with staggered term end dates so the board would remain full. Ms. Ho suggested

a three year term, which Mr. Romley agreed with. Rotating out members would be determined by drawing lots.

The subcommittee agreed that the complaints should be heard within ninety days, so as to conduct the most accurate investigation. The identifying information would be kept private so the board could discuss the cases. Mr. Brown noted that the board would be better served by entering into executive session so specific details of the private case would not be made known to the public before the investigative process was completed. Judge Gass suggested that identifying each case should be done by code (ex. Case PHX001).

Mr. Romley at this point noted that the ethics task force was creating the framework for ethical accountability and was not an extensive overview of every possible ethical issue. He again urged for continual ethical review and reiterated that this review should take place every four years, at the minimum.

The subcommittee reviewed the gift regulations for elected officials, as discussed at previous meetings, and the group again agreed on a \$50 de minimis reporting value.

In response to a question from Mr. Brown, Judge Gass explained that state law requires elected officials to file an annual disclosure for gifts exceeding a collective total of \$500, including gifts received by household members. He went on to say that the elected official would need to file a disclosure each time a gift over \$50 is received, however, the entire household would need to file a disclosure statement at the end of the year for all gifts totaling more than \$500 within the given year.

The subcommittee agrees to adopt the language from AR 2.91- Conflicts in Employment, Supervisory, and Contractual Relationships with regards to what qualifies as a familial relation, including roommates and significant others.

In response to a clarification from Mr. Stapleton, Judge Gass stated that elected official business ownership would need to be disclosed, as per state law, and suggested that a note on this matter be added to the recommendation being drafted by Mr. Brown.

#### **4. Discussion of Additional Subcommittee Work**

Mr. Romley stated that Mr. Brown would provide the subcommittee with the proposed changes to the legal literature and the subcommittee would need to have these changes read before the next meeting for discussion.

#### **5. Future Agenda Items**

Mr. Romley noted the need for discussion of the proposed legal language, as drafted by Mr. Brown, at the next meeting. The proposed changes will also need to be approved by the subcommittee before being presented to the full task force.

**6. Next Meeting Date**

The next meeting date is Monday, November 19, 2012.

**7. Adjournment**

A **MOTION** was made by Ms. Ho and **SECONDED** by Judge Gass to adjourn the meeting, **MOTION CARRIED UNANIMOUSLY (2-0)**.

The meeting was adjourned at 6:10.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS  
Thursday, November 15, 2012**

Executive Training Room, 5th Floor, Personnel Building, 135 North 2nd Avenue, Phoenix,  
Arizona

Present: Elizabeth Finn, Subcommittee Chair; Tim Burke, Member; and Cecil Patterson,  
Member

Absent: Bill Hardin, Member

Also

Present: Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human  
Resources Director, Gary Verburg, City Attorney, Law Department, and Theresa  
Faull, Administrative Assistant II (Recording Secretary) - Human Resources  
Department

### **1. Call to Order**

The Ethics Review Ad Hoc Task Force Subcommittee on Employees, Volunteers and Hearing  
Officers met on Thursday, November 15, 2012, in the Executive Training Room located on the  
5<sup>th</sup> Floor of the Personnel Building, 135 North 2<sup>nd</sup> Avenue. Judge Finn, Subcommittee  
Chairperson, opened the meeting at 3:49 p.m.

### **2. Approval of Meeting Minutes from November 8, 2012**

Judge Patterson moved to amend the minutes to clarify his comments in Item 3, Presentation  
on Social Media. He stated "Peoria" should read "the Peoria Police Department".

A **MOTION** was made by Mr. Burke and **SECONDED** by Judge Patterson to approve the  
meeting minutes as amended. **MOTION CARRIED UNANIMOUSLY (3-0)**.

### **3. Social Media Discussion**

Ms. Haggerty stated a citywide task force was developed to create a City policy on Social  
Media. She explained the task force reviewed policies from numerous other jurisdictions and  
determined the City policy should focus on City spokespersons and their responsibilities. She  
highlighted that all employees should abide by the following guidelines:

- Employees must not appear to represent the City on their own personal social  
media sites, to include being in City uniform or City vehicles shown in the  
background;
- Employees must not post any confidential or personal-identifiable information on  
social media;
- Employees may not access or post to a personal media site at work or on City  
time;
- A social media posting that relates to coworkers or supervisors can become part

- of human resource or equal opportunity investigations; and
- Even if an employee posts to a personal site at home, on their own time, if the posting violates the City's Civil Treatment or anti-harassment standards, the employee can be held accountable.

Ms. Haggerty explained that often the City learns of inappropriate postings from an employee's coworkers. She stated supervisors had additional guidelines which included not asking subordinates to provide their passwords to personal sites and being cautious about becoming their "Friends" on social media sites. She added if inappropriate comments are made or pictures posted by an employee on his/her personal site, the supervisor may have a duty to act depending on the content.

Judge Finn stated there were two separate scenarios: a prospective employee and a hired employee. She questioned whether it would be beneficial for an employer to be able to view a prospective employee's social media site as another form of reference check.

Mr. Verburg stated the private sector was different than the public sector and while that may be a practice in the private sector, he cautioned that First Amendment rights could come into play.

Ms. Smith expressed that, as an employer, the preference would be not to require supervisors to access a prospective employee's social media site but instead to use other means to determine whether the prospective employee is a good fit for the organization such as reference and background checks and testing instruments.

Mr. Verburg stated if a supervisor learns of a group of employees engaging in discriminatory or racial behavior about another employee, then disciplinary action can be taken. He added consideration could be given to requiring the employees engaged in the alleged inappropriate behavior to allow supervisors access to their sites.

Ms. Smith stated most often a coworker will print and submit copies of the offending pictures or statements.

Mr. Verburg suggested adding language to the policy that stated if reasonable cause existed to believe an employee was in violation of other City policies due to posting on the employee's personal social media site then the employee must grant supervisory access to the site.

Judge Finn summarized the subcommittee's recommendation on this topic:

- Not to establish a policy statement that requires an employee to provide his/her supervisor access to the employee's social media site.
- If information is brought to the City's attention that an employee has engaged in a potential violation of City policy, then an employee must allow his/her supervisor access to the employee's social media site.
- A hiring authority is allowed to search for information about a prospective employee on a public domain and take the information under consideration as one component of the selection process.

Judge Patterson and Mr. Burke concurred with Judge Finn's summation of their discussion.

Judge Finn recommended having language that stated an employee may not access social media sites on City time, to which Ms. Smith replied the changes would be incorporated into the policy draft.

#### **4. Ethics Gap Analysis**

Ms. Smith stated a review of best practices revealed a recommendation to include ethics into the selection process. She suggested the City include ethic-related questions into the interview selection process or use an assessment testing tool such as a Personal Selection Inventory (PSI).

In response to a question by Judge Finn, Ms. Smith replied the PSI was used in finalist selections after determining a candidate's eligibility for hire.

Mr. Burke stated he was familiar with PSIs and believed them to be a useful test.

Judge Finn expressed concern over the cost of requiring every employee to complete a PSI, to which Ms. Smith replied that at present PSIs were available to departments that chose to use them. She added PSIs were especially useful for departments experiencing heavy turnover or lower entrance requirements.

Judge Patterson stated he believed PSIs would be useful to understand a prospective employee's viewpoint on ethical-related issues.

Judge Finn summarized the subcommittee's recommendation to allow City departments the option to either include ethical questions into the hiring process or use an instrument such as a PSI.

Judge Patterson and Mr. Burke concurred with Judge Finn's summation of their discussion.

Judge Finn inquired whether the City had adequate policies in regards to Leave Management, to which Ms. Smith replied in the affirmative.

Ms. Smith explained an area in which the City may be able to improve was in ethics training for employees. She stated as part of New Employee Orientation (NEO) employees receive approximately two hours of training; however, she inquired whether the subcommittee believed mandatory ethics training on a routine basis should occur.

Judge Finn stated a newly hired employee initially receives an enormous amount of information and periodic training would allow the City to discuss ethics in relation to new information/technology. She suggested the training could also be conducted on-line.

Mr. Burke stated as employees get more experience in the workplace, ethics training becomes

more meaningful to them.

Judge Finn suggested covering the Top 10 ethical areas every two years.

Judge Patterson stated it was important for employees to receive reinforcement that the organization is a quality organization and this can be done through routine ethics training.

Judge Finn stated Court employees were schooled in ethics training at levels that most City employees do not receive; therefore, she suggested it would be beneficial to include court employees into classes with non-court City employees.

Judge Patterson agreed with Judge Finn's suggestion and stated ethics was second nature to court employees.

Mr. Burke expressed he cannot overstate the importance of the City having a culture where employees exercise the option to consult others.

Ms. Smith explained the City conducts an annual Employee Opinion Survey and a significant finding was when employees were asked the questions "Do most of those in my workgroup display honesty and integrity in the workplace," and "My supervisor displays honesty and integrity in the workplace," the affirmative responses were 88% and 86%, respectively. She added the percent has been consistent over the past five years and was reflective of the City's culture of ethics and integrity.

Mr. Verburg stated part of the ethics training could be avenues and resources available to employees.

Ms. Smith suggested an Ethics Resource page could be developed which would include Frequently Asked Questions (FAQs) and contact numbers.

Judge Patterson expressed his favor for this concept and Mr. Burke concurred.

Ms. Smith stated the webpage could include information on the Civil Service Board process and describe roles and responsibilities of individuals that serve on and provide support to the Board.

Judge Finn suggested adding a section regarding the purpose of progressive discipline and explaining it is not always used for punitive reasons but rather a tool to offer improvement to the employee. She added this also serves to notify the public about disciplinary practices used in the City.

Ms. Smith inquired if there was anything in the Ethics Handbook the subcommittee believed needed to be changed or revised.

Mr. Verburg stated he encounters a reoccurring problem in which employees discern a conflict in the handbook about accepting gifts. He explained that in one area they are told they cannot engage in any conduct of favoritism, but in another area they are told that as long as they

disclose a gift they can accept it.

Mr. Burke highlighted the pros and cons on a zero tolerance policy.

Judge Finn described situations in which an employee may be the recipient of an award and the grantor provides a meal or travel expenses.

Mr. Verburg explained a zero tolerance policy may be easier to apply to employees than elected officials who are often asked to speak at dinner events.

Mr. Burke stated perhaps consideration be given to allowing acceptance of a gift if an employee speaks at a public body and the City benefits from the employee's presentation.

Judge Finn provided an example that as a judge she cannot be honored at a fundraiser event but can speak at events that educate.

Mr. Burke inquired whether the City had problems in this area that were considered severe, to which Ms. Smith replied no, although more oversight or perhaps some level of review such as supervisory approval before a gift can be accepted may be helpful.

Judge Finn stated if a supervisor was required to review and approve potential gifts then the matter would be escalated to a higher level.

Mr. Verburg stated a good measuring tool is often whether the matter or action passes the headline test.

Judge Patterson questioned whether a dollar figure should be recommended.

Ms. Smith described situations in which large numbers of employees receive trinkets from vendors such as during benefits open enrollment sessions.

Mr. Burke stated the assumption should be there is no City business between the donor and recipient. He added if a gift is being reported, the person approving needs to use discretion.

Mr. Verburg recapped that he understood the subcommittee's recommendation to be that part of the reporting requirement would be obtaining supervisor approval.

Judge Finn clarified that no dollar limit was being applied at this time.

Judge Patterson inquired whether the current gift policy contained a form, to which Mr. Verburg replied in the affirmative and stated it gets filed with the City Clerk Department.

Judge Finn commented on Ms. Smith's open enrollment example and recommended adding language that gifts offered to a broad group were allowable.

## 5. Future Agenda Items

Judge Finn identified that at the next meeting a draft report of the subcommittee's recommendation would be presented.

**6. Next Meeting Date**

The next meeting date is November 19, 2012.

**7. Adjournment**

A **MOTION** was made by Mr. Burke and **SECONDED** by Judge Patterson to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (3-0)**.

The meeting was adjourned at 5:25 p.m.

**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS  
Monday, November 19, 2012**

Executive Training Room, 5th Floor, Personnel Building, 135 North 2nd Avenue, Phoenix,  
Arizona

Present: Judge Elizabeth Finn, Subcommittee Chair; Tim Burke, Member; and Judge Cecil Patterson, Member

Absent: Bill Hardin, Member

Also

Present: Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human Resources Director, Gary Verburg, City Attorney, Law Department, and Tiana Roberts, Management Assistant II (Recording Secretary) - Human Resources Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force Subcommittee on Employees, Volunteers and Hearing Officers met on Monday, November 19, 2012, in the Executive Training Room located on the 5<sup>th</sup> Floor of the Personnel Building, 135 North 2<sup>nd</sup> Avenue. Judge Finn, Subcommittee Chairperson, opened the meeting at 3:43 p.m.

**2. Approval of Meeting Minutes from November 15, 2012**

A **MOTION** was made by Judge Patterson and **SECONDED** by Mr. Burke to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (3-0)**

**3. Review of Public Comments from Previous Meeting**

Ms. Roberts noted that no comments were received for review by the Subcommittee from Ms. Barker following the meeting on November 15.

**4. Volunteer Discussion**

Ms. Smith introduced Cynthia Aguilar, Volunteer Program Coordinator in the City Manager's Office to provide information on the City's Volunteer Program. Ms. Roberts noted staff had developed a recommendation for the Subcommittee's consideration: add a statement to the Volunteer Program's website and to the volunteer application regarding adherence to the City's ethical standards.

Ethics training was noted as another option to consider for ongoing volunteers. Ms. Smith noted online training would be a good option. Ms. Aguilar stated some departments have formal training for volunteers while others do not and agreed online training would be convenient. It was discussed and agreed that training would not be required for individuals who volunteer for one-time events.

Ms. Aguilar noted that the Volunteer Program will be upgrading to new computer software in early 2013 and it would be easy to add language to the volunteer application and the Volunteer Program's website.

Ms. Smith restated the recommendations would be to make online training available to volunteers regarding ethics, include an ethics statement on the volunteer website, and include an ethics statement on the volunteer application.

In response to a question from the Subcommittee, Ms. Aguilar noted that close to 30,000 individuals volunteered last year with a value to the City at approximately \$13 million. Judge Finn stated there needs to be a distinction between one-time volunteers versus longer term volunteers. Ms. Smith stated the language could reference frequency of service and/or minimal contact. Judge Finn stated it is not frequency; rather, it is about access to City buildings and equipment opposed to someone performing manual labor.

In response to a question from the Subcommittee, Ms. Aguilar stated probationers fall under a separate agreement with Maricopa County. She also noted there is language that distinguishes between on-going and one-time volunteers. Judge Finn noted the need is to target ongoing volunteers as opposed to a one-time group volunteers or an individual volunteer.

Ms. Aguilar stated the City only requires church groups, school groups, or other groups to provide the name of the group and a contact name, but they do not go through full registration or a background check process. She also stated the enhanced website, launching early next year, will include the option to identify the frequency of volunteering. Judge Patterson noted that will give the City the ability to decide if an individual is volunteering more than once and, therefore, requires ethics training. Ms. Smith stated frequency could be included in the application process and if it is more than a one-time event, then the ethics statement will apply and ethics training could be required. Ms. Aguilar stated the new software would be able to produce a report to see who has not checked the ethics field. She added February 2013 is the expected launch date of the new software.

A **MOTION** was made by Judge Patterson and **SECONDED** by Mr. Burke to require ongoing volunteers to indicate they intend to volunteer more than a certain number of hours and comply with the City's ethics requirements, which will include a statement on the City's Volunteer Program website and the volunteer application; and, there will be monitoring to ensure volunteers complete online ethics training. **MOTION CARRIED UNANIMOUSLY (3-0).**

## 5. Review and Adoption of Subcommittee Recommendations

A copy of the draft Subcommittee recommendations was provided to members to review. The initial seven draft recommendations identified below:

- The Task Force recommends updates to the City's Human Resources website to include ethics-related resources.
- The Task Force recommends adding mandatory and periodic ethics training to the employee training curriculum.

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- The Task Force recommends updates to the City's Human Resources website to include information regarding the Civil Service Board and progressive discipline.
- The Task Force recommends adding website language regarding the ethical standards Zoning Hearing Officers are required to meet.
- The Task Force recommends revising the City's Ethics Handbook for employees and revising the City's gift policy.
- The Task Force recommends changes to the City's draft policy on social media.
- The Task Force recommends adding ethics-related components into interview and selection processes.

Revisions were made to the detailed verbiage in the gift policy recommendation following discussion regarding token gifts; and, revisions were made to the draft policy on social media recommendation following discussion on the components of the draft policy.

An eighth recommendation regarding City volunteers, noted below, was added to the draft report:

- The Task Force recommends the City's volunteer website and volunteer application include a statement acknowledging adherence to the City's ethics policies. Ongoing volunteers will be required to participate in ethics training. Staff will monitor compliance with the City's ethics training requirements.

A **MOTION** was made by Judge Patterson and **SECONDED** by Mr. Burke to adopt the Subcommittee recommendations as revised on screen during the meeting. **MOTION CARRIED UNANIMOUSLY (3-0)**.

## **6. Next Meeting Date**

The next meeting date for the full Ethics Review Ad Hoc Task Force is November 26, 2012.

## **7. Adjournment**

A **MOTION** was made and approved by all Subcommittee members to adjourn the meeting.

The meeting was adjourned at 5:05 p.m.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
SUBCOMMITTEE ON ELECTED OFFICIALS AND  
BOARDS AND COMMISSIONS MEMBERS  
Monday, November 19, 2012**

Conference Room, 7<sup>th</sup> Floor, Public Transit Building, 302 North 1<sup>st</sup> Avenue,  
Phoenix

Present: Rick Romley, Chair; Michael DeMuro, Member; David Gass, Member; Melissa Ho, Member

Absent: Ernest Calderón, Member

Also

Present: Brandon Goad, Member; Jeff Stapleton, Senior Policy Advisor- Mayor Greg Stanton's Office; Carolyn Augustyn- Mayor Greg Stanton's Office; and Daniel L. Brown, Acting Chief Counsel- Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force Subcommittee on Elected Officials and Boards and Commissions Members met on Monday, November 19, 2012, in the 7th Floor Conference Room located in the Public Transit Building at 302 North 1<sup>st</sup> Avenue, Phoenix, AZ. Mr. Romley, Task Force Chairperson, opened the meeting at 5:13 p.m.

**2. Approval of Meeting Minutes from November 8, 2012**

A **MOTION** was made by Judge Gass and **SECONDED** by Mr. DeMuro to approve the meeting minutes **MOTION CARRIED UNANIMOUSLY (2-0).**

**3. Presentation and Discussion on Subcommittee's Draft Recommendations**

Mr. Romley opened the meeting by presenting the draft recommendations to the members and inviting Mr. Brown to walk the subcommittee through each proposed recommendation. He asked the subcommittee members to propose additions or changes as the group moved through the draft report.

Mr. Brown began by encouraging all comments from the subcommittee and started the review process with the cover letter. Mr. DeMuro stated that the cover letter was a good snapshot of the work done by the task force. He suggested adding the total number of meetings the task force and subcommittees had to the summary so that council could truly understand the amount of work that was

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completed in the limited timeframe available to the group. Mr. Romley and Judge Gass agreed that this was a good addition to the cover letter.

At this point Mr. Brown noted that all supplemental materials, including agendas, meeting minutes, and a detailed list of task force members and their positions held, would be attached items in the appendix. The subcommittee agreed that this was a good idea and would help preserve the work done by the task force. Mr. Romley also noted that these additions would help to create a living document for the City.

In the table of contents, Mr. Romley suggested the glossary of definitions should occur sooner in the report, for the ease and understanding of the reader. Mr. DeMuro supported this suggestion.

Mr. Brown noted the final product would include the complete report, with recommendations from the task force, and would be accompanied by a reference guide, with all supplemental materials. This reference guide would be divided into tabbed sections in a three ring binder.

For the acknowledgements page, Judge Gass proposed a wording change to acknowledge how ethics deeply matter to City employees, officials, and residents alike.

Mr. DeMuro suggested that a separate tab be created in the reference guide with the recommendations made by the task force. He felt this would be helpful for reference after the report has been read. Judge Gass agreed with this point but reiterated that the recommendations also remain in the final report for City Council.

Mr. Brown went on to propose a “findings” section to the report, which would include the major findings from the task force. As an example, he noted that one finding would be that there is currently no enforcement process for elected officials. Mr. Romley stated that adding this subsection in the introduction section might make the report harder to follow and Mr. Goad suggested that perhaps these findings could be added to the executive summary. The subcommittee ultimately agreed with Mr. DeMuro’s suggestion to have the findings subsection immediately precede the recommendations.

Judge Gass stated that he would submit any grammar or technical changes he found to Mr. Brown via email for the ease of revision.

The subcommittee, led by Mr. Brown, then went through each recommendation created with regards to elected officials and board members.

The first recommendation, regarding the applicability of the City's ethics code to all city employees, officials, and board members, suggested equality in ethical standards. Judge Gass suggested the recommendation use the word "equitable" rather than "equal" to account for differences in job responsibilities and positions. Mr. Romley stated that the recommendation was two-fold; first, everyone was to be held to an ethical standard, and two, the subcommittee recommends that a separate Elected Officials City Ethics Handbook be created to reflect the unique job position for elected persons.

Mr. Brown moved on to the next recommendation, regarding the necessity for a continual review, meeting to review every four years, at the minimum. Mr. Romley restated the importance of an ongoing process and acknowledged the impossibility of meeting every single possible ethical violation. Mr. DeMuro agreed with Mr. Romley and added that an ongoing review process would be necessary to evolve to the changing culture in Phoenix. Judge Gass recommended that this recommendation be further broken down into two parts; first, to acknowledge the need for continual review, and second, to suggest a review occur every four years, at a minimum.

Mr. Brown then directed the subcommittee to the third recommendation, which recommended the institution of a gift policy for elected officials. This policy would require an elected official to file a disclosure of gifts received costing more than fifty dollars (\$50). Mr. Romley asked that a 48-hour window for acceptable reporting be added to the recommendation, as in the City employee regulations.

Judge Gass moved that the gift recommendation be divided into subsections. First, a section would detail the gift policy as it applies to elected officials; second, a section would be drafted to explain the disclosure process; and finally, a section would be devoted to explain the maintenance and posting of disclosure forms, extending for two years after the officials' period of public service was completed. The subcommittee agreed with this suggestion and asked to have the revised draft reflect this idea.

In response to a question from Mr. DeMuro, Mr. Brown clarified that according to state statutes, which the City of Phoenix follows, elected officials are not allowed to accept entertainment gifts, with certain exceptions (ex. being honored at the event, speaking at an event, etc.).

At this point the subcommittee began to review the recommendation for an investigative process for potential ethical violations. Mr. Romley clarified that the ethicist position on the independent review board should be a Phoenix resident and not an individual who has held office or been appointed to a previous board or commission.

Ms. Ho entered the meeting.

In response to a question from Mr. DeMuro, Mr. Romley explained that member terms would be staggered so the independent board would not be missing too many members at any given time. He also noted that at the beginning, shorter terms will be used to institute the rotating term expiration. As such, Mr. Romley moved to have the initial judge role be a two-year commitment and the initial elected official role be a one-year commitment. All citizen roles would be able to fulfill the proposed three-year term from inception.

Mr. Romley stated that the independent board would be appointed members, however, after the initial creation, the board would be self-sustaining and Council and the Mayor would have limited appointment rights.

Mr. DeMuro noted that the recommendations should reflect the need for the City of Phoenix to pay for investigative costs. Mr. Romley agreed to this and further suggested that the language read “pay for all reasonable investigative costs.”

In response to a question from Judge Gass, Mr. Romley stated that he felt the reasonable costs for the review board members (such as mileage or parking) should also be covered by the City.

Mr. DeMuro left the meeting.

Mr. Stapleton noted that current commissions and boards do not reimburse for mileage. Mr. Romley suggested that this provision stand and acknowledged that Council could make the final decision on this matter.

Mr. DeMuro entered the meeting.

In response to the sanction recommendations, Mr. Goad stated that removal as a potential punishment mechanism was essential in order to make sure elected officials understand how seriously the City deems ethical decisions. All subcommittee members agreed that removal should absolutely be a sanction option for elected officials with poor conduct.

Mr. Brown stated that the City offers a fine as a current sanction option and asked the subcommittee to consider an upper limit to apply to elected officials. Mr. Romley suggested the fine should not exceed \$10,000 per expense. The subcommittee agreed with Mr. Romley’s suggestion. Mr. Brown did note that this fine implementation would require a charter amendment.

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Following a clarification from Judge Gass, the subcommittee agreed that violators should be required to pay a fine and reimburse costs, not either or as previously stated in the draft recommendations.

Mr. Goad left the meeting.

Mr. Brown noted that he had used the State Bar investigation process as a model for the suggested investigation process for the City of Phoenix.

Mr. Goad entered the meeting.

Mr. Romley reviewed the process, as proposed at previous subcommittee meetings, for Mr. Goad and Mr. DeMuro.

In response to a question from Mr. DeMuro, Mr. Romley verified that dropped cases, or those cases that are deemed to not have clear and convincing evidence, would be open to public records in accordance to Arizona law. However, Mr. Romley noted that these cases would have record of the reasoning behind the dismissal.

Mr. Romley noted that the City Clerk would not receive anonymous complaints and that this wording should be included in the recommendation. Judge Gass also added that language was needed to specify exactly when a case would become open and would no longer be confidential. He stated that after the case would be kept confidential for the duration of the investigation only.

In response to a question from Mr. Goad, Mr. Romley clarified that all voting with regards to an open investigation would need to be done in public, in accordance to Open Meeting Laws, and executive sessions could be used by the independent review board to enter private discussions. Mr. Brown stated he would work on creating the language necessary to clarify the use of executive sessions.

Mr. Romley voiced some concern with the matter of responding to a filed complaint. He stated that it was not clear that the respondent would be the only one responding to the filing by the investigation. Judge Gass also voiced concern with the wording, suggesting that responding should only be required if an investigation is going to be pursued. The subcommittee agreed with this, noting that frivolous charges would not have to be addressed as it would be unnecessary.

Judge Gass volunteered to work with Mr. Brown on drafting the revision suggestions made by the subcommittee so the recommendations are as clear as possible.

Mr. Romley noted the necessity for language that would allow for the commission to remain stayed until after a given investigation is complete if a crime has been committed. He stated that this would allow for each case to be given its fair due and would protect the purity in the investigation process. Judge Gass suggested to the subcommittee that this become a separate subsection for added clarity.

In response to the formal hearing process outline, Ms. Ho noticed the lack of discussion on what occurs if the accused party enters into a consent decree. She suggested that language be added to explain the consent decree process. Mr. Romley agreed and moved that this section be added to the recommendation. He also stated that a consent agreement should not be offered to any case where there is significant probable cause. This would require an investigation to occur before any negotiations can be made. Mr. Brown will make changes to the recommendations to reflect this change. Judge Gass also suggested that Mr. Brown refer to Arizona Senate and House of Representatives investigation process language for additional assistance.

The subcommittee asked City staff to create a flow chart for the investigation process so that all parties, even those without a legal background, could easily understand the proposed investigative process.

Ms. Ho noted that language was needed for the recommendations to prohibit the petition for review upon entering the consent. She also stated that it should be made known that all consent agreements must pass through Council.

Mr. Romley finished the review of the recommendations draft presented by Mr. Brown by stating the need for another task force or group to look into the numerous complaints brought forward during public comment session in previous meetings. He stated that there was significant concern raised by these comments and his task force simply did not have the time to devote to these numerous concerns.

#### **4. Adoption of Subcommittee Recommendations**

No motion to adopt subcommittee recommendations was made as significant revisions were needed before a vote could be passed.

#### **5. Future Agenda Items**

Mr. Romley noted that the next meeting would be a meeting with the full task force. He stated that the bulk of the meeting's agenda would be centered around presenting the work done by each subcommittee on the draft report. The group will review all recommendations made as a whole beginning at the next meeting.

**6. Next Meeting Date**

No future meeting date for the subcommittee was established. The next meeting date of the full Task Force is Monday, November 26, 2012.

**7. Adjournment**

A **MOTION** was made by Mr. DeMuro and **SECONDED** by Judge Gass to adjourn the meeting, **MOTION CARRIED UNANIMOUSLY (3-0).**

The meeting was adjourned at 7:00 p.m.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, November 26, 2012**

Adams Street Training Center, 304 West Adams Street, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member; Ernest Calderon, Member; Michael DeMuro, Member; Elizabeth Finn, Member; David Gass, Member; and, Cecil Patterson, Member

Absent: Brandon Goad, Member; Bill Hardin, Member; Melissa Ho, Member

Also

Present: Jeff Stapleton, Senior Policy Advisor - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human Resources Director, Tiana Roberts, Management Assistant II (Recording Secretary), and Theresa Faull, Administrative Assistant II - Human Resources Department; and Daniel L. Brown, Acting Chief Counsel – Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, November 26, 2012, in the Adams Street Training Center located at 304 West Adams Street, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:45 p.m.

**2. Approval of October 29, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes**

A **MOTION** was made by Judge Finn and **SECONDED** by Judge Patterson to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (6-0)**

**3. Approval of November 19, 2012, Subcommittee on Elected Officials and Boards and Commissions Members Meeting Minutes**

A **MOTION** was made by Mr. DeMuro and **SECONDED** by Mr. Calderon to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY AMONG THE SUBCOMMITTEE MEMBERS PRESENT (3-0)**

**4. Approval of November 19, 2012, Subcommittee on Employees, Volunteers and Hearing Officers Meeting Minutes**

Judge Finn moved to amend the minutes to correct the reference to the meeting date, replacing "Thursday" with "Monday".

A **MOTION** was made by Judge Finn and **SECONDED** by Judge Patterson to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY AMONG THE SUBCOMMITTEE MEMBERS PRESENT (3-0)**

Judge Gass joined the meeting.

Mr. Romley thanked staff for their work on the subcommittees and noted presentations will be made by each subcommittee about the specific recommendations.

## **5. Presentation of Employees, Volunteers and Hearing Officers Subcommittee Recommendations**

Judge Finn, Subcommittee Chairperson, presented information on the work of the Employees, Volunteers and Hearing Officers Subcommittee. The presentation included information and discussion on the following items:

- Charge of the Subcommittee: Identify gaps between the application of ethical standards and best practices as it applies to employees, volunteers and hearing officers.
- Subcommittee members: Judge Elizabeth Finn, Chairperson; Tim Burke, Member; Bill Hardin, Member; and Judge Cecil Patterson, Member.
- Subcommittee meeting dates: November 8, November 15, and November 19.

### **RECOMMENDATIONS**

- Update City's HR website to include ethics-related resources.
  - This information would include Frequently Asked Questions (FAQs), ethical dilemmas, ethics-related policies and procedures, and contact information.
- Add mandatory and periodic ethics training.
  - Training would occur every two years and include the then current Top 10 ethical dilemmas and/or changes (e.g. information and technology)
  - Classes would be compiled of both court and non-court employees

In response to a question from Mr. Romley regarding training for supervisors, Ms. Smith stated new supervisors are required to participate in supervisory training within two years of appointment to a supervisory position. Ms. Smith also noted any City-wide ethics training would include supervisors as well as rank and file employees. Judge Finn stated the Subcommittee did not make a distinction between supervisors and line staff in applying the training recommendation, but noted enhanced ethics training could be developed for supervisors and above. Mr. DeMuro asked if the supervisor training would be focused on understanding the ethics rules or how supervisors should enforce the rules, to which Ms. Smith stated the training would encompass both. Mr. DeMuro recommended a narrow approach on the supervisory latitude, e.g. if the supervisor has doubts they should take it to another level, such as Human Resources (HR). Judge Gass stated there should be a point of contact that supervisors can call with ethics-related questions.

- Update the City's HR website to include information regarding the Civil Service Board (CSB) and progressive discipline.
  - Judge Finn noted this recommendation addresses comments from union representatives regarding the CSB and understanding protocol and the discipline process. Judge Patterson stated the roles and relationships of CSB members and staff should be included on the site. Judge Finn stated she believed progressive discipline

needed to be explained to employees, noting that not all progressive discipline is negative but often includes management's commitment to assist the employee.

- Add information to the Planning and Development Department (PDD) website regarding ethics standards for Zoning Hearing Officers.
  - Judge Finn stated this is a very narrow portion of the law that requires specific expertise and there are only certain people who have that knowledge who can serve as hearing officers. She explained professional responsibility standards govern lawyers and they are held to a much higher standard. She stated this information needs to be added to the website so the public will know there are two other entities (Supreme Court and State Bar) which govern the conduct of these hearing officers.
  - Judge Finn stated precedent was noted as an issue by citizens. She explained the Subcommittee discussed developing a publication of zoning opinions on the website but noted this is already in development by PDD with an expected implementation date of early next year.

Mr. Romley stated the City previously paid for hearing officers but now utilizes volunteers which can give rise to perception issues, regardless of whether there is an actual conflict of interest. Mr. Romley noted this information could potentially be joined with the work of the Elected Officials Subcommittee regarding hearing officers. Judge Finn stated the perception issue was discussed among the Subcommittee and although the perception issue may still be there, the public will be informed. Mr. Romley stated paid hearing officers are one way of minimizing the perception.

Judge Gass stated the Elected Officials Subcommittee focused on transparency and recommended anyone serving as a hearing officer provide a list of active matters pending before the City in the zoning area. Judge Finn stated the Subcommittee addressed that issue. Mr. Burke explained most lawyers cannot mention matters they are working on and much of the work in this area is done in advance of formal filings. Judge Patterson stated, pending a formal filing, an attorney will not disclose his/her cases.

Mr. DeMuro asked if previously the hearing officer was a full-time paid position, to which Ms. Haggerty confirmed and clarified the position was not an attorney. She added due to budget issues and lower caseload volume, the paid position transitioned to a voluntary position. Mr. DeMuro proposed asking the City to revisit this as a budgeted position. Judge Finn stated the option of a part-time position with the individual agreeing not to work in the zoning area; although she noted an individual may not desire to give up practicing in the area because it is so specialized and lucrative. Mr. Burke stated that although hearing officers who are zoning attorneys act in good faith to make fair decisions, they will likely be influenced by the history of their practice and their clients; therefore, it may not be possible to get the impartiality this job requires. He added this will require revisiting the budget issue. Judge Patterson stated it could be among the recommended options as a high priority. Mr. Calderon recommended the Task Force make a direct recommendation without regard to the budget. Mr. Romley noted the next draft of the report will include a recommendation that the City return to paid hearing officers in addition to the recommendations regarding developing professional responsibility standards and formal zoning interpretations.

- Revise the City's Ethics Handbook and gift policy.
  - Judge Finn stated this recommendation includes updated information regarding new or revised policies, supervisory approval on receipt of gifts, with supervisory judgment on conflict or appearance of conflict, and token gifts of minimal value allowed to groups. Mr. DeMuro stated employees should not have a broader policy than elected officials; rather, the policies should be consistent. Mr. Romley stated elected officials are prohibited by state law to accept event tickets. Mr. Burke asked about a gift to an employee from someone not doing business with the City and stated there may be some gray area about whether an appearance of a conflict is present and if there is no conflict, it should not prohibit the receipt of the gift. Mr. Romley noted the Task Force's final report should recite the City's current gift policy regarding declining gifts that give the appearance of a conflict. Judge Finn reiterated token gifts of minimal value provided to large groups of employees would be allowed.
- Change the draft social media policy.
  - Judge Finn discussed the guidelines that would be provided to employees regarding social media. She addressed the types of posting violations on an employee's personal social media site that would constitute allowing a supervisor access to the site for investigation purposes. The Task Force had a discussion regarding the legality of requiring employees to provide access to their personal social media site upon determination of a policy violation and/or postings that could create liability for the City. Ms. Smith stated the City trains supervisors that they have a duty to act if policy violations are brought to their attention. Judge Finn noted the City should be able to investigate issues when they are aware of violations. Judge Gass noted judges are responsible for their employees' social media activities. Mr. Brown stated there should be a distinction between criminal and non-criminal investigations.
- Add ethics-related questions to interview selection process or use assessment tool.
  - Judge Finn noted there are many assessment tools available; however, at a cost therefore departments should have flexibility to use questions or an assessment tool.
- Add ethics requirements for volunteers.
  - Judge Finn explained this recommendation includes adding an ethics statement to the volunteer website and volunteer application; requiring ongoing volunteers to participate in ethics training; and, monitoring compliance with the ethics training requirement. In response to a question from Mr. Romley regarding whether there are different ethics standards for volunteers versus staff, Judge Finn noted the intent was that the same standards would apply to both. Mr. Romley stated that information should be included in the report.

## **6. Presentation of Elected Officials and Boards and Commissions Members Recommendations**

Mr. Romley, Subcommittee Chairperson, presented information on the work of the Elected Officials and Boards and Commissions Members Subcommittee. The presentation included information and discussion on the following items:

- Charge of the Subcommittee: Provide clarity on questions regarding ethical standards for elected officials and board/commission members; enforcement of those standards; process for reporting and enforcement; and, types of penalties for violations.
- Recommendations organized by the following categories: general principles; gift policy; ethics committee/enforcement mechanism; and, addressing future ethical issues.

## RECOMMENDATIONS

- General Principles
  - Mr. Romley stated ethics standards must apply as equally as possible to all officials, board members, employees and volunteers. He added this recommendation includes publishing a new, separate ethics handbook for elected officials and boards and commission members.
- Gift Policy for Elected Officials
  - Mr. Romley noted gifts over \$50 shall be disclosed within 48 hours of receipt and subsequently searchable in an online database. He added disclosures for gifts received will remain on file during the official's full term in office and for two years after leaving office. Mr. Romley noted there is no disclosure requirement for gifts under \$50. Mr. DeMuro stated everyone should be held to the same standard and the Task Force should remove any obvious contradictions in the recommendations of the two subcommittees. Mr. Romley noted recent examples in the headlines that create perception issues. Judge Finn stated the proposal for employees was not different from the proposal for elected officials. The Task Force discussed similarities between this proposal and the proposal for employees. Mr. Burke stated under the Employee Subcommittee recommendation, employees cannot accept gifts if there is a conflict. He added if no conflict exists and the employee wants to accept a gift, supervisory approval is required regardless of the dollar amount with the exception of token gifts given to a large group. Mr. DeMuro asked if sporting/athletic or entertainment events would be removed from the Ethics Handbook as allowable declared gifts, to which other Task Force members concurred noting tickets are not considered token gifts.
- Ethics Committee
  - Mr. Romley stated the purpose of the Committee is to oversee investigation and enforcement of Ethics policy applicable to elected officials and boards/commissions members. He added the Committee should have ability to appoint an independent investigator and hearing officer.
  - Mr. Romley explained the Committee should be truly independent and void of politics. He outlined the makeup of the independent five-member Commission: 1 member appointed by the Mayor, 1 member appointed by the City Council, 1 member appointed by the Presiding Judge and those three members select 2 citizen members who are residents of Phoenix. He stated members will have staggered 3-year terms, with service unpaid, but reimbursement for reasonable expenses incurred. Mr. Romley stated a change to the original recommendation to have vacancies filled by the existing membership is to have vacancies filled using the same process that currently exists for appointment of judicial officers.

- Charter Amendments and Council Action

- Mr. Romley explained that some recommendations that may require Charter Amendments or Council action include the City bearing all reasonable commission costs related to an investigator and hearing officer, allowing removal of an elected official for an ethics violation and allowing the commission to impose a fine in an amount of \$10,000 per ethics violation. Mr. Burke stated a fine of that magnitude almost reflects a criminal violation occurred and if the violation is that serious, those fines can already be imposed through criminal prosecution. Mr. Romley stated \$10,000 does not have to be the final amount. Judge Finn stated imposing any fine could be problematic. Judge Gass clarified the commission can only recommend action, Council would have to approve the action. Mr. Calderon expressed he supported the large financial fine. The Task Force discussed requirements for paying the fine, such as it cannot come from a campaign account, or, if the fine is not paid the official cannot run for office again. Mr. Burke stated the Arizona Bar can collect costs and obtain restitution if a lawyer has caused damage, but no fine is included in the discipline.

- Enforcement Mechanism

- Mr. Romley discussed the need for a process by which a complaint would be heard and addressed. Mr. Romley referred the Task Force to a schematic outlining the complaint process. Regarding rules of evidence, Judge Finn indicated rules of evidence should apply if an elected official can be censured, fined, or removed. The Task Force discussed the applicability of rules of evidence and clear and convincing evidence. Mr. Romley stated the item could be modified through a motion upon review of the final report by the Task Force. Judge Gass stated if a special action is brought, does it stay the action, to which Mr. Romley concurred it would be staid. Mr. Romley further stated if the matter is potentially criminal, it should be referred to the appropriate agency for investigation and the matter would be staid until the criminal matter is concluded. In response to a question by Mr. DeMuro regarding the number of Council members required for approval of a commission recommendation, Mr. Brown replied that for Council majority, in general, the City Charter says two-thirds.

- Addressing Future Ethical Issues for the City of Phoenix

- Mr. Romley stated the City should conduct an ethics review every four years; and this should be an ongoing process. He added this Task Force created a framework that can be built upon.

Separate from the presentation, Mr. Romley asked the Task Force if social media needs to be addressed for elected officials. Upon a question from Mr. DeMuro regarding why social media rules for elected officials would be different from employees, it was noted that some difference is necessary because elected officials need to reach out to constituents using social media. Judge Gass recommended including a statement that items discussed in executive session cannot be placed on social media. Mr. Romley stated staff will outline the obvious social media guidelines in the report.

## **7. Future Agenda Items**

The Task Force concurred the next meeting will be December 10, 2012 in order to have time to review the draft report and provide feedback. Any comments on the report should be sent to Dan Brown. Judge Patterson noted he will not be present at the December 10th meeting but will attempt to teleconference into the meeting. Final adoption of the report will occur at the December 17, 2012 meeting.

Judge Gass stated the report should include wording that recommendations do not reflect individual opinion; rather, it is the work of the entire Task Force. Judge Gass commended the Employee Subcommittee on their work. Mr. Romley invited the Task Force members to attend the presentations at City Council and/or City Council Subcommittee meetings, the dates for which are in the process of being determined.

Judge Finn asked if Mesa's policy had been sent to the Task Force. Mr. Brown stated he will re-send the Mesa information to the Task Force.

## **8. Call to the Public**

No comments were received.

## **9. Next Meeting Date**

The next meeting date is December 10, 2012.

## **10. Adjournment**

A **MOTION** was made by Judge Finn and **SECONDED** by Mr. Burke to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (7-0)**.

The meeting was adjourned at 6:50 p.m.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, December 10, 2012**

Adams Street Training Center, 304 West Adams Street, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member; Ernest Calderon, Member; Michael DeMuro, Member; Elizabeth Finn, Member; Brandon Goad, Member; Melissa Ho, Member; and, Cecil Patterson, Member (via teleconference)

Absent: David Gass, Member; Bill Hardin, Member

Also

Present: Jeff Stapleton, Senior Policy Advisor and Carolyn Augustyn - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human Resources Director, Tiana Roberts, Management Assistant II (Recording Secretary), and Theresa Faull, Administrative Assistant II - Human Resources Department; and Daniel L. Brown, Acting Chief Counsel – Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, December 10, 2012, in the Adams Street Training Center located at 304 West Adams Street, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:32 p.m.

**2. Approval of November 26, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes**

Judge Finn moved to amend the minutes to correct page 3, changing the term "Superior Court" to "Supreme Court", in reference to one of the entities which govern the conduct of hearing officers.

A **MOTION** was made by Judge Finn and **SECONDED** by Mr. DeMuro to approve the amended meeting minutes. **MOTION CARRIED UNANIMOUSLY (7-0)**.

**3. Review of Draft Version Report of Task Force Recommendations**

Mr. Romley thanked Mr. Brown for his work on the draft Task Force Report. The Task Force reviewed the report with discussion/changes noted below by topic and page:

**Cover Letter**

Mr. Romley explained the sunset date for the Task Force has been extended for the purpose of obtaining input from City Council, City management and staff. He stated the input would be provided to the Task Force for consideration. He noted because of this, the reference to thirteen public meetings will need to be modified, as there may be as many as fifteen meetings.

Mr. Brown noted the reference to thirteen meetings was inclusive of meetings through December 17.

### **Acknowledgements**

No changes were noted.

### **Table of Contents**

Mr. Brown stated page 9 was missing from the Table of Contents and he would update this area upon finalization of the report. Mr. Romley recommended, and the Task Force concurred, major topic areas be noted on a separate, new page.

Mr. Brown stated the reference to additional notebooks from the appendices area was removed due to discussion about publishing the report online with potential links to the appendices and one hard copy of the report would be available. Mr. Romley noted the report should be made available to the public in as simple a form as possible.

### **Executive Summary**

Page 1: No changes were noted.

Page 2: In reference to the first bullet point, Ms. Faull stated there is currently no ethics training in place for volunteers. Mr. Romley requested a sentence be added to that effect.

Page 3: No changes were noted. Mr. Romley asked to return to page 3 during the page 4 discussion and stated there is a contradiction regarding paid hearing officers versus volunteer hearing officers (last bullet point on page 3) which he would discuss in more detail during review of the specific recommendation.

Page 4: No specific changes were noted; however, Mr. Brown stated he will modify any repetitive statements.

Judge Patterson joined the meeting via teleconference. In response to a question from Mr. Romley, Judge Patterson stated he had no recommended changes prior to page 4.

### **Glossary**

Page 5: No changes were noted. Mr. Romley stated he had asked Mr. Brown to change all references, throughout the report, from "officials" to "elected officials" for clarification.

### **Introduction**

Page 6: No changes were noted.

Page 7: After discussion regarding the date reference in the fourth paragraph, it was decided no changes were needed to text; however, Mr. Brown stated the topic area for "Task Force: Its Charge, Approach, and Findings" will move to a new page.

### **Task Force: Its Charge, Approach and Findings**

Page 8: Mr. Romley stated the reference to the sunset date in the first paragraph should be clarified to note the extension of the sunset date by the Mayor. Grammatical corrections to date references were made under Section B, "Approach".

Ms. Faull noted the reference to a Phoenix City Council subcommittee should include the term

“Veterans”, e.g. Public Safety, Veterans, Transparency, and Ethics Subcommittee. This correction will be made throughout the report.

Page 9: Discussion occurred regarding Section 1, Conflicts of Interest-Different Standard for Relationships. It was decided, in reference AR 2.91, a sentence(s) would be added to clarify the Phoenix Charter allows a broader definition than state law and that AR 2.91 expanded the scope for employees, but not for elected officials. It was also noted the final date for report adoption, noted at the top of the page, should be revised to state “to be determined.”

Page 10: Mr. Romley stated supervisory training should be mentioned in Section 5.

### **Recommendations for the Entire Organization**

Page 11: No changes were noted.

### **Recommendations for Elected Officials and Board Members**

Page 11: “Elected” was added to “official” on the second line of Recommendation No. 2. Mr. Romley asked for input from the Task Force on whether social media should be included as a recommendation for elected officials. After discussion, it was determined a recommendation would be added for further review of social media related to elected officials.

Page 12: The Task Force discussed using the Judicial Selection Advisory Board (JSAB) as an alternative for selecting Ethics Commission Members. It was determined the JSAB would be utilized for making recommendations to the City Council on Ethics Commission Members; the criteria for members would not change.

Page 13: Mr. Romley recommended grammatical changes to Recommendation No. 9. Following discussion regarding imposing a fine in Recommendation No. 10, it was determined the fine amount would remain in the draft report. Mr. Goad recommended removing “or board member for an ethics violation” from the last sentence in Recommendation No. 11, since a provision already exists in the City Charter for the City Council to remove board members.

Pages 13-16: After discussion of Recommendation No. 12, Sections 1 through 7, regarding filing a charge and the review/investigation process, the Task Force agreed the flow of the process needed to be fine-tuned. Mr. Brown stated he would work on modifying the process based upon the Task Force’s discussion and he would provide a flow chart after the meeting. Judge Finn raised the question whether the rules of evidence needed to be applied in the process. After discussion, the Task Force concurred rules of evidence should apply and to establish criteria stating the Hearing Officer must be a good standing member of the Arizona Bar Association. Mr. Calderon recommended, and the Task Force concurred, in Section 7, Council Review and Action, all references to “90 days” be changed to “30 days”. Also, in this section, the Task Force discussed the issue of whether a Council vote by “two-thirds” be changed to a different ratio. Mr. Brown stated two-thirds was consistent with the City Charter at times when a supermajority is required and it was also best practice.

Mr. Calderon left the meeting

The Task Force agreed to change the language to state the “majority” of vote excluding the

respondent(s).

In response to a question by Mr. Goad, Mr. Brown stated the City Manager sets the agenda for City Council Formal meetings and Executive Sessions and the report would go on the Formal Agenda.

### **Recommendations for Employees and Volunteers**

Mr. Goad expressed he would like the report to contain a recommendation the City review the policy of employees not being allowed to participate in elections. Ms. Smith stated the premise behind the policy of not allowing employees to get involved in City elections is to protect employment based on the individual's merit rather than political affiliation, support or influence.

Mr. DeMuro left the meeting.

Mr. Goad stated a Citizen United ruling allows others, within a limited capacity, to get involved in elections and he believed a recommendation for review should be included in this report. In response to a question by Mr. Romley requesting clarification of which type of elections the City policy applied to, Ms. Smith stated City elections. Judge Finn stated this topic was not discussed or evaluated during the subcommittee meetings. She recommended this topic be forwarded to the League of Cities and Towns, which may be a more appropriate body to evaluate it from a statewide perspective. Mr. Burke stated he believed it should be reviewed but not necessarily as an ethics issue but rather an employee rights issue. He agreed another body may be more suited to evaluate this topic. Mr. Romley stated since this topic was not considered earlier in the subcommittee discussions and other issues may be tied to it, he was not in favor of adding it to the report.

Page 16: No changes were noted.

Page 17: Mr. Romley stated Recommendation 4 needed greater clarity, as it appeared there was an inconsistency in the recommendation. Mr. Brown stated he could separate the language into two separate recommendations: the first one being to have paid zoning hearing officers, and the second one being the website language if zoning hearing officers are not paid.

Page 18: No changes were noted.

Page 19: No changes were noted.

### **Conclusion**

Page 20: No changes were noted.

### **Appendices**

Page 21: No changes were noted.

## **4. Future Agenda Items**

Mr. Romley stated the Mayor has continued the charge of the Task Force. Mr. Stapleton stated the new sunset date is February 28, but to conduct a review of feedback received by January

28. Mr. Romley explained the December 17 meeting has been cancelled and the next meeting date will be January 7, at which time he expects the Task Force to review the received input.

## **5. Call to the Public**

Comments were received from Mr. John Rusinek. He provided his background as a 35 year employee of Salt River Project (SRP) as a power plant maintenance manager. He stated an area he has not heard discussed was the process for when an infraction occurs and the severity of discipline. He provided an example of the process used at SRP, which included arbitration and costs being shared 50/50 between the union and company. He expressed the process being discussed by the Task Force appeared cumbersome. Mr. Romley thanked Mr. Rusinek for his comments.

Comments were received from Mr. Pat Vint. He provided his background as a Phoenix resident for 60 years and in business for 56 years. He expressed concern at City Council members either not remaining until the end of City Council meetings to hear citizen comments or not being allowed to respond to comments. He stated he cannot carry a cane because he has been perceived as a threat to certain individuals and he now has a police record. He expressed frustration over not being provided police records he has requested. He thanked the Task Force for its work. Mr. Romley thanked Mr. Vint for his comments.

## **6. Next Meeting Date**

It was noted a meeting would not be held on December 17. The next meeting date is January 7, 2013. The meeting will be held at 4:30 p.m. at the Adams Street Training Center.

## **7. Adjournment**

A **MOTION** was made by Mr. Burke and **SECONDED** by Ms. Ho to adjourn the meeting.  
**MOTION CARRIED UNANIMOUSLY (6-0)**.

The meeting was adjourned at 6:47 p.m.



**MEETING MINUTES  
ETHICS REVIEW AD HOC TASK FORCE  
Monday, January 7, 2013**

Adams Street Training Center, 304 West Adams Street, Phoenix

Present: Rick Romley, Chair; Tim Burke, Member; Ernest Calderon, Member; Michael DeMuro, Member; Elizabeth Finn, Member; David Gass, Member; Brandon Goad, Member (via teleconference); Bill Hardin, Member; Melissa Ho, Member; and Cecil Patterson, Member (via teleconference)

Absent: none

Also

Present: Jeff Stapleton, Senior Policy Advisor and Carolyn Augustyn - Mayor Greg Stanton's Office; Janet Smith, Human Resources Director, Kathy Haggerty, Deputy Human Resources Director, Tiana Roberts, Management Assistant II, and Theresa Faull, Administrative Assistant II (Recording Secretary) - Human Resources Department; and Daniel L. Brown, Acting Chief Counsel – Law Department

**1. Call to Order**

The Ethics Review Ad Hoc Task Force met on Monday, January 7, 2013, in the Adams Street Training Center located at 304 West Adams Street, Phoenix, AZ. Mr. Rick Romley, Task Force Chairperson, opened the meeting at 4:38 p.m.

**2. Approval of December 10, 2012, Ethics Review Ad Hoc Task Force Meeting Minutes**

A **MOTION** was made by Mr. DeMuro and **SECONDED** by Ms. Ho to approve the meeting minutes. **MOTION CARRIED UNANIMOUSLY (7-0)**.

**3. Discussion of City Budget Process**

Mr. Romley explained why this item was added to the agenda and stated City staff will provide detailed information on the City's budget process and review the budget documents provided to Task Force members. Mario Paniagua, Budget and Research Department Director, introduced himself and Jeff DeWitt, Chief Financial Officer and Finance Department Director.

Judge Finn joined the meeting.

Mr. Paniagua explained, at the highest level, City budget and spending is dictated by the Arizona State Constitution and Article 9 states all tax dollars must have a public purpose. He added the City Charter reiterates this language.

Mr. Calderon joined the meeting.

Mr. Paniagua stated the gift clause noted in Article 9 includes similar language. He explained the City Charter outlines spending and items requiring City Council approval, to include

payments of \$8,600 which are approved by ordinance. He stated Titles 9 and 42 of Arizona State law have charter provisions regarding how budgets are approved at the city and state levels. He added the processes are required to be very open and the public must be notified.

Judge Gass joined the meeting.

Mr. Paniagua referred Task Force members to a document in their packets related to the 3 + 9 technical review that occurs three months into the fiscal year. He stated the City, including the Mayor's Office and the City Council, goes through a very extensive and detailed budget review. He explained each department starts every line item at zero dollars. He stated each City Council office has a "miscellaneous" line item which has been referred to as a discretionary budget. He explained this line item does not necessarily have a specific allocation each year but, instead, is used for citizen outreach or business travel with a public purpose.

Mr. DeWitt addressed the Task Force regarding purchasing controls and stated the Finance Department has internal controls in place to ensure the gift clause is not violated and expenditures meet public spending requirements. Mr. DeWitt noted Michelle Kirby, City Controller, was also present at the Task Force meeting.

Mr. DeWitt explained the process and types of documents departments used for purchases under and over \$1,000. He stated each department has authorized signers who approve purchases and for the City Council and Mayor's Office it is the Executive Assistant to the Council and Mayor's Chief of Staff, respectively. He described the process for ensuring signatures are appropriate. He added if Finance staff has questions about a department's purchase, such as what is the benefit to the City for this purchase, then it is returned to the department.

Mr. DeWitt stated a purchase of \$8,600 or more requires a payment ordinance approved by the City Council at a formal Council meeting. He added these invoices are not paid unless City Council approval is obtained.

Mr. DeWitt explained Administrative Regulation (A.R.) 3.10 outlines the general purchasing procedures whereas A.R. 3.41 outlines the procedures for business travel. He described the approval process for City business travel. He explained the process for reimbursement of expenses: receipts must be submitted, alcohol is not reimbursable, appropriate food amount, and the room rate must be within the Federal Government's General Services Administration (GSA) rate, or an exception must be provided if not within GSA rate (e.g. conference hotel.). He stated every receipt is checked to make sure it is appropriate and receipts are reconciled to the travel form. He added travel is one of the most heavily reviewed expenses in the City.

Mr. Calderon inquired, for example, whether the City Manager would approve a travel request to Dubai and a stay in a luxury hotel by the Mayor. Mr. DeWitt replied the City Manager would need to review the request for appropriateness, such as whether the trip was required for economic development. He added Finance would request an explanation for a hotel rate beyond the GSA rate. He explained Ms. Kirby often responds to public records requests for copies of every travel receipt, which are kept on file for five years. He added the Arizona Republic requests quarterly reports on expenses.

In response to a question from Mr. Calderon regarding whether the City Manager has ever turned down a request, Mr. DeWitt replied he did not know. He explained if no travel paperwork is filled out there would be no record of the request.

Mr. Calderon asked Mr. Brown if a denied travel request is public record, to which Mr. Brown confirmed if the City had the record and it was created in the course of public administration, it would be a public record. Mr. Romley noted there are certain requirements to keep these types of documents and would assume the City would maintain the documents.

Mr. Romley inquired if the \$8,600 approval limit is cumulative or for individual expenditures, to which Mr. DeWitt stated it is one payment to a single vendor.

Mr. Romley inquired whether Phoenix was identified as the city purchasing monogrammed shirts, to which Mr. Stapleton stated it was the City of Surprise, not Phoenix.

In response to a question from Mr. Romley, Mr. DeWitt stated staff does reject purchases and a common rejection is food purchases.

Mr. DeMuro inquired why the discretionary budget amounts noted in the newspaper article differed for the Mayor's Office compared to the City Council offices, to which Mr. Paniagua replied the difference could be due to constituent outreach events. In follow-up, Ms. Smith confirmed the amounts noted are total annual budgets. Mr. Paniagua explained not all City Council offices have the same level of miscellaneous funds; each Council office opts to take budget cuts in different ways, some will reduce staffing and others will reduce miscellaneous spending.

In response to a question from Mr. DeMuro, Mr. Paniagua confirmed each Council district has a different budget.

Mr. DeMuro stated public perception is an issue and the objective is to ensure the public has confidence in what is being done at the City, and, the intent is to make the process transparent.

Mr. Romley noted the newspaper article was not flattering and asked if staff has recommendations on how to deal with these types of perception issues. Mr. Paniagua stated the City has done a very good job of keeping controls in place but, unfortunately, when cities are lumped together in one newspaper article it can affect the public's perception. He added these areas in the City Council budget are frequently reviewed by reporters and are very transparent; there is nothing hidden.

Mr. DeWitt stated both he and Mr. Paniagua report to the City Manager and they are free to question the City Council on items they believe are inappropriate. He expressed the budget gets a very hard review, the process is very thorough and scrutiny is high.

Judge Finn inquired whether a list was available of those items that are appropriate for public funding. Ms. Kirby replied there is not a particular list. Mr. DeWitt stated staff has clarified appropriate spending when required, but there is not a list of everything that can be purchased

with City funds.

In response to a follow-up question from Judge Finn, Mr. DeWitt stated the travel A.R. (3.41) does list out appropriate expenditures; however, the procurement A.R. (3.10) is broader. Judge Finn stated a list of the typical, common types of things public money can be used for may assist with the perception issue and would probably not require a change in current processes.

Mr. Romley inquired if it is against the City Charter for City Council members to influence the employment of public staff, to which Mr. Brown replied in the affirmative. Ms. Smith clarified both, the Mayor's Chief of Staff and the Executive Assistant to the City Council report to the City Manager.

Judge Gass questioned whether the Task Force needed to review how the provision for non-city funded travel in the travel A.R. (3.41) applies.

#### **4. Review of Edits to the Draft Report of Task Force Recommendations**

Mr. Romley introduced Mr. Brown to review and discuss revisions to the draft report of Task Force Recommendations.

##### **Executive Summary**

Page 1: The reference to volunteers in the fourth bullet point was removed.

Page 3: Under "Recommendations for Elected Officials and Board Members", the word "impose" was replaced with "recommend" in the fifth bullet. A **MOTION** was made by Mr. Romley, and **SECONDED** by Mr. Calderon, to keep this bullet as written regarding the fine amount. The **MOTION CARRIED (7-3)**.

Page 3: A **MOTION** was made by Judge Finn and **SECONDED** by Mr. Romley to revise the sixth bullet to allow suspension as an option for an ethics violation in regard to elected officials or board members. **MOTION CARRIED UNANIMOUSLY (10-0)**.

The Task Force concurred the sixth bullet should be changed to note the Commission can "recommend" to the City Council suspension or removal, not "impose" suspension or removal, of an elected official or board member.

Page 3: Under "Recommendations for Employees and Volunteers", the word "bi-annual" was changed to "biennial" in the second bullet point.

Page 4: Mr. Goad recommended adding a bullet point stating the City should re-examine employees being allowed to participate in City election activities. Mr. Brown was assigned to develop specific language to that effect.

Mr. Calderon left the meeting.

Mr. DeMuro asked whether the City would still fall within state law if that policy changed. Mr. Brown stated additional research would be needed; however, in general, employees cannot use

public property or conduct election activities on City time. He added, currently City employees cannot sign a petition for re-election or recall. Mr. Romley stated he would support re-examination of the issue by a body other than the Task Force.

Page 4: The words “strongly recommends” were added to the sixth bullet point regarding hearing officers in reference to the Task Force’s opinion that hearing officers for zoning and planning matters should be paid. Also, the phrase “appearance of undue influence” was replaced with “perception of a conflict of interest”.

Mr. Calderon rejoined the meeting.

### **Introduction**

Page 6: Minor grammatical changes were made to the first paragraph.

Page 9: The last sentence of the second full paragraph which referenced a publishing date of the Task Force Report that was no longer accurate was removed.

Page 10: The word “volunteers” was removed from the end of the first paragraph, top of page.

Page 10: The first sentence of the first paragraph under “Lack of an Ethics Investigation and Enforcement Process for Elected Officials” was modified by replacing the phrase “to remove an elected official from office, if necessary, for ethics violations,” with “nor a process by which progressive sanctions can be imposed.”

Page 11: In the first paragraph under “Lack of Ongoing Training and a Comprehensive Ethics Website as a Resource”, “volunteers” was removed, and, “including supervisors” was added after “employees”. Also, the term “mandatory” was added to the sentence regarding follow-up or supplemental training for ethics (e.g., follow-up and supplemental training is available, but it is not mandatory).

### **Recommendations for the Entire Organization**

Page 14: Recommendations 11 and 12 will be reworded to conform to changes agreed to under the Executive Summary.

Page 15: Change all references to “allegations” to “request for inquiry” and delete “with prejudice” in Recommendation 13.

Mr. Hardin left and, shortly after, rejoined the meeting.

Page 16: Paragraph 3b and the first paragraph under Section 4 will be revised to conform to changes agreed to on Page 15, e.g. changing “allegations” to “request for inquiry”.

Page 18: Under “Council Review and Action”, a phrase was added at the end of the first paragraph at the top of page 18 stating “and the matter shall be dismissed”.

Page 18: Recommendation 14 was deleted from the report.

Page 19: “Periodic” was replaced with “biennial” in Recommendation 2 regarding ethics training for employees.

Page 23: Mr. Brown will develop wording, following the first paragraph, stating the Task Force has developed an ethics review process; however, elected officials should develop the ethical standards.

The Task Force reviewed and discussed the Proposed Ethics Investigation and Enforcement Process flow chart. The term “allegations” on the flow chart will be replaced with “request for inquiry”. It was recommended the title be changed to clarify the flow chart applies only to elected officials, boards and commissions members and not to employees. For the boxes that state “Less than majority remand to Commission”, the phrase “for further consideration” will be added.

## **5. Review of Feedback Received on Draft Recommendations**

During his discussions with Council members, Mr. Romley stated he received an inquiry about whether a Council member can file a complaint against a City employee who makes allegations against an elected official. In response to the inquiry, Mr. Romley explained the City Manager oversees the disciplinary process for employees. Judge Gass inquired whether it would require a City Charter change, to which Mr. Brown responded possibly.

Ms. Smith relayed feedback received on the social media recommendation regarding employees being required to give supervisors access to their accounts. She explained it would be rare that it would be necessary since, in most cases, the documents or information in question have already been provided to the Human Resources (HR) Department or HR liaison. Judge Finn suggested reviewing that area again to clarify the language.

Regarding supervisors checking publicly-available social media sites during pre-employment background screening, Ms. Smith stated supervisors would need training to ensure they consider only job-related information when reviewing those sites.

Recommendation 7, Social Media Policy, on page 21 was revised to clarify the components of the recommendation, which are outlined by bullet point, are simply noted for the City’s consideration. Also, revisions were made to the sixth bullet point under this recommendation regarding HR’s role and when information might be requested of employees’ personal social media sites.

Mr. DeMuro stated he believes the Task Force has gone beyond where some may have thought and is concerned the Task Force’s recommendations/report may be scrutinized to the point of not being accepted.

Mr. Hardin left the meeting.

Mr. DeMuro stated he believes this review was taken very seriously by the Task Force and would like that point conveyed to the Mayor and Council. He suggested the full Task Force make a presentation to the City Council to appropriately convey the ethics review process and

subsequent recommendations.

Ms. Ho left the meeting.

Judge Finn suggested asking the City Council to report its progress with regard to implementing the recommendations included in the Task Force's report.

Mr. Romley expressed Phoenix falls behind other jurisdictions with regard to ethics enforcement for elected officials. He added a presentation will be made before a televised subcommittee. He suggested the Task Force draft a letter to the City Council, provide a presentation and request the Task Force be kept informed of Council's progress.

Judge Patterson suggested going forward with a vote, providing a formal presentation to the Council subcommittee, and ensure Task Force members are available at the subcommittee meeting to answer questions by the Council.

Judge Gass requested clarification of the Council subcommittee process, to which Mr. Brown explained the Council subcommittee makes a recommendation(s) to the full City Council and the item is placed on a future City Council agenda. He stated there is a cover letter to the Task Force's report to which further comments can be added.

Mr. Romley recapped the recommendation to modify the cover letter, request a presentation before the subcommittee, and request to be kept informed of Council's progress; and, Task Force members will be available to answer questions.

## **6. Potential Adoption of Draft Report**

A **MOTION** was made by Mr. Romley to adopt the report as amended, including all conforming technical requirements as ascertained by Mr. Brown and as provided here; the cover letter be modified to capture the three points outlined above; and, all signatures be included on the cover letter. However, the cover letter will not be finalized until final review and approval by the Task Force Chair.

The Task Force discussed and agreed to January 14, 2013 as the completion date to provide comments to the cover letter.

Mr. Brown stated he will incorporate the Task Force members' comments on the cover letter and reminded the Task Force not to "reply to all" with their e-mail comments.

Mr. Burke **SECONDED** the **MOTION**.

Judge Finn requested further clarification, to which Mr. Brown replied if there are conflicts between the Task Force members' comments to the cover letter he will contact the Chair and make the appropriate edits.

The **MOTION** was **AMENDED** by Mr. Romley to reflect the completion date of January 14 and Judge Finn **SECONDED** the **AMENDED MOTION**. **MOTION CARRIED UNANIMOUSLY (8-0)**.

Mr. Romley thanked the members for their participation on the Task Force. He requested Task Force members attend the City Council subcommittee presentation when it is scheduled.

Judge Gass applauded Mr. Romley for his leadership chairing the Task Force.

## **7. Future Agenda Items**

None.

## **8. Call to the Public**

Comments were received by Mr. Luis Acosta. He thanked the Task Force and expressed frustration about the three minute time limit for comments and being required to wait until the end of the meeting to provide comments. Mr. Acosta also provided comments about the City's purchasing process and expressed concerns with previous City purchases.

Comments were received by Ms. Dianne Barker regarding gifts. She expressed concerns with not being allowed to provide input on the report's recommendations. She also expressed concerns about not being allowed to comment during a specific agenda item.

Mr. DeMuro stated items in the Task Force's report were a direct result of input received from the public.

## **9. Next Meeting Date**

No future meetings scheduled.

## **10. Adjournment**

A **MOTION** was made by Mr. Romley and **SECONDED** by Mr. Burke to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY (8-0).**

The meeting was adjourned at approximately 7:18 p.m.



**City of Phoenix**  
OFFICE OF THE CITY ATTORNEY

**To:** Ethics Review Ad Hoc Task Force      **Date:** July 25, 2012  
**From:** Daniel L. Brown, Acting Chief Counsel  
**Subject:** City of Phoenix Ethics Legal Framework

The attached Phoenix City Charter and City Code Sections constitute the legal frame work for City of Phoenix ethics policies:

**Exhibit A:** Phoenix City Charter XI, Section 1. – Conflict of Interest.  
• Adopts Arizona Revised Statutes for conflicts of interest found in A.R.S. Sections 38-501 and following.

**Exhibit B:** Phoenix City Code Section 2-52 – City of Phoenix Ethics Policy.  
• Applicable to all city officers, and employees, and members of city boards, commissions, committees, and city council.

**Exhibit C:** Phoenix City Code Section 2-53 – Complaints of Ethics Policy Violations by Board, Commission or Committee Members.  
• Not applicable to employees or officers.

**Exhibit D:** Phoenix City Code Chapter 2, Article XXX, Sections 2-1000 and following – Lobbyists.  
• A.R.S. Section 41-1232.08 also applies to the City of Phoenix as a political subdivision of the State.

**EXHIBIT A**

(4 hits)

## CHAPTER XI. CONFLICT OF INTEREST; DISCRIMINATION

### 1 Provisions of State law to apply.

The provisions of the state law governing conflict of interest of officers and employees shall apply.

(Election of 11-9-1971)

State law reference—Conflicts of interest, A.R.S. § 38-501 et seq.

### 2 Discrimination.

No person shall be appointed to, removed from or in any way favored or discriminated against with respect to any City position because of race, color, ancestry, national origin, sex, political or religious opinions or affiliations.

(Election of 11-9-1971)

State law reference—Employment discrimination, A.R.S. § 41-1451 et seq.

**The Phoenix Charter and City Code are current through Ordinance G-5697, passed April 18, 2012.**

Disclaimer: The City Clerk's Office has the official version of the Phoenix Charter and City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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38-501. Application of article

- A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.
- B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.
- C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

**38-502. Definitions**

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.
2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.
4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.
6. "Public agency" means:
  - (a) All courts.
  - (b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.
  - (c) The state, county and incorporated cities or towns and any other political subdivisions.
7. "Public competitive bidding" means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.
8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.
9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.
10. "Remote interest" means:
  - (a) That of a nonsalaried officer of a nonprofit corporation.
  - (b) That of a landlord or tenant of the contracting party.
  - (c) That of an attorney of a contracting party.
  - (d) That of a member of a nonprofit cooperative marketing association.
  - (e) The ownership of less than three per cent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five per cent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five per cent of his total annual income.
  - (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
  - (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
  - (h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.
  - (i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, of any of the following:
    - (i) Another political subdivision.
    - (ii) A public agency of another political subdivision.
    - (iii) A public agency except if it is the same governmental entity.
  - (j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.
11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

38-503. Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

38-506. Remedies

- A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.
- B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.
- C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of section 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

38-509. Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

38-510. Penalties

A. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.
2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

48 TITLE PAGE NEXT DOCUMENT PREVIOUS DOCUMENT

**38-00511. Cancellation of political subdivision and state contracts; definition**

- A. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
- B. Leases of state trust land for terms longer than ten years cancelled under this section shall respect those rights given to mortgagees of the lessee by section 37-289 and other lawful provisions of the lease.
- C. The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.
- D. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.
- E. In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.
- F. Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.
- G. For purposes of this section, "political subdivisions" do not include entities formed or operating under title 48, chapter 11, 12, 13, 17, 18, 19 or 22.

**EXHIBIT B**

(6 hits)

## 2-52 City of Phoenix Ethics Policy.

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its employees and officials, whether elected or appointed. Accordingly, all City officers and employees, members of City boards, commissions and committees and members of the City Council should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City position or powers for improper personal gain.

**Compile Chapter**

(Ord. No. G-3438, § 2)

**Charter reference**—Conflict of interest, ch. XI.

**Cross reference**—Lobbyists, § 2-1000 et seq.; campaign finance and financial disclosure, § 12-1300 et seq.

**The Phoenix Charter and City Code are current through Ordinance G-5718, passed June 13, 2012.**

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**EXHIBIT C**

(6 hits)

**2-53 Complaints of Ethics Policy violations by board, commission or committee members.**

A. Any person who is a resident of the City of Phoenix or who is affected by the actions of a City board, commission, or committee may file with the City Clerk a written complaint containing specific allegations of violations of the City's Ethics Policy by any member of any board, commission, or committee.

B. Within five days of receiving the complaint, the City Clerk shall forward the complaint to the City Manager or his designee.

C. The City Manager or his designee shall appoint an independent Hearing Officer to review the complaint and to conduct any hearings which may be necessary.

D. After the conclusion of a hearing on a complaint alleging a violation of the City's Ethics Policy by a member of a board, commission or committee, the Hearing Officer shall prepare a written report with findings of fact and recommendations. The report shall be provided to the City Manager or his designee for such action as he deems appropriate.

E. Compliance with this Section is not required for the Council to take action pursuant to Section 2-51

**Compile Chapter**

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**EXHIBIT D**

(6 hits)

**ARTICLE XXX. LOBBYISTS<sup>1</sup>****2-1000 Definitions.**

1. *Elected City official* means the Mayor and members of the Council of the City of Phoenix, whether serving by election or appointment.
2. *Expenditure* means a payment, distribution, loan, advance, deposit or gift, and includes a promise or agreement, whether or not legally enforceable, to make an expenditure that provides a benefit to an elected City official that is incurred by or on behalf of a lobbyist.
3. *Family gift* means a gift to an elected City official or a member of his household from a lobbyist who is a relative of the elected City official or a member of his household if the donor is not acting for someone not covered by this paragraph.
4. *Gift* means money, real property or tangible personal property. For purposes of this article, gift does not include:
  - (a) A gift or inheritance from a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or any such person's spouse if the donor is not acting for someone not covered by this paragraph and gifts of a personal nature were customarily received from such persons before becoming an elected City official.
  - (b) The value of meals, entertainment or lodging that is reported or exempt from reporting under this article.
  - (c) Salary, compensation or employer reimbursed expenses lawfully paid to an elected City official.
  - (d) The value of professional or consulting services not rendered to obtain a benefit for any lobbyist or lobbyist's client.
  - (e) Expenses relating to an event to which all members of the City Council or any Council committee or subcommittee are invited.
  - (f) A plaque or similar item given to an elected City official in recognition of service or notable accomplishment.
  - (g) Informational material such as books, reports, pamphlets, tapes, calendars or periodicals.
  - (h) An unused item that is returned to the donor or delivered to a charitable organization within fifteen days of receipt and is not claimed as a charitable contribution for tax purposes.

**Compile Chapter**

- (i) A campaign contribution that is properly received and reported as required by law.
- (j) An item given to an elected City official if an item of similar value is given by the elected City official at the same time, or on a similar occasion under similar circumstances.

5. *Lobby* means communication with any elected City official for the purpose of influencing official action.
6. *Lobbyist* means any person who is compensated to lobby for a person other than himself.
7. *Official action* means the action or non-action of the City Council.
8. *Person* means an individual, partnership, committee, association, limited liability company or corporation and any other organization or group of persons.
9. *Personal hospitality* means meals, beverages, transportation or lodging furnished noncommercially by a person on his or his family's property or facilities.
10. *Public official* means a person holding an elected government office.

(Ord. No. G-3680, § 1)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

<sup>1</sup>**Editor's note**—Ord. No. G-3680 and Ord. No. G-3700 both contained provisions numbered as article XXX and sections 2-1000 and 2-1001, resulting in duplicate numbering. The numbering is set forth as enacted.

**Cross reference**—Ethics policy, § 2-52.

**State Law reference**—Lobbyists, A.R.S. § 41-1231 et seq.

The Phoenix Charter and City Code are current through Ordinance G-5718, passed June 13, 2012.  
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**2-1001 Registration; reports.**

1. Lobbyists shall register prior to lobbying, or within five business days after first lobbying, by filing a statement disclosing the following:
  - (a) If the lobbyist is an individual, the name and business address of the lobbyist and any employee of the lobbyist who acts as a lobbyist, provided that an individual who is included as a lobbyist on the registration of an entity under paragraph (b) of this subsection need not register separately.
  - (b) If the lobbyist is an organization, the name and business address of the entity, its chief executive officer and all its officers and employees who act as lobbyists, who shall be notified by the organization in writing that they have been listed as lobbyists, provided that the entity need not register as a lobbyist if all its officers and employees who act as lobbyists are individually registered as lobbyists under paragraph (a) of this subsection.
  - (c) The name and business address of all persons by whom the lobbyist is compensated to lobby and all persons on whose behalf lobbying is performed. Any change in the information required by this paragraph shall be reported to the City Clerk within thirty days.
2. At the time of registration or any time thereafter a lobbyist may file a statement certifying that the lobbyist intends to make no expenditures reportable under this article. Upon filing this statement the lobbyist shall be exempt from the expenditure reporting requirements of this section, so long as no expenditures are made. If a lobbyist who has signed an exemption statement subsequently makes any reportable expenditure that lobbyist shall notify the City Clerk of such expenditure within ten days and shall thereafter be subject to expenditure reporting requirements.
3. Lobbyists shall report expenditures quarterly. Expenditures over twenty-five dollars shall be itemized separately, listing the date, amount and nature of the expenditure, the name of the elected City official receiving or benefiting from the expenditure and the person on whose behalf the expenditure was made. An aggregate of expenditures of twenty-five dollars or less for each elected City official shall be reported. Expenditures for the lobbyist's personal sustenance, family gifts, personal hospitality, preparation or distribution of informational materials, campaign contributions, professional or consulting services not made on behalf of another person for compensation, and not rendered primarily for the benefit of an elected City official, office expenses, filing fees, legal fees, employees, compensation, lodging and travel are not required to be reported.
4. All expenditures for events to which all members of the Council or any committee or subcommittee of the Council are invited shall be reported pursuant to subsection 3 of this section. Such expenditures need not be allocated to individual Council members but the

**Compile Chapter**

date, location, total expenditures incurred and a description of each such event shall be reported.

5. A lobbyist who makes no reportable expenditures during a specified reporting period may, in lieu of the report required by subsection 3 of this section, file a statement certifying that there were no reportable expenditures during the period.

6. No person shall make a gift to, or expenditure on behalf of an elected City official through another person to conceal the identity of the person making the gift or expenditure.

7. No person shall give a gift to an elected City official for the performance of official duties or if it may reasonably be interpreted to be offered in order to influence any action or decision of an elected City official.

8. Registered City lobbyists must re-register annually.

9. Each individual listed as a lobbyist on any lobbyist registration shall be responsible for providing the information and filing the reports required by this section, provided that individuals listed as lobbyists on the registration of an entity under subsection 1(b) of this section may comply with this requirement through reports filed by the registered entity.

(Ord. No. G-3680, § 1; Ord. No. G-3804, § 1)

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**2-1002 Exceptions.**

Section 2-1001 does not apply to:

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1. A person who is not compensated for lobbying activity other than reimbursement for actual expenses.
2. A person, acting in his own behalf, who appears before the City Council or contacts an elected City official to support or oppose official action.
3. A public official, public employee or appointed member of a State, County or local board, commission or council acting in his official capacity on matters pertaining to his office, employment board, commission or council.
4. An expert introduced or identified by a registered lobbyist, or public official who provides technical information or answers technical questions and makes no expenditure required to be reported by this article.
5. A person who performs professional services in drafting legislation or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation.
6. An attorney who represents clients at any quasi-judicial hearing held by the City Council.
7. A person who contacts an elected City official solely for the purpose of acquiring information.
8. A person who contacts an elected City official concerning any contract awarded through competitive bidding.

(Ord. No. G-3680, § 1)

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**2-1003 Political contributions; reports.**

Lobbyists who contribute to, or solicit contributions on behalf of, political campaigns of elected City officials, shall file quarterly reports, which shall be combined with expenditure reports when applicable, identifying the lobbyist and disclosing the dates and amounts of contributions made by or, if known, at the request of the lobbyist, the contributors' names, addresses, occupations and employers and the elected City officials to whom the contributions were made.

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(Ord. No. G-3680, § 1)

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**2-1004 Forms, filing.**

All statements and reports required by this article shall be under oath, on forms prescribed by the City Clerk and filed in the office of the City Clerk.

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(Ord. No. G-3680, § 1)

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**2-1005 Prohibited lobbying; classification.**

A. A person commits prohibited lobbying by:

**Compile Chapter**

1. Retaining or employing another person to promote or oppose official action for compensation contingent in whole or in part on the passage or defeat of any official action; or
2. Accepting employment or rendering service as a lobbyist for compensation contingent in whole or in part on the passage or defeat of any official action.

B. Prohibited lobbying is a Class 1 misdemeanor.

(Ord. No. G-4620, § 2, adopted 6-23-2004, eff. 7-23-2004)

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41-1232.08. Entertainment ban; state and political subdivisions; exceptions; definition

A. A principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for a state officer or state employee. A state officer or state employee shall not accept an expenditure or single expenditure for entertainment from a principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf.

B. A person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board or any person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for an elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board. An elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board shall not accept an expenditure or single expenditure for entertainment from a person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board.

C. This section shall not apply to:

1. Entertainment in connection with a special event properly reported pursuant to this article.
2. Entertainment that is incidental to a speaking engagement.

3. The following persons while attending or participating in any sporting or cultural event or activity, sponsored by the board, district or institution, in a facility that is owned or operated by the board, district or institution:

- (a) Employees of a school district governing board.
- (b) Employees of a community college district governing board.
- (c) Employees of any institution under the jurisdiction of the Arizona board of regents.

D. The provisions of this article that define special events for legislators apply to special events for members of the Arizona board of regents.

# Handbook

City of Phoenix

# Ethics



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# CITY OF PHOENIX

# VISION AND VALUES

*We are dedicated to serving our customers.*

*We value and respect diversity.*

*We work as a team.*

*We each do all we can.*

*We learn, change, and improve.*

*We focus on results.*

*We work with integrity.*

**WE MAKE  
PHOENIX BETTER!**



Over 1000 City of Phoenix employees participated in the development of our Vision and Values. The City's Vision and Values give us a focus, something we all can support and understand. Operating under the principles of our Vision and Values is hard work, but it will establish the City of Phoenix as an organization where every one of us has the power to make a difference. This book has been developed to help you understand how important your contribution is to the City and to help you make the decisions that will keep Phoenix the Best-Run City in the World.



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# I. CITY OF PHOENIX ETHICS POLICY

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its employees and officials, whether elected, appointed or hired. Accordingly, all City employees and members of City boards, commissions, committees and the City Council should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City position or powers for improper personal gain. See City Code, Ch. 2, Art. II, § 2-52\*.

**Comment:** The proper operation of municipal government requires all City employees and members of City boards, commissions, committees and the City Council remain independent, impartial, and responsible only to the public. You hold office or were hired for the public's benefit, and it is your responsibility to uphold the Constitution of the United States and the Arizona Constitution. In your official acts, you are bound to observe the highest standards of morality, and discharge faithfully the duties of your office or position regardless of personal considerations, recognizing that the public interest must be your primary concern.

Democratic government can function properly only when the citizenry has confidence in how its government is run. Public trust is built largely upon the perceptions that citizens have regarding their City employees, City Council members, and members of City boards, commissions and committees. Once public confidence is destroyed, it is difficult to re-establish. As a result, a public agency may not be able to function effectively. Moreover, individual careers or reputations may be irreparably damaged. Hence it is imperative for you to foster the highest standards of personal integrity and honesty in discharging your public duties.

You should remind yourself constantly of the civic trust that you hold by reason of your position. You should never compromise your honesty or integrity for personal gain or advancement. Always remain sensitive to the values of the public you serve.

\*Because the City has adopted this policy as an ordinance, all City employees and members of City boards, commissions, and committees, and the City Council must obey it.

## II. APPLICABLE LAWS AND POLICIES

### A. Attendance

1. **Boards, Commissions and Committees.** The City's attendance policy for members of boards, commissions and committees provides that, if a member fails to attend three consecutive regular meetings, or more than fifty percent of all meetings of such groups held over a calendar year period, the City Council may declare the seat vacant and appoint a replacement. See City Code, Art. 1 § 2-40.

**Comment:** Members of City boards, commissions and committees are expected to attend all regularly scheduled meetings and should make every effort to do so. The City Council appointed you for your experience, background and perspective in a particular policy area, and wants the benefit of your consideration and judgment. Moreover, your board, commission or committee cannot conduct any business unless a quorum is present. Accordingly, if you must miss a meeting because of business, vacation or illness, please advise the chairperson of your board, commission or committee in advance of the meeting.



2. **Employees** are expected to begin and end work at assigned times and to adhere to lunch and rest break times as defined by their position. See A.R. 2.14. Carelessness or not observing work schedules or break rules can lead to disciplinary action. In addition, City employees are expected to be productive during work time. Loafing, tardiness and abuse of paid time destroy the public respect and trust for what we do.

**Comment:** Each employee when hired is given a schedule which specifies the work week, including beginning and ending times, lunch length and time, and rest break information. Employees who qualify for overtime will receive compensatory time off or extra pay according to the specific rules governing the position. Most professional, supervisor, and managerial staff do not receive compensatory time or paid overtime. Check with your supervisor to see if you are eligible to receive compensation for overtime worked. Supervisors are understanding of the occasional unpredictable events which cause employees to be late or absent. Unexplained and excessive absences or tardiness are not easily excused.



## B. Conflicts of Interest

Pursuant to Chapter 11, Section 1 of the City Charter, Phoenix has adopted Arizona's Conflict of Interest Laws. The full text of those statutes appears in Appendix B.



**Comment:** City employees and members of City boards, commissions, committees and the City Council must be constantly on guard against conflicts of interest. In short, you should not be involved in any activity which might be seen as conflicting with the responsibilities of your position with the City. The people of Phoenix have a right to expect that you act with independence and fairness toward all groups and not favor a few individuals or yourself. Appendix A of this Handbook presents various examples of how the Conflict of Interest Laws operate.

## C. Contracts with the City

Arizona law prohibits any employee, City Council Member, or member of a board, commission or committee who has "a substantial interest in any contract, sale, purchase or service to such public agency" from participating in any way with the transaction. See A.R.S. § 38-503(A) (reprinted in Appendix B). Also, Arizona law has a flat prohibition against any City employee or anyone officially representing the City from providing certain goods and services to the City without competitive bidding. See A.R.S. § 38-503(C). Two other statutes prohibit municipal and public officers from being personally involved in housing or redevelopment projects. See A.R.S. §§ 36-1406 and 36-1477.



**Comment:** As with other conflicts of interest, any City employee or member of a City board, commission, committee or the City Council in such a situation must (i) make known the substantial interest involved and (ii) refrain from voting upon or otherwise participating in the transaction or the making of such contract or sale. Also, you cannot provide certain goods and services to the City—even if you do not participate in the process—unless the competitive bidding process is used. Other prohibitions may apply if federal funds are involved.



## **D. Disclosure of Confidential Information**

Arizona law provides that, during a person's employment or service with the City and for two years thereafter, no City employee or member of a City board, commission, committee or the City Council may disclose or use confidential information without appropriate authorization. See A.R.S. § 38-504(B) (reprinted in Appendix B).

**Comment:** City employees and members of City boards, commissions, committees and the City Council often have access to important non-public information regarding the property, operations, policies or affairs of the City. Such information may concern real estate transactions, expansion of public facilities or other City projects. The leaking of this inside information may benefit a few at the expense of a possible monetary loss to the City and a deterioration of public confidence. If you are privy to confidential information, you may not disclose that information to any private citizen and should disclose it to other public employees only if appropriate.



## **E. Discrimination**

Chapter XI, Section 2 of the City Charter provides: "No person shall be appointed to, removed from or in any way favored or discriminated against with respect to any city position because of race, color, ancestry, national origin, sex, political or religious opinions or affiliations." Discrimination on the basis of sexual orientation is also prohibited.

Harassment on the basis of sex is a violation of Title VII of the U.S. Civil Rights Act of 1964, as amended. The United States Equal Employment Opportunity Commission (EEOC) defines sexual harassment as "unwelcome" sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or 2) submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.





**Comment:** All people must be recognized, honored and mutually respected. The United States and Arizona Constitutions, as well as numerous federal, state and local laws, outlaw various forms of discrimination. You should make available to every person—whether they are applying for a City service, job or position—every consideration, treatment, advantage or favor that is the general practice to make available to all citizens. The equality of opportunity both to enter into public service, besides being the object of various federal, state and local laws, is a central factor in achieving efficient public service and good morale. It is the responsibility of all City employees, members of boards, commissions and committees and the City Council to help create an environment where all members, employees and citizens are respected and valued.

## F. Employment

- Incompatible Employment.** City employees may have outside employment, so long as it does not interfere with City employment and is approved in writing by the Department head. (See City Policy A.R. 2.62.)



**Comment:** As a City employee you must avoid engaging in or accepting private employment or rendering service for private interests when such employment or service is incompatible with the proper discharge of your official duties or would tend to impair your independence or judgment or action in the performance of those official duties. For example, a City right-of-way agent who has knowledge of the City's plans to purchase particular property cannot first purchase that property for another person or company.

- Representing Private Interests Before City Agencies.** For twelve months following a person's employment or service with the City, Arizona law prohibits City employees and members of City boards, commissions, committees and the City Council from representing another person for compensation before a public agency concerning any matter with which that officer or employee was directly concerned and personally participated in by a substantial and material exercise of administrative discretion. See A.R.S. § 38-504(A) (reproduced in Appendix B).

**Comment:** City employees and members of City boards, commissions, committees and the City Council may appear before City agencies on behalf of constituents in the course of performing duties as a representative of the electorate or in the performance of public or civil obligations, as long as they are not representing any private person, group or interest for compensation that is contingent on such activity.



3. **Employment of Relatives.** Arizona law prohibits City employees and members of City boards, commissions, committees and the City Council from being involved in the appointment, hiring or supervision of a relative. See A.R.S. § 38-481 (reproduced in Appendix C), and A.R. 2.91.

**Comment:** Because hiring and supervising a relative is a special type of a conflict of interest, it must be avoided.



4. **Discussion of Future Employment.** When a City employee has been offered or is discussing future employment with a person, firm or any other business entity that is presently dealing with the City concerning matters within the employee's current official duties, that person should disclose such possible future employment to the City Attorney's Office. (See A.R. 4.01).

**Comment:** City employees should be aware that they are vulnerable to offers of future employment by private parties in exchange for favors and/or information obtained through the person's position.



## G. Gifts, Favors and Extra Compensation

1. The City's Gift Policy (A.R. 2.93) provides that "No City employee shall accept any gift, service or favor which would lead toward favoritism or the appearance of favoritism in any way."

Additionally, Arizona law prohibits City employees and members of City boards, commissions, committees and the City Council from receiving anything of value or any compensation other than their normal salary for any service rendered with the City. See A.R.S. § 38-505(A) (reproduced in Appendix B).



**Comment:** City employees and members of City boards, commissions, committees and the City Council should not accept any gifts (monetary or otherwise, such as a service, loan, thing or promise), gratuities, or favors from anyone other than the City for the performance of acts within the regular course of official duties. You should refuse any gifts or favors which reasonably may be interpreted to be offered in order to influence a municipal decision. Compensation for performing your public duty is limited to salaries, fringe benefits and any personal satisfaction that you may derive from doing a good job.

While you are the first to decide whether to accept any gift, you must recognize that others will decide if there is “the appearance of favoritism” for your having accepted a gift.

Finally, you should be wary of accepting any gifts or benefits from individuals doing business with the City or whose financial interests are affected by City action.



2. The Mayor and members of the City Council are prohibited by state law from accepting any entertainment paid for by anyone who is compensated to attempt to influence the passage or defeat of any matter coming before the council. See A.R.S. § 41-1232.08. (Reproduced in Appendix D).

In the context of this prohibition entertainment is defined by A.R.S. § 41-1231(5) as follows:

“5. “Entertainment” means the amount of any expenditure paid or incurred for admission to any sporting or cultural event or for participation in any sporting or cultural activity.”

**Comment:** The Mayor and members of the City Council cannot accept tickets to attend or participate in any sporting or cultural event or activity, that are paid for by anyone who is compensated to attempt to influence the passage or defeat of any matter coming before the council. This is a total prohibition regardless of the amount of the expenditure and regardless of whether or not there is any intent or the appearance of any intent to influence a municipal decision. The exception to this prohibition in A.R.S 41-1232.08.(c) would have limited application to the Mayor and members of the City Council, since this subsection is directed to state officers and employees.



While city employees and city officers in appointed positions are not subject to this state prohibition, they are still subject to the other limitations on accepting things of value as discussed in this section. Therefore they must give careful consideration, as discussed in subsection 3 below, to the general limitations on the acceptance of gifts whenever an offer of entertainment is made to them.



3. City employees and members of City boards, commissions and committees must consider ethical principles before accepting personal gifts of entertainment and sports/athletic activities.

**Comment:** After the above gift policy is applied, if you accept the entertainment or sports/athletic activity gift and do not pay for it, you must declare the gift with the City Clerk Department, within two working days, using the “Declaration Form.” Gifts should be declared regardless of whether or not the gifts are used by the employee. See Appendix F for a copy of the Declaration Form and examples of such gifts.

There are three examples of gifts that do not require declaration:

1. A personal gift from a friend or relative.
2. Winning or receiving a promotional gift from a community business, where the opportunity to win/receive the gift is open to the community in general.
3. Employees who pay for the ticket or elect to make a charitable contribution in the name of the donor for the face value of the gift do not need to file a declaration.

All other gifts accepted should be declared regardless of whether or not you use the gift.



## H. Political Activity

Chapter XXV, Section 11 of the City Charter prohibits any person holding a position with the City from participating in political campaigns for City elective office in any way beyond voting and privately expressing personal opinions. See A.R. 2.16.





**Comment:** As citizens, City employees and members of City boards, commissions, committees and the City Council can and should exercise their rights to register and vote in all elections including City elective offices. The City Attorney, in Opinion No. 90-012, determined that the provisions of Chapter XXV, Section 11 of the City Charter, do not apply to citizen members of City board and commissions and, therefore, they may participate in political campaigns for City elective office. City Council members are specifically excluded from the provisions of this Section of the Charter. Although other City officers and City employees may participate as private citizens on campaigns for non-City offices and issues, they may not participate in or contribute to political campaigns for City elective offices.

## I. Public Access: Open Meetings and Public Records

Numerous Arizona and City laws require that meetings of public bodies be open to the public and that public records be available for inspection. See Open Meetings Laws (A.R.S. §§ 38-431 through 431.09 and City Charter Ch. 4, § 5) and Public Records Laws (A.R.S. §§ 39-121 through 121.03 and City Charter, Ch. 4, § 21).



**Comment:** As declared in state statute, it is the official public policy of Arizona that meetings of public bodies be conducted openly. Also, Arizona law allows broad access to public records. Open government gives the public confidence that public affairs are being performed properly. The City has published a separate brochure on this subject for your use that is available from the City Clerk's office (602-262-6811).

## J. Use of City Equipment, Facilities or Personnel for Private Gain

City employees and members of City boards, commissions, committees and the City Council should not use City facilities, equipment, personnel or supplies for private purposes, except to the extent they are lawfully available to the public.



**Comment:** Public respect for its government is weakened when City-owned facilities and equipment are used by City employees and members of City boards, commissions, committees and the City Council for personal gain. City office supplies, work materials, vehicles and equipment are to be used only for City work. Taking City goods for private use is not a “fringe benefit;” it is stealing. See A.R.S. § § 13-1802. Also, it is improper (and maybe unlawful) for supervisors to use subordinates for their personal benefit. Finally, you should avoid waste of public supplies and equipment.



## K. Software Management

City of Phoenix employees, members of boards, commissions, and committees and the City Council should not make, use, accept or install illegal copies of computer software, documentation, or templates. See A.R. 1.86 and O.P. 6.401.

Examples of software copyright violations are:

- installing a single-user copy of a software program on several computers,
- allowing six or more employees to concurrently use a five-user licensed LAN software package,
- borrowing a copy of a single-user licensed program without that person removing it from their computer for the duration of the loan,
- loaning a person a copy of a single-user licensed software program as an evaluation copy without removing it from your computer for the duration of the evaluation,
- making more back up copies of the software than allowed in the license agreement.

The City Auditor Department conducts periodic audits to insure compliance with City policies on software.





**Comment:** The legality of software is ideally established by possession or accountability of the following five items: the original software diskettes, the License, the original manuals, documented evidence of purchase, or copy of the completed product registration.

The illegal copying of software for personal or commercial use is commonly referred to as “piracy.” Simply put, piracy is stealing. Piracy can result in civil and criminal penalties and disciplinary action up to and including dismissal.

## L. Electronic Mail

Electronic mail systems, including internet, should be used only for City business unless otherwise authorized. All electronic mail is considered official City business and must be retained for one month in accordance with the City's Records Management Program. In general, electronic mail communications are Public Records and subject to disclosure under the Public Records Law ARS 39-101 et. seq. See A.R. 1.63.



**Comment:** The City will not read electronic message content as a routine matter, but reserves the right to do so without prior notification. The City may electronically scan mail messages for the presence of specific content such as viruses or passwords and to maintain system integrity.

## M. Federal Transit Administration Standards of Conduct

No employee, officer, agent, immediate family member, or Board member of the grantee (City of Phoenix) shall participate in the selection, award, or administration of a contract supported by Federal Transit Administration funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

- The employee, officer, agent, or Board member,
- Any member of his/her immediate family,
- His or her partner, or
- An organization that employs, or is about to employ, any of the above.



The grantee's (City of Phoenix) officers, employees, agents, or Board members will neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

#### **N. Safeguarding Public Assets**

City employees and members of City boards, commissions, committees and the City Council are responsible for safeguarding public assets/equipment from loss or theft. Responsibility also exists for tracking and reporting lost, stolen, and recovered property in accordance with A.R. 5.132.

**Comment:** It is the responsibility of City employees to protect and safeguard public assets and to report any missing, lost, or stolen items in accordance with the administrative regulation.





## III. PROCEDURES

### A. How to Declare a Possible Conflict of Interest

If you think that a conflict of interest (or even a possible conflict) exists, then you simply should announce that fact as soon as the possible conflict comes to your attention. For example, as soon as members of City boards, commissions, committees and the City Council realize that a conflict exists on a given matter, they should fully disclose the conflicting interest on the record for the minutes. From that point on you may not participate in any manner (by discussing, questioning or voting) in that matter. Although you are not required to leave the meeting, you cannot be counted for purposes of constituting a quorum.

When the minutes of the meeting are available, the staff will send a copy to the City Clerk's Office with a note explaining that a conflict of interest was declared.

You should not feel bad about declaring a conflict and not participating. Indeed, members of the City Council often declare possible conflicts to avoid any hint of impropriety.

If you are unsure whether a particular situation is considered a conflict of interest, the safest course of action is simply to declare that a conflict may exist that prevents you from participating. This is better than taking the risk of inadvertently violating the law. Indeed, if there is a consistent theme to this Handbook, it would be: "If in doubt, don't."

### B. Where to Report Improper Behavior

City employees as well as members of City boards, commissions, committees and the City Council have a duty to prevent any improper governmental actions. Hence, there is no shame in being a "whistleblower" if another employee or appointed or elected officer is acting improperly. Moreover, you should never attempt to use your authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any person with the intent of interfering with that person's duty to disclose such improper activity.

#### 1. City Employees -

The first course of action when you discover someone may have violated a law or city policy is to report wrong doings to supervisors and/or management within the department it is occurring. If you are not satisfied with the response or are not comfortable reporting to department management, the issue should be reported to one of the following areas for further investigation:

Issue	Refer issue to
Hiring process, recruitments, employee qualifications, performance evaluations	Department Personnel Officer or Personnel Department @ 262-6609 or 261-8687 (TTY)
Sexual Harassment (A.R. 2.35A) or Protected Category Harassment (A.R. 2.35B)	Department Personnel Officer or Equal Opportunity Department's Compliance and Enforcement Division @ 262-7486 or 534-1557 (TTY)
Discrimination/denial of equal employment opportunities (A.R. 2.35)	Department Personnel Officer or Equal Opportunity Department's Compliance and Enforcement Division @ 262-7486 or 534-1557 (TTY)
Fraud or unethical behavior not detailed above	Integrity Line* @ 261-8999 or 534-5500 (TTY)

\* See further discussion of Integrity Line at C below.

2. **Members of City Boards, Commissions, Committees and the City Council** – Contact the City Attorney's Office (602-262-6761). If you are uncertain about whether a conflict of interest or other ethical problem exists, you should contact an attorney in the City Attorney's Office, identify yourself and explain the situation. If time permits, please submit your request in writing to the City Attorney directly. If your request relates to a conflict of interest, A.R.S. § 38-507 requires that the request be confidential, although the official opinion of the City Attorney is required by this law to be a public record.

## C. The Integrity Line

### 1. What is the Integrity Line?

The **Integrity Line** was established to provide employees with a way to report fraudulent and unethical behavior of city employees. It is used when an employee feels that they can not report the problem to their department management or if they feel department management has not acted adequately. It is NOT the source to report general complaints, suggestions or personnel issues (see table at B1. for guidance on where to report various issues).



To report a compliant/issue, call 602-261-8999 (534-5500 TDD). Callers are encouraged to provide a contact telephone number, as there is often a need to gather additional information as the complaint is reviewed. The information gathered from the call is reported directly to the Integrity Line Committee, comprised of the City Auditor, the City Attorney and the Assistant City Manager. The Committee maintains strict standards of confidentiality (to the extent permitted by law), and will not voluntarily release information about an inquiry. The Committee will review all complaints received and will advise callers on the Committee's findings at the conclusion of their review.

It is frequently necessary to consult administrative regulations, personnel rules and departmental directives to determine whether a particular action is allowable. The Integrity Line Committee has the authority to clarify policy ambiguities and to investigate allegations of improper conduct.

## **2. What types of concerns should be reported through the Integrity Line?**

The types of concerns that can be reported to the Integrity Line include, but are not limited to violations of laws or regulations, embezzlement, contract fraud, vendor kickbacks, loss or waste of city money or property, falsified documents and specific danger to public health or safety. As stated in B.1., the first course of action when you discover a wrong doing is to report it to supervisors and/or management within your own department.

## **3. Information to be provided to Integrity Line**

The more information a caller has when contacting the Integrity Line, the better an investigation can be conducted. The following is a list of information that would be helpful to report:

- Circumstances of the incident and details of how fraud/inappropriate action took place
- Names of all persons involved, including division and department
- Date(s), time(s) and location(s) the event(s) took place
- If missing funds, identify source of funds and how much
- Identify any evidence or documentation that is available
- Names of credible witnesses
- Any other information that may be helpful in an investigation

## IV. PENALTIES AND SANCTIONS

Violations of the law and any of the policies set forth in this Ethics Handbook may expose a City employee or member of a City board, commission, committee and the City Council to a variety of penalties—including reprimand, removal from office, termination of employment and criminal prosecution.\*

In the case of a City employee, any disciplinary action must be conducted in conformance with the procedures established by the City Charter and in accordance with personnel rules and regulations. Additional penalties authorized by law also may be imposed.

In the case of City board, commission and committee members, § 2-51 of the City Code makes the violation of any policy set forth in the Handbook sufficient cause for removal from office.

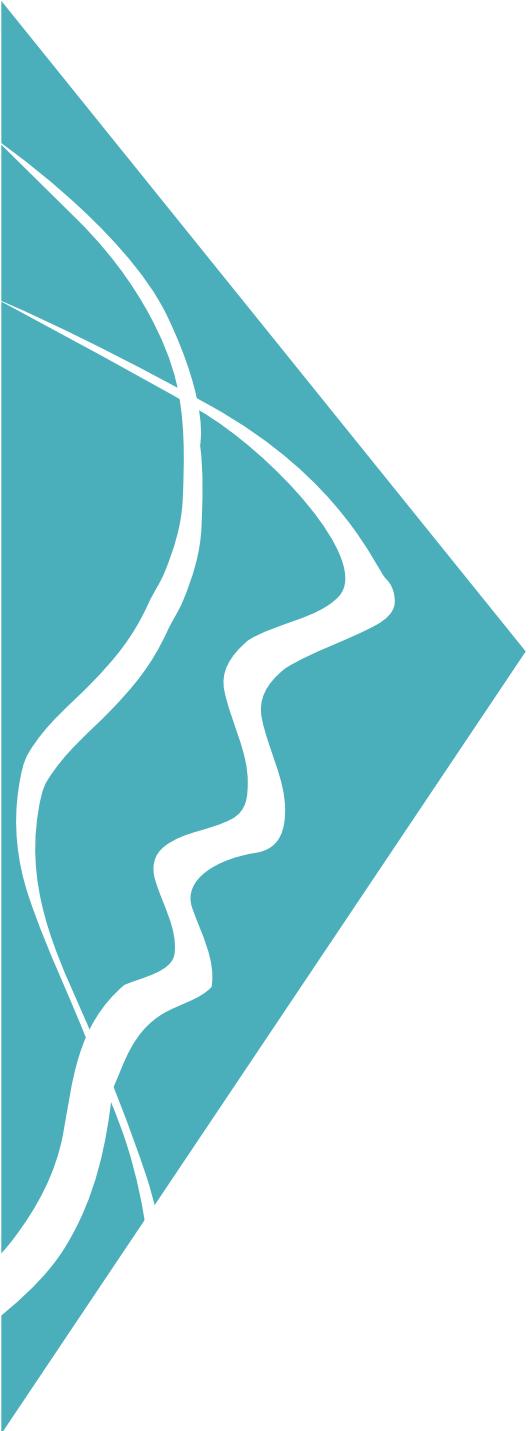
In the case of a member of the City Council, not only could they be subjected to a recall movement, but also they could suffer civil and criminal penalties authorized by law.

City employees and members of City boards, commissions and committees and the City Council must recognize the serious consequences of violating some of the laws set forth in this Ethics Handbook. For example, intentional violation of the “Conflict of Interest Laws” constitutes a Class 6 felony, which is punishable upon conviction by imprisonment for up to one and one-half years and/or a fine of up to one hundred fifty thousand dollars. Negligent violation of the law constitutes a Class 1 misdemeanor, which is punishable by imprisonment for up to six months and/or a fine of up to two thousand dollars. In addition, a person found guilty of violating the law automatically forfeits their public office.

Ultimate responsibility for complying with the law rests with individual members of public bodies. Therefore, in situations involving potential conflicts of interest, doubts as to the application of the law should be resolved by disqualification rather than by participation.

\* For example, the penalties for violating Arizona’s Open Meetings laws include nullification of action taken [A.R.S. § 38-431.05], removal from office, a civil penalty of up to \$500, an assessment of all costs and attorney’s fees incurred in the lawsuit and such other equitable relief that the court deems appropriate. A.R.S. § 38-431.07(A).



A large, teal-colored arrow graphic is positioned on the left side of the page. It is a thick, right-pointing arrow that is partially cut off on the right edge. The arrow is filled with a teal color and has a white wavy line running through its center.

APPENDICES



## APPENDIX A: EXAMPLES

The following examples are provided to give you an idea how Arizona's Conflict of Interest Laws would be applied. Of course, each situation will be decided upon the unique fact circumstances involved. The goal of these examples—and indeed this entire Handbook—is to help develop greater sensitivity to ethical considerations. **If you are in doubt of what you should do, opt not to participate.**

### A. Conflicts of Interest

Listed below are illustrative examples of situations involving potential violations of Arizona's Conflict of Interest statutes. (All of the examples assume that the City employee or officer is a member of the public agency that is reviewing the matter in question.)

1. The City employee or member of a City board, commission, committee or the City Council (or a relative) owns property in such close proximity to property that is the subject of a zoning or license application that the granting or denial of the application could affect the value of the employee's or member's property.
2. The City employee or member of a City board, commission, committee or the City Council (or a relative) has done work in the past for a firm seeking a City contract and anticipates doing further work for the firm in the future. A potential conflict exists regardless of whether the work involves the matter that is the subject of the contract. (However, mere past association does not of itself constitute a conflict if the business relationship is not a continuing one.)
3. The City employee or member of a City board, commission, committee or the City Council (or a relative) is an officer of a corporation that operates a chain of stores. An application by a competitor seeks zoning approval for a store within the service area of one of the stores owned by the member's corporation.
4. The City employee or member of a City board, commission, committee or the City Council (or a relative) is a developer who files an application for approval of a project. Not only must the City employee or member disqualify himself from consideration of the application, the member also may not participate in the matter by personally presenting the application to the public body. (However, someone else may present the application on behalf of City

employees and members of City boards, commission and committees and the City Council.)

5. The City employee or member of a City board, commission, committee or the City Council (or a relative) is a realtor who has had discussions concerning a listing agreement with the owner of property that is the subject of a zoning application. If the City employee or member of a City board, commission, committee or the City Council wishes to pursue the agreement, he should disqualify himself from considering the application. If the City employee or member of a City board, commission, committee or the City Council does not disqualify himself, he should not subsequently enter into the listing agreement.
6. A proposed amendment to the City Code seeks to regulate a specific type of business activity. The City employee or member of a City board, commission, committee or the City Council (or a relative) has an exclusive franchise or right to conduct the activity in the City.
7. The City employee or member of a City board, commission, committee or the City Council (or a relative) has an interest in property that will be uniquely affected by a proposed land use plan, and the adoption of the plan could affect the value of the property (e.g., the plan confers special benefits on the property that are not applied to other similarly situated properties).
8. The close relative of a City employee or a member of a City board, commission, committee or the City Council is in business with a person whose application or contract is being considered by the public agency.
9. The City employee or member of a City board, commission, committee or the City Council receives more than five percent of his total annual income from a corporation that has an application or a contract pending before the public body.
10. The City employee or member of a City board, commission, committee or the City Council is seeking the award of a professional services contract from the City, unless the contract will be awarded through competitive bidding to the lowest bidder. A conflict of interest exists in the absence of competitive bidding regardless of whether the City employee or member of a City

board, commission, committee or the City Council participates in awarding the contract. In other words, a City employee or member of a City board, commission, committee or the City Council is prohibited from contracting with the City unless the contract will be awarded through competitive bidding.

11. The City employee or member of a City board, commission, committee or the City Council (or a close relative) is a paid employee of an organization which receives funds appropriated by the City council, including federal and state funds administered by the City.

## **B. No Conflict of Interest Exists**

Following are illustrative examples of situations that do not constitute violations of the Conflict of Interest Laws. (Again, all examples assume that the City employee or member of a City board, commission, committee or City Council is a member of the public agency that is reviewing the matter in question.)

1. The City employee or member of a City board, commission, committee or the City Council (or a relative) is a member of a trade association that has applied for an amendment to the City Code that is being considered by the public agency.
2. The City employee or member of a City board, commission, committee or the City Council (or a relative) owns a property in an area that is included in a proposed land-use plan that is being considered by the public body (unless that plan would uniquely affect the property of the City employee or a member of City board, commission, committee or the City Council).
3. The City employee or member of a City board, commission, committee or the City Council (or a relative) is the nonsalaried officer of a nonprofit corporation that has an application that is being considered by the public body.
4. The City employee or member of a City board, commission, committee or the City Council is a tenant of a property owner who is seeking a City contract (unless the contract would affect the pecuniary or proprietary interests of the City employee or member of a City board, commission, committee or the City Council).

5. The City employee or member of a City board, commission, committee or the City Council is the attorney for a contracting party (as long as the City employee or member of a City board, commission, committee or the City Council does not represent the person in regard to the contract).
6. The City employee or member of a City board, commission, committee or the City Council owns less than 3% of the shares of a corporation that has an application being considered by the public body. The City employee or member of a City board, commission, committee or the City Council does not have a conflict if the total annual income from dividends, including the value of stock dividends from the corporation, does not exceed 5% of the total annual income of the City employee or member of a City board, commission, committee or the City Council and any other payments made to him by the corporation do not exceed 5% of his total annual income.
7. The City employee or member of a City board, commission, committee or the City Council is an advocate for or against a matter before the public agency and has publicly stated that he will or will not support the matter (unless the matter will affect the pecuniary or proprietary interest of the City employee or member of a City board, commission, committee or the City Council).
8. The City employee or member of a City board, commission, committee or the City Council (or a relative) contracts to purchase services or goods from a firm that does business with the City (as long as the contract is unrelated to official actions taken by the City employee or member of the City board, commission, committee or the City Council, and the City employee or member of a City board, commission, committee or the City Council receives no benefit from the firm as a result of official action).



## APPENDIX B: ARIZONA STATUTES RE: CONFLICT OF INTEREST OF OFFICERS AND EMPLOYEES

### § 38-501. Application of article

**A.** This article shall apply to all public officers and employees of incorporated cities or towns, political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.

**B.** Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town, or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.

**C.** Other prohibitions in the state statutes against any specific conflicts of interest shall be in addition to this article if consistent with the intent and provisions of this article.

### § 38-502. Definitions

In this article, unless the context otherwise requires:

1. “Compensation” means money, a tangible thing of value or a financial benefit.
2. “Employee” means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. “Make known” means the filing of a paper signed by a public officer or employee which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to § 38-509.

4. “Official records” means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. “Political subdivision” means all political subdivisions of the state and county, including all school districts.
6. “Public agency” means:
  - (a) All courts.
  - (b) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.
  - (c) The state, county and incorporated cities or towns and any other political subdivisions.
7. “Public competitive bidding” means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing or as provided by local charter or ordinance.
8. “Public officer” means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.
9. “Relative” means the spouse, child, child’s child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.
10. “Remote interest” means:
  - (a) That of a nonsalaried officer of a nonprofit corporation.
  - (b) That of a landlord or tenant of the contracting party.
  - (c) That of an attorney of a contracting party.
  - (d) That of a member of a nonprofit cooperative marketing association.
  - (e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other

payments made to him by the corporation do not exceed five percent of his total income.

- (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
- (h) That of a public school board member when the relative involved is not a dependent, as defined in § 43-1001, or a spouse.
- (i) That of public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, or any of the following:
  - (i) Another political subdivision.
  - (ii) A public agency of another political subdivision.
  - (iii) A public agency except if it is the same governmental entity.
- (j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

#### **§ 38-503. Conflict of interest; exemptions; employment prohibition**

**A.** Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

**B.** Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

**C.** Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in §§ 15-213 and 15-323, supplies, materials and equipment from a school board member.
2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

**D.** Notwithstanding subsections A and B of this section and as provided in §§ 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

#### **§ 38-504. Prohibited acts**

**A.** No public officer or employee may represent another person for compensation before a public agency by which he is or was employed within the preceding twelve months or on concerning any matter with which such officer or employee was directly concerned and in which he personally participated during his employment or service by a substantial and material exercise of administrative discretion.

**B.** During the period of his employment or service and for two years thereafter, no public officer or employee may disclose or use for his personal profit, without appropriate authorization, any information acquired by him in the course of his official duties which has been clearly designated

to him as confidential when such confidential designation is warranted because of the status of the proceedings of the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business. No public officer or employee shall disclose or use, without appropriate authorization, any information acquired by him in the course of his official duties which is declared confidential by law.

**C.** No public officer or employee may use or attempt to use his official position to secure any valuable thing or valuable benefit for himself that would not ordinarily accrue to him in the performance of his official duties, which thing or benefit is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

**D.** Notwithstanding subsection A, neither the director of the department of gaming nor any other employee of the department of gaming may be employed within the gaming industry or represent another person for compensation before the department of gaming for a period of two years from the last day of the person's employment with the department of gaming.

#### **§ 38-505. Additional income prohibited for services**

**A.** No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

**B.** This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers and other documents.

#### **§ 38-506. Remedies**

**A.** In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article, is voidable at the instance of the public agency.

**B.** Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

#### **§ 38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee**

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

#### **§ 38-508. Authority of public officers and employees to act**

A. If the provisions of § 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of § 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

#### **§ 38-509. Filing of disclosures**

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

#### **§ 38-510. Penalties**

A. A person who:

1. Intentionally or knowingly violates any provisions of §§ 38-503 through 38-505 is guilty of a class 6 felony.

2. Recklessly or negligently violates any provision of §§ 38-503 through 38-505 is guilty of a class 1 misdemeanor.

**B.** A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

**C.** It is no defense to a prosecution for a violation of §§ 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

**D.** It is a defense to a prosecution for a violation of §§ 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

**§ 38-511. Cancellation of political subdivision and state contracts; definition**

**A.** The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

**B.** Leases of state trust land for terms longer than ten years canceled under this section shall respect those rights given to mortgagees of the lessee by § 37-289 and other lawful provisions of the lease.

**C.** The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.

**D.** The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

**E.** In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.

**F.** Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.

**G.** For purposes of this section, “political subdivisions” do not include entities formed or operating under title 48, chapter 11, 12, 13, 17, 18, 19 or 22.



## APPENDIX C:

### ARIZONA STATUTE RE: EMPLOYMENT OF RELATIVES

#### § 38-481. Employment of relatives; violation; classification; definition

**A.** It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.

**B.** Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.

**C.** The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

## APPENDIX D:

### ARIZONA STATUTE RE: ENTERTAINMENT BAN



#### **ARS § 41-1232.08. Entertainment ban; state and political subdivisions**

**A.** A principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for a state officer or state employee. A state officer or state employee shall not accept from a principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf an expenditure or single expenditure for entertainment.

**B.** A person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board or any person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for an elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board. An elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board shall not accept an expenditure or single expenditure for entertainment from a person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission.

**C.** This section shall not apply to entertainment in connection with a special event properly reported pursuant to this article or if the entertainment is incidental to the speaking engagement.



## APPENDIX E: KEY CITY LAWS

### **Political Activity:**

Chapter 25, Section 11 of the Phoenix City Charter, which provides:

1. No officer or employee of the City shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution on behalf of any candidate for City of Phoenix elective office from any person holding a position with the City.
2. No person holding a position with the City, except elected officials, shall take any part in political management, affairs or campaigns in any election for City of Phoenix elective office further than to vote and privately express opinions.”

### **Employment Relationship of Family Members:**

City of Phoenix Administrative Regulation 2.91 provides:

#### **Definition**

For purposes of this policy, “relative” means the spouse, child, child’s child, parent, grandparent, brother or sister of the whole or half-blood and their spouses, and the parent, brother, sister, or child of a spouse. A court-appointed legal guardian or an individual who has acted as a parent substitute is also included within this definition.

#### **Policies**

##### **(a) Appointment of Relatives to City Employment**

No officer or employee of the City of Phoenix shall appoint any relative, as defined above, to any position within the City. Officers and employees within the City authorized to make appointment shall disqualify themselves from considering or making appointments, or from participating in the appointment process. Written notice of such disqualification shall be forwarded to the

City Manager. Consideration and appointment of candidates shall be in accordance with the directions of the City Manager.

**(b) Immediate Supervisory Relationships**

No officer or employee shall be permitted to directly supervise a relative as defined above. Department heads are responsible for enforcing this policy. Every attempt should be made to reassign or transfer employees who may find themselves by reason of marriage, promotion, or reorganization, in an immediate supervisory relationship with a relative. As a last resort, the layoff rule shall be utilized.

By way of example, direct or immediate supervision includes, but is not limited to, any participation in the hiring decision, promotional decision, work assignment decision, shift assignment decision, disciplinary decision, or the evaluation process of another employee. Irrespective of the immediate supervisory relationship, no officer or employee shall participate in any manner in a decision involving the pecuniary interest of a relative as defined above, including hiring, promotion(s), discipline, and merit increase(s). In addition, no officer or employee shall in any way attempt to influence others in the decision regarding the pecuniary or employment (assignments, shifts, discipline, etc.) interests of a relative.

**(c) Disclosure of Relationship**

An officer or employee, in addition to disqualifying himself/herself from participation in any decision regarding the pecuniary or employment interest of a relative, shall make known the existence of the relationship and the interest by filing, in writing, with the City Clerk a paper disclosing the relationship and the interest involved.



## APPENDIX F:

# DECLARATION OF GIFTS

### 1. SAMPLE DECLARATION FORM

*This form should be used to declare the acceptance of a gift of entertainment and/or sports/athletic activities.*

### GIFT OF A SPORTING/ATHLETIC ACTIVITY OR ENTERTAINMENT EVENT

Your Name \_\_\_\_\_ Work Phone \_\_\_\_\_

Department \_\_\_\_\_

Event/Activity \_\_\_\_\_

Date of Event \_\_\_\_\_ Monetary Value \_\_\_\_\_

Name of Person or Business Gift is from \_\_\_\_\_

Address of the Person or Business Listed Above \_\_\_\_\_

cc: Department Head

## 2. SAMPLE LIST OF TICKETS TO DECLARE

### SAMPLE LIST OF SPORTS/ATHLETIC EVENT GIFTS TO DECLARE

Arizona Cardinals Football Game	Phoenix Regional Rodeos
Arizona State University Games	Professional Bowling
Boxing Events	Tournaments where fees are charged
Coyotes Hockey Games	Rattler's Football Games
College Bowl Games	Rounds of Golf
Diamondback Baseball Games	Special Closed Circuit TV Sporting Events where fees are charged
Fiesta Bowl	Spring Practice League Games
LPGA	Spring Baseball Games
Masters Golf	Summer Games
National Finals Rodeo	Super Bowl
NBA All Star Games	U.S. Open Golf
NCAA Final Four Games	U.S. Open Tennis
Phoenix Roadrunner Games	University of Arizona Games
Phoenix Suns Tickets	World Series
Phoenix International Raceway Events	Any gift of sports/athletic events with a monetary value
Phoenix Open Golf Tournament	

## SAMPLE LIST OF ENTERTAINMENT GIFTS TO DECLARE

Amusement Park Tickets

Arizona Jewish Theatre  
Company

Arizona Shakespeare Festival

Arizona Theatre Company

Arizona Ballet

Arizona State University Plays,  
Concerts, Ballets, Operas

Botanical Gardens

Desert Stages

Gammage Broadway Series

Helen K. Mason Center for  
Performing Arts

IMAX Theatre

Little Theatre Tickets

Miniature Golf Tickets

Museum Tickets

Red River Opry

Phoenix Theatre Tickets

Phoenix Zoo Tickets

Renaissance Festival

St. George Productions, Inc.

Sundome Center for Performing  
Arts

Symphony Hall Performances

Theatrical Agencies Productions

Theme Park Tickets

University of Arizona Plays,  
Concerts, Ballets, Operas

Water Amusement Parks

Zoo Tickets

Any gift of entertainment with a  
monetary value

**CERTIFICATION OF PERSONAL COMMITMENT**

I, \_\_\_\_\_, hereby certify that I have read the foregoing City of Phoenix Ethics Handbook (dated \_\_\_\_\_) and I agree to be bound by the applicable laws and policies—including specifically the City of Phoenix Ethics Policy—to the best of my abilities.

Date: \_\_\_\_\_

(signature)  
\_\_\_\_\_



**City of Phoenix**

REVISED JULY 2005



**ETHICS AD HOC TASK FORCE**  
**SUMMARY OF CITY OF PHOENIX ETHICS POLICIES**  
**August 2012**

**Ethics Handbook**

The City's Ethics Handbook, which is available in both hard copy and on the City's intranet, was originally developed by an ad-hoc committee comprised of City staff, an official with the State Solicitor General's Office, and local businesspeople. Approved by the City Council in 1991, the Handbook became the catalyst for over 500 training sessions delivered to City employees over the next two years. Ethics was also added to the City's New Employee Orientation program and an Ethics Hotline was available for employees to receive guidance on ethics-related issues. In 1997 the Handbook was revised to reflect new City policies and provide practical examples of situations that might arise regarding use of ethical standards. Refresher training was once again delivered City-wide. Other changes since 1997 include the development of a Frequently Asked Questions (FAQs) guide, video training for members of boards, commissions and committees, and handbook revisions reflecting changes in City, State and federal regulations. Methods for reporting of improper behavior include the City's Integrity Line, formerly called the Management Audit Control, or "MAC" Line, established to provide employees with a way to report unethical behavior. Currently, staff provides customized refresher courses to departments as needed; and, Ethics training continues to be a significant component of new employee training programs.

The City's policy is that it uphold, promote and demand the highest standards of ethics from all of its employees and officials, whether elected, appointed or hired. The Handbook outlines applicable laws and policies which cover the following categories:

- Attendance
- Conflicts of Interest
- Contracts with the City of Phoenix
- Disclosure of Confidential Information
- Discrimination
- Employment
- Gifts, Favors and Extra Compensation
- Political Activity
- Public Access: Open Meeting and Public Records
- Use of City Equipment, Facilities or Personnel for Private Gain
- Software Management
- Electronic Mail
- Federal Transit Administration Standards of Conduct

**ADMINISTRATIVE REGULATIONS**

**Electronic Communications and Information Acceptable Use (Administrative Regulation 1.63)**

This policy governs the acceptable use of City of Phoenix information systems, electronic communication channels, and Internet access; and restricts personal use of City property or resources. Section V.5 of this policy specifically outlines what is considered "unacceptable use" of City information systems.

**Political Activity – Time Off to Vote (Administrative Regulation 2.16)**

This policy defines allowable and prohibited political activities for City employees and establishes that employees may not engage in certain activities while on duty, on any City property, or when in a City uniform. This policy also outlines the requirements for an employee interested in running for an elected office.

**Solicitation By or Of City Employees During Work hours (Administrative Regulation 2.33)**

This policy defines the types of solicitations that are permitted and those prohibited. The purpose of this policy is to ensure employees focus on performing City work, and, ensure employees are not pressured to contribute financially to any outside enterprise while at work.

**Sexual Harassment (Administrative Regulation 2.35A)**

This regulation defines sexual harassment and reaffirms the City's policy prohibiting sexual harassment and its commitment to providing a harassment-free environment for all employees. Page 2 outlines examples of prohibited conduct.

**Protected Category Harassment (Administrative Regulation 2.35B)**

This regulation defines protected category harassment, outlines responsibilities for compliance, and clarifies complaint procedures and investigative processes. Protected category harassment is behavior based upon an individual's gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information or any other legally protected basis that is not welcome, offensive, demoralizing, and/or interferes with work effectiveness. Page 2 outlines examples of prohibited conduct.

**Work Notices for Outside Employment (Administrative Regulation 2.62)**

This policy establishes the City's position on outside employment by City employees. Outside employment is defined as all non-City employment, including self-employment. Page 2 outlines unacceptable work situations. Employees desiring to engage in outside employment must complete a Notice of Outside Employment form (sample form is included with the policy).

**Conflicts in Employment, Supervisory and Contractual Relationships (Administrative Regulation 2.91)**

This policy addresses contractual relationships among family members. In compliance with Arizona Revised Statute Section 38-502, relatives are defined as the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half-blood and their spouses, and the parent, brother, sister, or child of a spouse. Other relationships may also create the appearance of a conflict. This policy restricts employees from appointing, supervising, and participating in contracts, sales, or purchases where an identified conflict exists. A Disclosure Form (sample form included with the policy) is required of employees where a conflict exists.

**Contracts With or Re-employment of Retirees (Administrative Regulation 2.92)**

This policy establishes policies and procedures to be followed when it is determined that contracting with or rehiring a retired City employee is necessary to continue the delivery of City services. The policy

specifically prohibits the immediate rehiring of a retired City employee, and also prohibits making a commitment to future employment prior to retirement or within the first six months after retirement. Individuals who retire under the provisions of a City retirement plan may not be reemployed into another regular full-time position covered by the same retirement plan.

**City Employee Gift Policy (Administrative Regulation 2.93)**

This policy states that no City employee shall accept a gift, service, or favor which would lead toward favoritism or the appearance of favoritism. This policy does allow for the acceptance of token gifts if they are of minimal value, can be shared with the entire work unit and will not be perceived as influencing decisions. This policy includes a Declaration Form and lists examples of gifts that must be declared if accepted by the employee.





# City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>		A.R. NUMBER
SUBJECT		1.63 Revised
<b>ELECTRONIC COMMUNICATIONS AND INFORMATION ACCEPTABLE USE</b>		FUNCTION
		Information Technology
		Page 1 of 6
		EFFECTIVE DATE
		March 12, 2012
		REVIEW DATE

## Transmittal Message

Email questions about this Administrative Regulation (A.R.) to the Information Technology Services, Information Security & Privacy Office at [ISPO@phoenix.gov](mailto:ISPO@phoenix.gov).

## Summary of Changes

This Administrative Regulation has been updated to remove information that is now contained in A.R. 1.92, as well as to address the use of mobile devices. Additionally, it

- Removes the definition of "transient record" to avoid confusion.
- Clarifies language to make it clear that city business should not be conducted on personal email accounts.
- Adds the definition of Criminal Justice Information (CJI)
- Clarifies verbiage that prohibits members of the city workforce from using their city email accounts to post or email personal information on public websites

## I. PURPOSE

The purpose of this A.R. is to govern the acceptable use of City of Phoenix (City) information systems, electronic communication channels, and Internet access in support of City business requirements. The elements in this A.R. provide measures that

- Protect the confidentiality, integrity, and availability of City information and help preserve the public trust
- Increase the City workforce's effectiveness by promoting efficient, clear, and accurate electronic business transactions and communications
- Minimize security incidents
- Emphasize the public record aspects of electronic information, and
- Protect the City from legal liability.

## II. SCOPE

This A.R. applies to all members of the City workforce.

### III. DEFINITIONS

- City business – All work performed on an electronic device that has a direct relation to the City's operation and activities. City business includes any work performed where non-transient public records may be created, transmitted, or stored using a personal mobile device.
- City workforce – Anyone authorized to access City information systems and information including, without limitation, City employees, non-City employees, business partners, contractors, volunteers, and temporary workers.
- Criminal Justice Information (CJI) – Data provided by the Federal Bureau of Investigation (FBI) for law enforcement agencies to perform their mission and enforce the laws. CJI includes biometric, identity history, person, organization, property, and case/incident history data.
- Electronic communications – Any software or electronic information or telecommunications system including email and voice mail systems, instant and text messaging systems, facsimile machines, video-conference devices, software for net-meetings, webcasting, and other collaborative Web technologies.
- Information system – Any hardware, software, or electronic system that the City owns, operates, maintains, or provides and authorizes for use in storing, accessing, analyzing, and manipulating business information. These systems include business application systems, databases, Internet and intranet sites, file servers, document management systems, and their infrastructure.
- Personal device – Any electronic storage or multi-function computing and communications device capable of hosting a broad range of applications for both business and consumer use that is not owned by the City, but owned or provided by City workforce. Personal devices include, but are not limited to USB sticks, removable hard drives, personal digital assistants (PDAs), smartphones, and tablet, pad, desktop, and laptop computers.

### IV. ROLES and RESPONSIBILITIES

- Department Heads are responsible for assuring their department complies with this A.R.
- The Chief Information Security Officer or designee is responsible for interpreting and revising this A.R.
- The City workforce is responsible for understanding and complying with this A.R and for annually acknowledging their compliance with City information security policies.

### V. POLICY STATEMENTS

- 1 **City Workforce Accountability.** All members of the City workforce are accountable for the security of their user IDs and passwords, and for all actions performed by their computer accounts. City workforce members may not use another's user ID and password, nor allow another to use their user ID and password.
- 2 **Privacy Expectations.** The City workforce has no expectation of privacy for any electronic information created, received, stored in, or transmitted on the City's electronic property or electronic communication systems.

In accordance with Arizona's Public Records Law, the public may request all information made or received by City workforce in performance of their jobs. The City workforce must consider all information, including

email and City information residing on personal devices, open to public view unless the Law Department determines there is a specific legal confidentiality requirement.

**3 Use of Personal Devices.** As described below, the City workforce may use personal devices for work involving information classified as public. Reference: s1.9 Information Classification Standard.

City workforce members performing any work on personal devices are encouraged to connect to the City's network using the City's remote access facility to best protect City information. To help assure compliance with Public Records Law, the City workforce should not store any City information on a personal device or system.

While City workforce members may use personal devices to access their City email as stated below, they should not conduct City business using personal email accounts.

***City workforce members may not use personal devices for work involving any personal identifying or restricted City information that may result in a critical breach of information security.*** Reference: A.R. 1.90 Information Privacy and Protection.

The City workforce may not use personal devices to access Criminal Justice Information unless specifically authorized by the City's Criminal Justice Information Services (CJIS) Officer. The CJIS Officer must approve and authorize any access, processing, storage, or transmission of Criminal Justice Information using personal devices.

**3.1 Use of Personal Devices for Messaging.** The City workforce may use personal devices, such as smartphones for telephone, texts, and email related to City business. While the City workforce must comply with all other provisions in this A.R., no additional approvals are required.

**3.2 Use of Personal Devices for Messaging and Offline Work.** The City workforce may use personal devices, such as pad and/or tablet computers for texts, email, and work related to City business without connecting to the City's network. This includes accessing email via a web browser. While the City workforce must comply with all other provisions in this A.R., no additional approvals are required.

**3.3 Use of Personal Devices Connecting to City Network.** The City workforce may use personal devices, such as pad, tablet, laptop, or desktop computers to connect to the City's network with approval from their department's information security liaison and with the understanding that the City may require City-provided and monitored management software to assure compliance with City policies.

**4 Personal Use.** The City workforce may use City information systems for incidental personal use as long as it

- Consumes only a minimal amount of computer system resources or staff time
- Does not interfere with productivity or any business activity
- Does not cause the City to incur additional costs
- Does not require repeated and ongoing use or registration of their City email account, as City workforce members should not use their City email address as their primary personal email account
- Does not violate any City A.R. or standard, or any applicable law or regulation, and
- Would not adversely affect the reputation of the City, its citizens, or its employees.

**5 Unacceptable Use.** The City workforce must use City information systems in compliance with this A.R. Examples of unacceptable use include, but are not limited to the following:

- To transmit or display offensive, derogatory, defamatory, improper, harassing, sexually explicit, pornographic, obscene, vulgar, or profane messages or materials, even in a joking manner
- To access restricted-content Web sites, such as sexually explicit, pornographic, racist, or hate sites

City workforce members must immediately disconnect from any Web site they have inadvertently connected to that contains sexually explicit, racist, violent, or otherwise inappropriate content. The ability to connect with a specific Web site does not in itself imply that the City workforce is permitted to visit that site.

- To copy or disseminate copyrighted materials, such as articles, movies, music, or computer software, in a manner that is inconsistent with applicable copyright laws or licensing agreements
- To use their City email account to post or email their personal information on public Web sites, blogs, or other external destinations, including online auctions

Members of the City workforce should not appear to be representing the City of Phoenix when conducting personal business.

Only authorized and approved members of the City workforce may write, publish, or post official City information on social media sites.

- For personal gain or for personal businesses
- For political purposes, including campaigning and voting, except as provided in A.R. 2.16 Political Activity – Time off to Vote
- To use unapproved peer-to-peer or other software, such as LimeWire, BitTorrent, or KaZaA, or
- To transmit or forward chain letters, third-party advertisements, or third-party solicitations.

**6 Required Training.** The City workforce must complete all applicable information security awareness training within the timeframes that the City establishes. This includes, but may not be limited to new hire and annual training.

**7 Security Software.** The City workforce must not disable or circumvent any software or controls intended to safeguard City information systems.

**8 Unattended Devices.** The City workforce must appropriately protect all unattended information systems and promptly report any suspicious activity that may affect information security, or the loss or theft of a device containing City information to their department's information security liaison.

**9 Authorized Software.** The City workforce must use only City-authorized software on City-owned devices. The City workforce may neither use nor distribute unauthorized software in the course of performing City business. Reference: A.R. 1.86 Legal Use of Software.

**10 Copyrights and Licensing.** The City workforce must always comply with all applicable copyright and license requirements. Reference: A.R. 1.86 Legal Use of Software.

**11 Records Management.** The City workforce must comply with all records retention policies and schedules. The City workforce must not delete and/or modify any electronic records in a manner that violates their approved retention periods and/or any other legal requirements. For example, members of the City

workforce must not empty their email system trash or modify activity logs. Reference: A.R. 1.61 Records Management Program.

**12 System Use.** The City workforce must use City information systems and protect City information in accordance with all A.R.'s and standards. Reference: A.R. 1.84 Information Security Management.

**13 Ownership.** The City owns all information residing on its information systems. Upon termination of City employment, contract, or agreement, City workforce members must return all equipment, software, and information, whether in electronic form or otherwise.

## **VI. PRIVACY AND MONITORING**

The City reserves the right to monitor systems, electronic communications, and usage to support operational, maintenance, auditing, security, and investigative activities, including enforcement of this policy, legal requests, public record requests, and to help assure and to verify compliance, confidentiality, integrity, and availability of information systems used to conduct City business. This A.R. does not prohibit technical staff from monitoring departmental workstations and servers for the purpose of maintaining overall system reliability, availability, and security. Unauthorized accessing, monitoring, or reading of electronic communication systems or their contents violates this City policy.

City departments are responsible for handling public requests for their electronic information, including email messages, and for working with their legal, human resources, City Clerk, and Public Information Office representatives, as needed, before making the records available to the public.

City Department Heads may approve initiating an investigation of their workforce's compliance with this A.R. and must coordinate the investigation with the Human Resources (HR) Director and the department's legal representative. The HR Director may authorize access and monitoring of email based on Department Head requests. If authorized, the HR Director will forward requests to Information Technology Services, or the Police Department for Police staff, to process email requests and maintain them. The HR Director may consult with the Chief Information Officer for technical advice and/or assistance in the course of a lawful investigation.

## **VII. COMPLIANCE**

All City workforce members agree to abide by and comply with this A.R. The City workforce must consider all information, including email and City information residing on personal devices, open to public view unless the Law Department determines there is a specific legal confidentiality requirement. The City Auditor Department may conduct periodic audits to evaluate compliance with the responsibilities set forth in this A.R.

A violation of this A.R. may result in disciplinary action, up to and including termination of employment. In the case of contractors and temporary workers who violate this policy, the City may revoke any and all system access and use privileges and terminate the third-party contract(s).

All exception requests must follow the authorized waiver procedure.

## **VIII. RELATED POLICES, STANDARDS AND PROCEDURES**

A.R. 1.61 Records Management Program

A.R. 1.73 Control of Communication Services and Systems

A.R. 1.84 Information Security Management

A.R. 1.86 Legal Use of Software

A.R. 1.90 Information Privacy and Protection

A.R. 1.91 Information Privacy and Protection Supplement – Data Shared With Third Parties

s1.1 Virus Protection

s1.2 Web Filtering

s1.3 Identity Management

s1.4 Remote User Access

s1.5 Password Management

s1.7 Media Retention/Removal

s1.8 Internet Email Content Security

s1.9 Information Classification

s1.10 Collaborative Web Technologies Usage

s1.2.1 Requesting Access to Blocked Web Sites

b1.3 Waiver Standard

DAVID CAVAZOS, City Manager

By   
Lisa Takata  
Assistant to the City Manager

**CITY OF PHOENIX**  
**ELECTRONIC COMMUNICATIONS AND**  
**INFORMATION ACCEPTABLE USE**  
**CITY WORKFORCE RECEIPT**

This form must be signed by each current and new member of the City workforce.

I acknowledge that I have received A.R. 1.63, Electronic Communications and Information Acceptable Use. I recognize that as a user of City information, electronic communications, and computer systems I am responsible for following the provisions outlined in this policy. I understand that if I am found to be in violation of this written policy, I may be subject to disciplinary action.

Name (printed) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

c: Copy to individual member of the City workforce

Original to department file





## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>	A.R. NUMBER
SUBJECT	2.16 revised
<b>POLITICAL ACTIVITY - TIME OFF TO VOTE</b>	FUNCTION
	Human Resources
	Page 1 of 6
	EFFECTIVE DATE
	February 16, 2008
	REVIEW DATE
	July 16, 2010

### INTRODUCTION

#### Transmittal Message

The Sections "Laws" and "Coverage" in this Administrative Regulation (AR) have been revised to identify the specific applicable laws and statutes. Questions regarding this AR should be directed to the Support Services Division in the Human Resources Department at 262-7770.

#### Purpose

The purpose of this AR is to define allowable and prohibited political activities for City employees, and to establish regulations for time off to vote in city and state elections.

#### Public Policy

It is the public policy of the City, reflected in this AR, that:

- City programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, governmental integrity, and the efficient delivery of governmental services;

All employees be free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this AR;

Employees not engage in activities that are inconsistent, incompatible, in conflict with, or harmful to their duties as City employees.

This AR shall be construed according to this public policy statement.

Nothing contained in this AR shall be construed as denying employees of their civil or political liberties as guaranteed by the United States and Arizona Constitutions.

#### Laws

Limitations on the political activities of City employees can be found in Chapter XXV, section 11 of the Phoenix City Charter, Phoenix City Code §§ 12-217 and 12-218, and Personnel Rules 4b and 4c. This AR explains permitted and prohibited activities and is based on those provisions.

## **Coverage**

Employees in activities which are funded in whole or in part by federal funds are covered by the Hatch Act (5 USC §§1501-1508), a federal statute that sets forth specific limitations on the political activities of some public employees. Departments or employees who have questions regarding whether an employee is covered by the Hatch Act should contact the Human Resources Department at 262-6608. Departments may also consult with the Law Department with questions about the specific limitations of the Hatch Act for covered employees.

## **Permitted Activities**

### **A. City Elections**

Activities listed in this section apply to City of Phoenix elections, including recall elections, for Mayor and City Council, and to elections for charter amendments, bond issues, referenda, or issues of similar character. These activities are permitted for an individual on his or her own time but are not permitted while on duty, on any City property, or when the individual is in a uniform normally identified with the City of Phoenix. However, in some cases, a polling location may be located on City property. In this instance, uniformed employees may vote at this location with supervisory approval.

City of Phoenix employees **may**:

1. Register and vote in any City election.
2. Privately express an opinion on candidates for Mayor and City Council.
3. Be politically active in connection with a charter amendment, bond issue, referendum, or issue of similar character.

### **B. National, State, County Elections**

Activities listed in this section apply to national, state, and county elections, and to municipal elections outside the City of Phoenix. They are permitted for an individual on his or her own time but are not permitted while on duty, on any City property, or when the individual is in a uniform normally identified with the City of Phoenix. However, in some cases, a precinct polling place may be located on City property. In those instances, uniformed employees may vote at those locations with supervisory approval.

City of Phoenix employees, including employees in activities financed through federal funds, **may**:

1. Register and vote in any election.
2. Solicit votes in support of or in opposition to a political candidate or issue.
3. As an individual, privately and publicly express an opinion on political subjects and candidates.
4. Sign, initiate, or circulate a political nomination or recall petition.

5. Take an active part in the management of political campaigns.
6. Display bumper stickers, posters, or pamphlets on private property for the endorsement of candidates or issues.
7. Be politically active in connection with a constitutional amendment, bond issue, referendum, or issue of a similar character.
8. Directly or indirectly solicit, receive, or account for funds for a political purpose except as prohibited by this AR.
9. Make a financial contribution to a political party or candidate.
10. Be a member of a political party and participate in its activities consistent with this AR.
11. Serve as a delegate, alternate, or proxy to a political party convention.
12. Serve as an officer of a political party; a member of a national, state, or local committee of a political party; an officer or member of a committee of a partisan political club; or be a candidate for any of these positions.
13. Endorse or oppose a candidate for public office or political party office in a political advertisement, broadcast, campaign literature, or similar material.
14. Drive voters to the polls on behalf of a political party or candidate.

### **Prohibited Activities**

Activities permitted in the section entitled Permitted Activities above are prohibited when an employee is on duty, including break periods. They are also prohibited on City property or when an employee is in a uniform normally identified with the City of Phoenix. However, in some cases, a precinct polling place may be located on City property. In those instances, employees may vote at those locations with supervisory approval.

For all elections, certain activities **are prohibited**. City employees:

1. **May not** use any official City authority or influence for the purpose of interfering with or affecting the results of an election.
2. **May not** solicit funds or receive contributions from other employees for political purposes.
3. **May not** engage in political activities involving City of Phoenix municipal elections, including recall elections, for Mayor and City Council except as listed previously in the section entitled "Permitted Activities."
4. **May not** sign nomination or recall petitions for the Mayor of Phoenix and Phoenix City Council.

5. **May not** participate in any way whatsoever in campaign activities for candidates for the Mayor of Phoenix and Phoenix City Council including, but not limited to, making financial contributions to candidates.
6. **May not** display bumper stickers and posters on City vehicles or display bumper stickers, posters, pamphlets, buttons, or other campaign material on City property or at their individual work sites.
7. **May not** use an official City title or designate employment with the City in political advertisements, endorsements, or speeches.

Activities prohibited for an individual employee are also prohibited for groups or organizations of employees, even though the specific activities are being performed by a non-employee as a representative of the employee group.

### **Candidate for Elective Office**

- A. An employee **may not** be a candidate for election to Mayor or City Council of the City of Phoenix.
- B. An employee covered by the Hatch Act **may not** be a candidate for election to a partisan political office. Such employee **may not** be granted a leave of absence for the purpose of becoming a candidate for election.
- C. An employee may be a candidate to a partisan political office not covered by paragraphs A and B in this section. He must notify the director of his department in writing of the candidacy and the political office sought. Consideration will be given to the circumstances of the election and whether such office is inconsistent, incompatible, in conflict with, or is harmful to his duties as a City employee. The department head will forward this information to the City Manager's Office for review. The City Manager's Office will determine the impact of the candidacy on the City.
  1. If the City Manager's Office finds the partisan political office is not inconsistent, incompatible, in conflict with, and is not harmful to duties of the employee, the City Manager's Office may allow the employee to be a candidate for the partisan office and continue his City employment. The employee may not use an official City title in political campaigning, nor should official authority be used to affect the result of the election.
  2. If the candidacy or the partisan political office is inconsistent, incompatible, in conflict with, or is harmful to the employee's duties, the City Manager will determine whether the employee can continue City employment. Based on the circumstances of the employee's job and the public policy concerns of this AR, the City Manager may:
    - a. Place the employee on an unpaid leave of absence from the date nomination papers for candidacy are filed until the completion of the elective process. The employee may not use an official City title in political campaigning nor should official authority be used to affect the result of the election.
    - b. Impose lesser restrictions that remove the inconsistency, incompatibility, conflict, or

harmful effect of the candidacy or partisan political office on the employee's job duties as a City employee. The employee may not use an official City title in political campaigning nor should official authority be used to affect the result of the election.

- c. Require the employee to terminate City employment upon the filing of nomination papers for candidacy or publicly holding himself out as a candidate, if the operations of the City are interfered with or undermined.

D. Except for City of Phoenix elections, an employee may be a candidate for a non-partisan elective position.

### **Elected Positions**

An employee may be elected to a political office and maintain his City employment unless it is determined by the City Manager that such elective office is inconsistent, incompatible, in conflict with, or is harmful to duties as a City employee. Consideration shall be given to the circumstances of the election and whether such office is inconsistent, incompatible, in conflict with, or is harmful to his duties as a City employee. The City Manager may require that the employee be placed on a leave of absence, or lesser restrictions be imposed. If the public policy concerns of the City are undermined, the employee may be required to terminate City employment prior to assuming the elected position.

### **Prohibition Against Using City Resources**

The use of City resources or employees to influence the outcome of elections is prohibited by state law. ARS § 9-500.14. This prohibition has been interpreted to prohibit the use of any City funds or resources to advocate for or against a measure that will be on the ballot. The obvious exception to this general prohibition is when the City Council proposes a measure that will appear on the ballot. But even then, the use of City funds and resources is limited to informing the public of this action. City funds and resources cannot be used to "campaign" in support of the measure.

Moreover, while the City is permitted to respond to citizen inquiries, it must do so in neutral manner that does not urge support or opposition to the measure. The information provided by the City must therefore be "full and impartial" and cannot "amount to improper campaign activity." Ariz Op Atty Gen. No. 100-020 (09/11/2000).

### **Time Off to Vote**

City employees who are registered voters may be allowed time off to vote in city and state elections. This does not apply to elections that are limited to bond issues, referenda, or similar issues. The maximum paid time off allowed will be the time necessary to provide three consecutive free hours between the opening of the polls and the start of work, or the end of work and the closing of the polls.

To qualify for this time off, the employee must:

1. Be a registered voter.
2. Request permission in writing from his supervisor, if possible, at least three days prior to the day of the election. However, under current state law, employees have the right to request time

off to vote the day prior to Election Day.

3. If requested by the supervisor, provide the supervisor with a current residence address and the location of the polls.
4. Take the time to vote during the period designated by the supervisor, either at the beginning or at the end of the shift.
5. Go to the polls and vote.

DAVID CAVAZOS, City Manager

By:   
Lisa Takata  
Executive Assistant To The City Manager



## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>		A.R. NUMBER
		2.33 Revised
SUBJECT	<b>SOLICITATION BY OR OF CITY EMPLOYEES DURING WORKING HOURS</b>	FUNCTION
		Human Resources and Payroll
		Page 1 of 2
		EFFECTIVE DATE
		September 22, 2004
		REVIEWED DATE
		May 17, 2010

### **Transmittal Message**

This Administrative Regulation has been revised to reflect the policies and practices that have evolved since its original issue date in 1960.

### **Summary of Changes**

Categories of solicitations are described in this regulation along with examples of what is and is not permitted at the work site.

#### **1. Purpose**

While at work, City employees should be focused primarily on performing the work they have been hired and assigned to complete. In addition, employees should not feel pressured to contribute financially to any outside enterprise while at work, whether it is a for-profit or non-profit enterprise.

#### **2. Community Service Fund Drive**

Once a year, City of Phoenix employees are authorized by the City Manager to conduct fundraising activities on City time, for the purpose of contributing to the annual Community Service Fund Drive. The City's voluntary program allows employees to choose which non-profit agency or agencies to contribute funds to, and permits employees to contribute through payroll deduction.

#### **3. Non Profit Fund Raisers**

Non-profit fundraising activities fall into one of two categories, and must be approved by the Department Director in advance.

A. Department-sponsored fund raising - Department Directors may authorize fund-raising activities that support employee morale such as holiday activities, employee luncheons, retirement or other recognition events, or expressions of support for employees who have experienced a death in the family. In addition Department Directors may authorize employees to solicit contributions for non-profit or community agencies such as Adopt-a-Family programs, or food drives, keeping in mind that employees should not feel pressured by co-workers or supervisors to contribute or purchase items. Employees may be allowed minimal City time to work on department-sponsored fund-raising activities such as food and clothing drives, and information about the fund-raising activity may be shared using the City's e-mail system.

B. Non-Department Sponsored Fund Raisers –Employees may wish to solicit on behalf of their children's schools, scouting programs, or other not-for-profit purpose. Employees must obtain permission from their Department Director prior to the solicitation, and restrict their activities such as money collection and product distribution, to lunch breaks, before or after work. The solicitation must be passive in nature; for example, the City's interoffice and e-mail systems may not be used to communicate information about the fund-raising activity. Employees may post sales information on employee bulletin boards, in lunchrooms or break rooms.

4. For-Profit Solicitation

For-profit solicitations among City employees during working hours are prohibited. Employees who wish to sell anything for a profit must comply with AR 2.62 Work Notices for Outside Employment and submit a Notice of Outside Employment form to their first-line supervisor. Department Directors may authorize employees to post sales information on employee bulletin boards, in lunchrooms or break rooms. Passive solicitation of City employees is permitted only during non-working hours such as lunch breaks, before, or after work. Active solicitations such as one-on-one sales, routing a catalog from desk to desk, or use of the City's interoffice and e-mail systems, are not allowed. Employees may not display items for sale at their desks or in their offices.

5. Enforcement

Department Directors may create and distribute policies consistent with this Administrative Regulation regarding solicitations within their departments. Management reserves the right to deny or revoke any employee's approval to solicit if the employee has violated this regulation, if the solicitation interferes with the work performance of a group or individual, if the solicitation involves offensive material, or for any other reason.

DAVID CAVAZOS, City Manager

By:



Lisa Takata  
Executive Assistant to the City Manager



## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>	A.R. NUMBER 2.35 (A) Revised
SUBJECT	FUNCTION Human Resources Page 1 of 6
<b>SEXUAL HARASSMENT</b>	EFFECTIVE DATE March 22, 2005
	REVIEWED DATE July 19, 2010

### I. STATEMENT OF COMMITMENT

The City of Phoenix is committed to providing a harassment-free environment for all employees. The City will not tolerate sexual harassment in the workplace.

### II. PURPOSE

This regulation defines sexual harassment, reaffirms the City's policy prohibiting sexual harassment, outlines City department responsibilities for compliance with this policy, and clarifies complaint procedures and investigative processes for employees and job applicants who wish to pursue sexual harassment complaints.

See Administrative Regulation 2.35 for discrimination issues and Administrative Regulation 2.35(B) for protected category harassment.

### III. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is behavior directed at an individual due to gender that is not welcome, that is offensive, demoralizing, and/or interferes with work effectiveness. It may be conduct toward an individual of the opposite sex or the same sex and it may occur between peers or between individuals in a hierarchical relationship.

Sexual harassment does not refer to occasional compliments or personal interactions of a general socially acceptable nature. Determining whether specific conduct constitutes sexual harassment depends upon the facts and the context in which the conduct occurs. It should also be understood that certain behaviors that do not fit the definition of sexual harassment may nevertheless be unprofessional and inappropriate in the workplace and are also prohibited under other City policies and regulations.

There are two forms of sexual harassment:

**Quid Pro Quo** occurs when a supervisor or other person in authority conditions the granting of an economic or other job benefit, such as a raise or advancement, upon the receipt of sexual favors from a subordinate, withholds such benefits, or punishes that subordinate for refusing sexual favors.

**Hostile Environment** is created by persons in the workplace through unwelcome sexual advances or other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's work performance or job conditions.

#### **IV. POLICY**

The City of Phoenix will not tolerate sexual harassment in the workplace. No employee, either male or female, should be subject to unwelcome verbal or physical conduct that is sexual in nature or that shows hostility to the employee because of the employee's gender. No employee of the City is permitted to engage in sexual harassment. This includes supervisors, managers, and executives, who are entrusted with authority to enforce and uphold the policies of the City. Supervisors, managers, and executives are required to take proactive steps to prevent sexual harassment and to take prompt corrective action whenever it occurs.

#### **V. EXAMPLES OF PROHIBITED CONDUCT**

Examples of conduct prohibited by this policy include:

- Offering or implying an employment-related reward or opportunity, such as a merit pay increase or promotion, in exchange for sexual favors or submission to sexual conduct.
- Threatening, verbally or physically, or taking a negative employment action such as termination, demotion, denial of a leave of absence, merit pay increase, or withholding any other benefit of employment if sexual conduct is rejected.
- Unwelcome intentional touching, hugging, or holding of another person, or other unwanted intentional physical contact (including patting, pinching, brushing against another person's body, or blocking of physical movement).
- Unwelcome non-verbal/non-physical conduct such as whistling, staring, or leering at another person.
- Asking unwelcome questions or making unwelcome comments about another person's sexual activities, dating, personal or intimate relationships, or appearance.
- Sending unwelcome sexually suggestive or flirtatious letters, gifts, notes, or voice mail.
- Sending unwelcome sexually suggestive letters, notes, and jokes on e-mail, including pictures, photographs or graphics that may or may not be sent as electronic attachments or copied from electronic messages.
- Saying unwelcome sexual jokes, pranks, teasing, obscenities or rude gestures or noises, slurs, derogatory or abusive names.

- Displaying or circulating pictures, objects, or written materials of a sexual nature (including graffiti, cartoons, photographs, pinups, calendars, magazines, figurines, novelty items).
- Engaging in other unprofessional conduct that technically may not be considered "sexual harassment" but may have a similar effect on the work environment. While it is not possible to provide an exhaustive list, such conduct might include verbal or physical nonsexual conduct that denigrates or shows hostility toward an individual because of his or her gender, jokes including derogatory slurs, improper relationships between supervisors and subordinates, profane or vulgar language, or improper sexual behavior in the workplace.
- Retaliating against a person for opposing, reporting, or threatening to report harassment, or for participating in an investigation, proceeding or hearing conducted by an investigating agency.

## VI. WHAT TO DO IF SEXUAL HARASSMENT OCCURS

1. **Tell the offending person to stop.** An employee who believes that he or she has been subjected to sexual harassment by anyone is encouraged – but not required – to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A person who receives such a request **must** immediately comply with the request and **must not** retaliate against the employee for rejecting the conduct.
2. **Duty to report.** The City requires all employees to report conduct which is prohibited by this policy whether or not they are personally involved. Any employee who believes s/he has been harassed on the job based on gender or subjected to conduct prohibited by this policy, or is aware of others who have been harassed or subjected to prohibited conduct, needs to report the behavior immediately. (See Section VII [3] entitled, "How to Make a Report.") Failure to report harassment can be a serious offense and *may* be grounds for disciplinary action.

Supervisors, managers, and executives are required to monitor their respective workplaces and immediately intervene if they determine sexual harassment has occurred. They are also required to report any suspected sexual harassment even if the person or persons engaged in the conduct are not their subordinates, or they have not received a complaint. The failure of a supervisor, manager, or executive to monitor, intervene, or report sexual harassment as set forth below can be a serious offense and *will* result in discipline.

## VII. REPORTING HARASSMENT

If you believe you are a victim of sexual harassment, you should use the procedure outlined in this policy to file a complaint and have it investigated.

1. **When to make a report.** Any employee who believes s/he has been subjected to sexual harassment by anyone must report it immediately. Any employee or supervisor

who knows or believes that sexual harassment is occurring, or has occurred, also must file a report immediately.

2. **Where to make a report.** Any employee who believes s/he has been subjected to sexual harassment should report the harassment to the immediate supervisor, department management, department Personnel Officer/Equal Opportunity Liaison, or to the Equal Opportunity Department's Compliance and Enforcement Division at (602) 262-7486 (voice) or (602) 534-1557 (TTY). **Complaints must be filed within 180 days of the alleged act(s) of sexual harassment.**

Any employee or supervisor who knows, or believes, that sexual harassment is occurring, or has occurred, must report that information immediately to the respective department Personnel Officer/Equal Opportunity Liaison or to the Equal Opportunity Department's Compliance and Enforcement Division at (602) 262-7486 (voice) or (602) 534-1557 (TTY).

Applicants for employment should file their complaints or discuss their concerns with the Equal Opportunity Department. **Complaints must be filed within 180 days of the alleged act(s) of sexual harassment.**

If there is uncertainty as to whether or not a situation constitutes sexual harassment, the concerned individual is encouraged to discuss the matter with the Personnel Officer/Equal Opportunity Liaison or Equal Opportunity Department before determining whether or not to file a formal complaint.

An employee or applicant may choose to raise the complaint with a state or federal agency without first pursuing it through City channels. Pursuant to state and federal law, complaints may also be filed with the Civil Rights Division of the Arizona State Attorney General's Office (ACRD) at (602) 542-5263 (voice) or (602) 542-5002 (TTY), or the U.S. Equal Employment Opportunity Commission (EEOC) at (602) 640-5000 (voice) or (602) 640-5072 (TTY).

3. **How to make a report.** All employees have a right to redress for prohibited sexual harassment. In order to secure this right, the employee should provide a complaint, preferably in writing and as soon as possible following the incident, to any of the following City of Phoenix staff:

- Supervisor or another person in the chain of command
- Department Personnel Officer
- Department Equal Opportunity Liaison, or
- Equal Opportunity Department, Compliance and Enforcement Division

## **VIII. INVESTIGATION OF COMPLAINTS**

All incidents of harassment that are reported will be investigated. The following procedures will be followed when a report of sexual harassment is made:

1. **Department investigation.** When an employee or applicant reports a possible sexual harassment concern to a City department, the department may, if it has the resources

and expertise to do so, conduct its own investigation. In such an instance, the investigation must be done in consultation with the Equal Opportunity Department and in a manner that is generally consistent with the procedure outlined below for the Equal Opportunity Department.

**2. Equal Opportunity Department investigation.** When a possible sexual harassment concern is brought to the Equal Opportunity Department, the Compliance and Enforcement Division will help evaluate the situation and decide on a proper course of action. Among the actions that can be taken are:

- a. The Equal Opportunity Department can facilitate an informal resolution between the parties if it deems it appropriate after reviewing the complaint. This can include consulting with the parties involved to settle the issue.
- b. If a formal complaint is filed, the Equal Opportunity Department will:
  - i. Notify the appropriate Deputy City Manager, Department Head, and Equal Opportunity Liaison of the complaint; and
  - ii. Immediately initiate an investigation to gather all relevant facts concerning the complaint.
- c. The Equal Opportunity Department may:
  - i. Schedule interviews with various employees, supervisors, witnesses, or officials. Interviews may be tape-recorded or a written statement of the testimony may be provided for the signature of the witness;
  - ii. Review personnel records or other documents;
  - iii. Make site visits to acquire pertinent facts; and
  - iv. Require employees to participate in an investigation either by submitting to an interview or providing documents or other relevant information; failure to participate may result in disciplinary action.
- d. The Equal Opportunity Department will work with the department(s) involved to obtain and evaluate all relevant evidence with respect to what has occurred.
- e. The Equal Opportunity Department will analyze all pertinent information and reach a conclusion as to whether or not a violation of this policy has occurred.
- f. Notice of the conclusion of the investigation will be given to the complainant, the appropriate Deputy City Manager, the Department Head, the department Equal Opportunity Liaison, and the respondent.
- g. All persons involved in an investigation of discrimination must attempt to keep the matter confidential; failure to do so may result in disciplinary action. This admonition does not apply to speaking with an attorney functioning within the attorney-client relationship. In addition, employees who receive a "notice of investigation" or "notice of inquiry" are permitted to consult with their union or association representative.

## IX. RESOLUTION OF COMPLAINTS

If the City determines that harassment has occurred, it will take remedial action commensurate with the circumstances. Appropriate action will also be taken to deter any future harassment.

An employee who engages in sexual harassment is acting contrary to City policy and will be subject to discipline, up to and including termination.

1. When it is determined that this policy has been violated, the Equal Opportunity Department will make recommendations for resolution of the complaint.
2. Management personnel will take prompt corrective action. If warranted, verbal counseling up to and including involuntary termination will be imposed. Other appropriate actions will be taken to correct problems caused by the conduct.
3. A finding that the conduct does not constitute sexual harassment does not limit a department's right and responsibility to discipline or take remedial action for unacceptable conduct that may amount to conduct unbecoming a City employee and/or is in violation of any other City policy or regulation.

## X. NON-SEXUAL HARASSMENT INCIDENTS

Alleged acts of unfair or unequal treatment that do not involve discrimination, sexual harassment, or other protected category harassment should be addressed through the established grievance procedure and other provisions outlined in Administrative Regulation 2.61.

## XI. RETALIATION

1. No supervisor, manager, executive, or coworker may retaliate against an employee who makes a report of sexual harassment or cooperates with an investigation. **Retaliation is unlawful and will not be tolerated.** Retaliation must be reported and handled in the same way as complaints of sexual harassment. Retaliation is a serious offense that may result in discipline up to and including termination.
2. A person found to have retaliated in response to a charge of sexual harassment will be subject to discipline. Exoneration on the underlying sexual harassment complaint will have no effect on the investigation of or possible discipline imposed for retaliation.

David Cavazos, City Manager

By:   
Lisa Takata  
Executive Assistant to the City Manager



# City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>	A.R. NUMBER AR 2.35 (B) Revised
<b>SUBJECT</b>	FUNCTION Personnel and Payroll Page 1 of 7
<b>PROTECTED CATEGORY HARASSMENT</b>	EFFECTIVE DATE March 22, 2005
	REVIEWED DATE March 3, 2010

## I. STATEMENT OF COMMITMENT

The City of Phoenix is committed to providing a harassment-free environment for employees. The City will not tolerate prohibited harassment of any kind in the workplace.

## II. PURPOSE

This regulation defines the City's policy prohibiting protected category harassment, outlines City department responsibilities for compliance with this policy, and clarifies complaint procedures. It also outlines investigative processes for employees and job applicants who wish to pursue harassment complaints based upon gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information, or any other basis made unlawful by an applicable law or ordinance or regulation. It also protects employees from harassment based on their record of a disability, because they are regarded as having a disability or have a relationship with a person who has a disability.

See Administrative Regulation 2.35 for discrimination issues and Administrative Regulation 2.35(A) for sexual harassment issues.

## III. DEFINITION OF PROTECTED CATEGORY HARASSMENT

The following defines the protected category harassment covered by this administrative regulation. The terms "protected category harassment" and "harassment" have the same meaning and application in this Administrative Regulation.

"Protected category harassment" or "harassment" is behavior **based upon** an individual's gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information or any other legally protected basis, that is not welcome, that is offensive, demoralizing, and/or interferes with work effectiveness.

"Protected category harassment" or "harassment" as used in this Administrative Regulation is **not**:

- Discriminatory acts covered in Administrative Regulation 2.35;

- Sexual harassment covered in Administrative Regulation 2.35(A);
- Acts of unfair or unequal treatment or acts which may appear to be harassing in nature if they are *not* based upon an individual's gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information or any other protected basis.

While this administrative regulation does not cover this behavior, it should be understood that it might nevertheless be unprofessional and inappropriate in the workplace. Such behavior should be addressed through established grievance procedures and other procedures outlined in Administrative Regulation 2.61.

2. Protected category harassment is evaluated from the victim's perspective. Individuals vary in their views of what is offensive. What may not be offensive to one person may be offensive to another. Determining whether specific conduct constitutes protected category harassment depends upon the facts and the context in which the conduct occurs as well as the severity or frequency of that conduct. Any employee who engages in behavior that is not of a generally socially acceptable nature runs the risk of committing protected category harassment.

#### **IV. POLICY**

The City of Phoenix will not tolerate protected category harassment in the workplace. No employee should be subject to unwelcome verbal or physical conduct that is harassing in nature or that shows hostility to the employee because of the employee's gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information or any other protected basis. Likewise, no employee should be subject to unwelcome verbal or physical conduct that is harassing in nature or that shows hostility to the employee based on the race, color, religion, gender, age, disability, sexual orientation, genetic information or national origin of a person with whom s/he associates.

No employee of the City is permitted to engage in harassment directed at another based on the other person's protected category.

This policy also applies to supervisors, managers, and executives, who are entrusted with the authority to enforce and uphold the policies of the City. This policy requires supervisors, managers, and executives to take proactive steps to prevent protected category harassment and to take prompt corrective action whenever it occurs.

#### **V. EXAMPLES OF PROHIBITED CONDUCT**

Examples of conduct prohibited by this policy include:

- Producing or displaying derogatory posters, photography, cartoons, drawings, messages, notes, novelty items, etc., that tend to alienate or discriminate against persons because of their gender, race, color, sexual orientation, religion, age,

disability, national origin, genetic information, or any other basis made unlawful by any applicable law, ordinance or regulation.

- Producing or displaying unwelcome messages that contain jokes, pictures, photographs, graphics or other written materials that tend to alienate or discriminate against persons because of their gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information, or any other basis made unlawful by any applicable law, ordinance or regulation that may or may not be sent as electronic messages or attachments or copied from electronic messages.
- Physical conduct such as blocking normal movement, making offensive gestures, offensive pranks, destruction of property, sabotaging or interfering with work.
- Verbal conduct such as telling unwelcome jokes, spreading rumors, teasing, obscenities, slurs, epithets or unwelcome and inappropriate questions or comments about an individual's gender, race, color, sexual orientation, religion, age, disability, genetic information, or national origin.
- Retaliating for opposing, reporting, or threatening to report harassment or for participating in an investigation, proceeding or hearing conducted by an investigating agency.
- Non-verbal/non-physical conduct such as intimidating, hateful looks, unresponsiveness, or overbearing presence.
- Engaging in other unprofessional conduct that may not technically be considered harassment, but may have a similar effect on the work environment. While it is not possible to provide an exhaustive list, such conduct might include verbal or physical conduct that denigrates or shows hostility toward an individual because of his or her gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information, or any other protected basis, including derogatory slurs, profane or vulgar language, or improper negative behavior in the workplace.

## VI. WHAT TO DO IF HARASSMENT OCCURS

**Duty to report.** The City requires all employees to report conduct which is prohibited by this policy whether or not they are personally involved. Any employee who believes s/he has been harassed on the job based on a protected category or subjected to conduct prohibited by this policy, or is aware of others who have been harassed or subjected to prohibited conduct, needs to report the behavior immediately. (See Section VII [3] entitled, "How to Make a Report.") Failure to report harassment can be a serious offense and *may* be grounds for disciplinary action.

Supervisors, managers, and executives are required to monitor their respective workplaces and immediately intervene if they determine protected category harassment has occurred. They are also required to report any such suspected harassment even if the person or persons engaged in the conduct are not their subordinates, or they have not received a complaint. The failure of a supervisor,

manager, or executive to monitor, intervene, or report protected category harassment as set forth below can be a serious offense and *will* result in discipline.

## VII. REPORTING HARASSMENT

1. **When to make a report.** Any employee who believes s/he has been harassed on the job because of gender, race, color, sexual orientation, religion, age, disability, national origin, or any other protected basis must report it immediately. Any employee or supervisor who knows or believes that harassment is occurring, or has occurred, also must file a report immediately.
2. **Where to make a report.** Any employee who believes s/he has been subjected to protected category harassment should report the harassment to the immediate supervisor, department management, department Personnel Officer/Equal Opportunity Liaison, or to the Equal Opportunity Department's Compliance and Enforcement Division at (602) 262-7486 (voice) or (602) 534-1557 (TTY). **Complaints must be filed within 180 days of the alleged act(s) of harassment.**

Any employee or supervisor who knows, or believes, that protected category harassment is occurring, or has occurred, must report that information immediately to the respective department Personnel Officer/Equal Opportunity Liaison or to the Equal Opportunity Department's Compliance and Enforcement Division at (602) 262-7486 (voice) or (602) 534-1557 (TTY).

Applicants for employment should file their complaints or discuss their concerns directly with the Equal Opportunity Department. **Complaints must be filed within 180 days of the alleged act(s) of harassment.**

An employee or applicant may choose to raise a complaint with a state or federal agency without first pursuing it through City channels. Pursuant to state and federal law, complaints may also be filed with the Civil Rights Division of the Arizona State Attorney General's Office (ACRD) at (602) 542-5263 (voice) or (602) 542-5002 (TTY), or the U.S. Equal Employment Opportunity Commission (EEOC) at (602) 640-5000 (voice) or (602) 640-5072 (TTY).

3. **How to make a report.** All employees have a right to redress for prohibited harassment. In order to secure this right, the employee should provide a complaint, preferably in writing, as soon as possible following the incident to any of the following City of Phoenix staff:
  - Supervisor or another person in the chain of command
  - Department Personnel Officer
  - Department Equal Opportunity Liaison, or
  - Equal Opportunity Department, Compliance and Enforcement Division

## VIII. INVESTIGATION OF COMPLAINTS

All incidents of protected category harassment that are reported will be investigated. The following procedures will be followed when a report of protected category harassment is made.

1. **Department investigation.** When an employee or applicant reports a concern about possible protected category harassment to a City of Phoenix department, the department may, if it has the resources and expertise to do so, conduct its own investigation. In such an instance, the investigation must be done in consultation with the Equal Opportunity Department and in a manner that is generally consistent with the procedure outlined below for the Equal Opportunity Department.
2. **Equal Opportunity Department Investigation.** When a possible protected category harassment concern is brought to the Equal Opportunity Department, the Compliance and Enforcement Division will evaluate the situation and decide on a proper course of action. Among the actions that can be taken are:
  - a. The Equal Opportunity Department can facilitate an informal resolution between the parties if it deems it appropriate after reviewing the complaint. This can include consulting with the parties involved to settle the issue.
  - b. If a formal complaint is filed, the Equal Opportunity Department will:
    - i. Notify the appropriate Deputy City Manager, Department Head, and Equal Opportunity Liaison of the complaint; and
    - ii. Immediately initiate an investigation to gather all relevant facts concerning the complaint.
  - c. The Equal Opportunity Department may:
    - i. Schedule interviews with various employees, supervisors, witnesses, or officials. Interviews may be tape-recorded or a written statement of the testimony may be provided for the signature of the witness;
    - ii. Review personnel records or other documents;
    - iii. Make site visits to acquire pertinent facts; and
    - iv. Require employees to participate in an investigation either by submitting to an interview or providing documents or other relevant information; failure to participate may result in disciplinary action.
  - d. The Equal Opportunity Department will work with the department(s) involved to obtain and evaluate all relevant evidence with respect to what has occurred.
  - e. The Equal Opportunity Department will analyze all pertinent information and reach a conclusion as to whether or not a violation of this policy has occurred.
  - f. Notice of the conclusion of the investigation will be given to the complainant, the appropriate Deputy City Manager, the Department Head, the department Equal

Opportunity Liaison, and the respondent.

- g. All persons involved in an investigation of discrimination must attempt to keep the matter confidential; failure to do so may result in disciplinary action. This admonition does not apply to speaking with an attorney functioning within the attorney-client relationship. In addition, employees who receive a "notice of investigation" or "notice of inquiry" are permitted to consult with their union or association representative.

## **IX. RESOLUTION OF COMPLAINTS**

If the City determines that harassment has occurred, it will take remedial action commensurate with the circumstances. Appropriate action will also be taken to deter any future harassment.

An employee who engages in protected category harassment is acting contrary to City policy and will be subject to discipline, up to and including termination.

1. When it is determined that this policy has been violated, the Equal Opportunity Department will make recommendations for the resolution of the complaint.
2. Management will take prompt corrective action. If warranted, verbal counseling up to and including involuntary termination will be imposed. Other appropriate actions will be taken to correct problems caused by the conduct.
3. A finding that the conduct does not constitute protected category harassment does not limit a department's right and responsibility to discipline or take remedial action for unacceptable conduct that is in violation of other City policies or regulations.

## **X. NON-HARASSMENT INCIDENTS**

Alleged acts of unfair or unequal treatment, which do not involve discrimination or are not based upon an individual's gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information, or any other protected basis, should be addressed through the established grievance procedure and other provisions outlined in Administrative Regulation 2.61.

## **XI. RETALIATION**

1. No supervisor, manager, executive, or coworker may retaliate against an employee who makes a report of protected category harassment or cooperates with an investigation. **Retaliation is unlawful and will not be tolerated.** Retaliation must be reported and handled in the same way as complaints of harassment. Retaliation is a serious offense that may result in discipline up to and including termination.

2. A person found to have retaliated in response to a charge of harassment will be subject to discipline. Exoneration on the underlying charge of harassment will have no effect on the investigation of or possible discipline imposed for retaliation.
3. No supervisor, manager, executive, or coworker may retaliate against an employee who has participated in an interactive process for a reasonable accommodation under the Americans with Disabilities Amendments Act. Retaliation is a serious offense that may result in discipline up to and including termination.

David Cavazos, City Manager

By:   
Lisa Takata  
Executive Assistant to the City Manager





## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>	A.R. NUMBER 2.62 revised
SUBJECT  <b>WORK NOTICES FOR OUTSIDE EMPLOYMENT</b>	FUNCTION Personnel and Payroll Page 1 of 3
	EFFECTIVE DATE November 18, 2008
	REVIEW DATE

### TRANSMITTAL MESSAGE

AR 2.62 has been revised to incorporate additional elements from the City's Ethics Policy. Questions regarding this A.R. should be directed to the Personnel Department at (602) 262-7552.

### SUMMARY OF CHANGES

This Administrative Regulation was last revised in 1997. This revision includes a requirement to seek approval prior to beginning the outside employment. Unacceptable work situations have been further defined in accordance with the City's Ethics Policy.

#### 1. PURPOSE

This regulation establishes the City's position on outside employment by City employees. Outside employment is defined as all non-City employment, including self-employment.

#### 2. GENERAL POLICY

- A. Outside employment by City employees is permissible if it does not adversely impact the employee's City work and if it does not create a conflict of interest or the appearance of a conflict of interest, with the employee's City job or the mission of the employee's assigned department.
- B. Departments may establish additional guidelines provided they do not diminish the standards contained in this regulation.
- C. Employees who are unable to perform their City jobs because of illness or injury sustained from outside employment activities do not qualify for paid sick leave or City worker's compensation. Absences caused by these illnesses or injuries must be charged to accrued vacation, personal leave, compensatory time, or leave without pay.
- D. Employees must seek approval from their supervisors prior to engaging in outside employment.

### **3. UNACCEPTABLE WORK SITUATIONS**

A. The following outside work situations are considered as interfering with and in conflict with, City employment, and no City employee shall engage in such work situations:

- (1) Performing work which the employee or his immediate associates will subsequently be required to act upon in an official City capacity, or any other work which would constitute a conflict of interest or the appearance of a conflict of interest.
- (2) Performing research, investigative, consultative, or other work in which the City employee has access to City records or correspondence which is not otherwise generally available to the public
- (3) Accepting or starting work in an establishment when there is a recognized labor-management dispute in progress. If employed before a recognized labor-management dispute, the employee will not increase the hours of work at the establishment or absorb new duties or responsibilities during the term of the labor dispute.
- (4) Performing work that results in excessive employee absences, tardiness, a general decline of City job performance, or reduced usefulness or efficiency of the employee on the City job.
- (5) Working at any location or employment which may bring the City into disrepute.
- (6) Working in any situation which would require the employee to be in conflict with another governmental agency or the mission of the employee's assigned department.
- (7) Conducting any outside employment related business and/or activity on City time and using City equipment, facilities, supplies, or other City staff members' time.
- (8) Working for a firm which provides goods or services to the City directly or indirectly, without a competitive bidding process.

### **4. DEPARTMENT AND FUNCTION HEAD RESPONSIBILITY**

- A. Department and function heads shall have primary responsibility for preventing outside employment in conflict with City employment.
- B. All department and function heads are granted the authority to deny outside work when such employment interferes with, or is in conflict with, City employment.

### **5. OUTSIDE WORK BY EXECUTIVES AND MIDDLE MANAGERS**

Executive and middle management employees shall not engage in any outside employment unless specifically approved by the City Manager's Office.

## 6. NOTIFICATION PROCESS

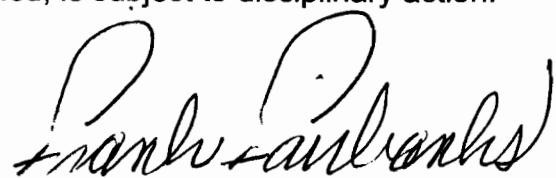
- A. All employees who wish to engage in outside employment shall complete and submit a Notice of Outside Employment form (150-49D Rev. 1/97), submit it to their department or function head, and get proper approval prior to starting the outside work.

The Notice of Outside Employment form can be obtained from Central Stores. A copy of the revised form is attached to this regulation.

- B. Department and function heads shall thoroughly review the employment request and determine if it will interfere with the employee's City work or if it will result in a conflict of interest or the appearance of a conflict of interest.
- C. Requests for outside work authorization from executive and middle management employees will be forwarded to the City Manager's Office with the department or function head's recommended action.
- D. All employees who are engaged in outside work shall submit a new Notice of Outside Employment form during January of each year or when engaging in new outside employment.
- E. Departments should review the status of outside employment during the annual employee evaluation process.
- F. If the conditions of the outside employment change, the employee shall submit this new information within ten working days of the change.
- G. New employees should be informed of this regulation at the time of hire and should be questioned about outside work they may be performing.

## 7. DISCIPLINE

An employee who engages in outside employment without approval, or who continues in outside employment after the request is denied, is subject to disciplinary action.



FRANK FAIRBANKS, City Manager

CITY OF PHOENIX, ARIZONA  
**NOTICE OF OUTSIDE EMPLOYMENT**  
(Refer to AR 2.62)

**INSTRUCTIONS:**

**Employee** 1. Complete the form (refer to AR 2.62 for details). Send completed and signed form to your department head for review.

**Department** 1. Review the request and determine if outside employment represents a conflict of interest or if the hours of work will impact the employee's effectiveness on the City job.  
2. Requests from middle managers or executives require recommendation of the department head and approval of the City Manager's Office.  
3. After action is complete, keep the original in the department, and give a copy to the Employee.

1. EMPLOYEE NAME	2. DEPARTMENT/DIVISION	3. SECTION
------------------	------------------------	------------

4. EMPLOYEE ID #	5. JOB TITLE	6. CURRENT DATE
------------------	--------------	-----------------

7. NAME AND ADDRESS OF OUTSIDE EMPLOYER

7. NAME AND ADDRESS OF OUTSIDE EMPLOYER
---

8. DESCRIBE YOUR OUTSIDE EMPLOYMENT DUTIES, HOURS OF WORK, AND RELATIONSHIP OF THIS WORK TO YOUR CITY JOB AND YOUR DEPARTMENT'S ACTIVITIES. DO YOU OR THE FIRM DO ANY WORK WITH CITY DEPARTMENTS, OR REQUIRE CITY APPROVAL OR LICENSING TO CONDUCT THIS WORK?

9. I CERTIFY THAT I HAVE READ AND UNDERSTAND ADMINISTRATIVE REGULATION 2.62 AND THAT THIS WORK WILL NOT INTERFERE WITH MY CITY DUTIES AND DOES NOT CAUSE ANY CONFLICT OF INTEREST WITH MY CITY EMPLOYMENT. I UNDERSTAND THAT I MUST INFORM MY DEPARTMENT IF MY OUTSIDE EMPLOYMENT CONDITIONS CHANGE. I UNDERSTAND THAT MY CITY JOB IS MY PRIMARY EMPLOYMENT AND IF MY DEPARTMENT DETERMINES THAT MY OUTSIDE EMPLOYMENT IS INTERFERING WITH MY CITY JOB, THAT I MUST STOP MY OUTSIDE EMPLOYMENT OR LEAVE MY CITY EMPLOYMENT. I ALSO UNDERSTAND THAT INJURIES RECEIVED IN OUTSIDE EMPLOYMENT DO NOT QUALIFY FOR PAID SICK LEAVE OR CITY WORKER'S COMP. BENEFITS.
_____ Signature of Employee

10. I HAVE REVIEWED THIS REQUEST AND HAVE DETERMINED THAT IT DOES NOT REPRESENT A CONFLICT OF INTEREST.

**RESTRICTIONS** (If any):

\_\_\_\_\_  
Department Approval

\_\_\_\_\_  
City Manager's Office Approval (only if required by AR 2.62)



## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>	A.R. NUMBER
	2.91 Revised
SUBJECT	FUNCTION
<b>CONFLICTS IN EMPLOYMENT, SUPERVISORY AND CONTRACTUAL RELATIONSHIPS</b>	Personnel and Payroll
	Page 1 of 4
	EFFECTIVE DATE
	November 18, 2008
	REVIEW DATE

### Transmittal Message

AR 2.91 has been revised to address concerns and practices that have evolved since the original issue date in 1986. Questions regarding this AR should be directed to the Personnel Department at (602) 262-7552.

### Summary of Changes

In addition to employment and supervisory relationships, the AR has been revised to address contractual relationships involving family members. All employee disclosure forms will now be maintained in the department personnel file instead of submitted to the City Clerk. Disclosure forms for City Council, board and commission members will continue to be submitted to the City Clerk. Relationships to be considered under this AR have been expanded beyond the definition provided in Arizona Revised Statutes.

#### **(1) Purpose**

The purpose of this regulation is to communicate a Citywide policy regarding employment, supervisory and contractual relationships among family members.

#### **(2) Definition**

Arizona Revised Statutes, Section 38-502 defines "relative" as the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half-blood and their spouses, and the parent, brother, sister, or child of a spouse.

For purposes of administering this city policy, managers may also consider other relationships that can create the appearance of a conflict. Such relationships may include a court-appointed legal guardian, an individual who has acted as a parent substitute, and/or a person residing in the employee's household as a member of the family. Roommates or other individuals who share a substantial financial interest with the employee should also be disclosed to avoid the appearance of a conflict.

**(3) Policies**

**(a) Appointment to City Employment**

No officer or employee of the City of Phoenix shall appoint any individual who may have a conflict with the officer or employee as defined in Section 2, to any position within the City. Officers and employees within the City authorized to make appointments shall disqualify themselves from considering or making appointments, or from participating in the appointment process. Written notice of such disqualification should be forwarded to the Department Head where the appointment is being made. In situations where an individual is under consideration for promotion or hiring and there is a potential conflict with an individual in an executive or middle management position in the same department, or in the City Manager's Office, the Personnel Director will review the hiring or promotion process and make a determination on the decision.

**(b) Immediate Supervisory Relationships**

No officer or employee shall be permitted to directly supervise a relative or other individual as defined in Section 2. This includes direct supervision as well as lead assignments. Department heads are responsible for enforcing this policy. Every attempt should be made to reassign or transfer employees who may find themselves by reason of marriage, promotion, or reorganization, in an immediate supervisory relationship with a relative. As a last resort, the layoff rule shall be utilized.

By way of example, supervision includes, but is not limited to, any participation in the hiring decision, promotional decision, work assignment decision, shift assignment decision, disciplinary decision, or the evaluation process of another employee.

Irrespective of the immediate supervisory relationship, no officer or employee shall participate in any manner in a decision involving the pecuniary interest of a relative or other individual as defined in Section 2, including hiring, promotion(s), discipline, and merit increase(s). In addition, no officer or employee shall in any way attempt to influence others in the decision regarding the pecuniary or employment (assignments, shifts, discipline, etc.) interests of a relative or other individual as defined in Section 2.

**(c) Disclosure of Relationship**

An officer or employee, in addition to disqualifying himself/herself from participation in any decision regarding the employment or supervisory interest of a relative(s) or other individual(s) as defined in Section 2, the officer or employee shall make known the existence of the relationship and the interest by filing, in writing, a form disclosing the relationship and the interest involved (see attached). The form will be maintained in the officer or employee's department personnel file. The officer or employee is responsible for updating the information on file as changes occur; however, departments should, at a minimum, request updates from staff on an annual basis.

Because of their broader management responsibilities, all executives and middle managers must notify their department head or Deputy City Manager in writing of the name(s) of the relative(s), or other individual(s) defined in Section 2 working in any department in the City and the defined relationship. Due to the nature of work, some departments may require broader notification requirements than those contained in this regulation.

(d) Contractual Relationships

Any officer or employee who has, or whose relative has, a substantial pecuniary or proprietary interest (as defined in Arizona Revised Statutes, Section 38-502), in any contract, sale, purchase or service to the City of Phoenix, shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.



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Frank Fairbanks, City Manager



## City of Phoenix

### CONFLICTS IN EMPLOYMENT, SUPERVISORY AND CONTRACTUAL RELATIONSHIPS DISCLOSURE FORM

(Refer to A.R. 2.91)

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Job Title: \_\_\_\_\_

Department/Division: \_\_\_\_\_

Name(s) of the relative(s) or individual(s) working for the City with whom I may have a conflict:

Name	Department	Job Title	Relationship

Other Potential Conflicts:

*Please use the space below to declare other employment, supervisory, and/or contractual conflicts as noted in A.R. 2.91.*

Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

Supervisor's Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

Department Head's Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_



## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>		A.R. NUMBER 2.92 Revised
SUBJECT		FUNCTION Human Resources and Payroll Page 1 of 5
<b>CONTRACTS WITH OR REEMPLOYMENT OF RETIREES</b>		EFFECTIVE DATE October 20, 2009
		REVIEW DATE June 26, 2012

### INTRODUCTION

#### Transmittal Message

This AR has been revised to update department names, titles, and the contact phone number. Questions regarding this AR should be directed to the Human Resources Department at (602) 262-6608.

The City is experiencing many retirements. If little or no notice is provided by a highly skilled employee of his intent to retire, it can be challenging to continue effective day-to-day operations without the position being filled. This Administrative Regulation (AR) establishes the policies and procedures to be followed when it is determined that contracting with or rehiring a retired City employee is necessary to continue the delivery of City services. The policies and procedures in this AR are intended to comply with current federal tax and employment laws. Any changes in these laws will require updates to this AR.

**The immediate rehiring of a retired City employee to perform part, or all, of their previous job duties is prohibited.** Also, a commitment to future employment cannot be made prior to retirement, nor within the first six months after retirement and termination of employment.

#### 1. Definitions

The following definitions apply to the provisions of this regulation:

City Retirement Plan means the City of Phoenix Employees' Retirement System (COPERS) as set forth in Chapter XXIV, Article II, of the Phoenix City Charter, or the Public Safety Personnel Retirement System (PSPRS) as set forth in ARS Section 38-841 et seq.

Contract with means to enter into a written agreement with a retired employee to perform a defined scope of work as an independent contractor pursuant to the provisions of this AR.

Reemploy means to appoint a retired employee into a City position whether full-time, part-time, seasonal, or temporary, pursuant to the provisions of this AR.

#### 2. Policy

Individuals who retire under the provisions of a City retirement plan may not be reemployed into another regular full-time position covered by the same retirement plan.

However, it may be appropriate to reemploy a retiree when this person possesses specialized knowledge and skills that are needed for a short period of time. It is not appropriate to contract with or reemploy a retiree in order to avoid a regular, competitive selection process, or to authorize a retiree to indefinitely perform his same duties and receive a salary or contract payment.

Pre-approval by the Human Resources and Budget and Research Directors is required to reemploy a retiree. Departments must consult with the City Attorney as necessary. Pre-approval by the Human Resources and Budget and Research Directors and the City Attorney (or their designees) is required to contract with a retired City employee.

### **3. Requirements for Reemploying or Contracting With Retirees**

In reviewing requests to reemploy or contract with retirees, the following requirements must be met in order to comply with federal tax and employment law:

- Was there an advance agreement for future employment? A commitment to future employment (either by contract or through rehiring) cannot be made prior to retirement, nor during the period of time between retirement and re-employment or contract initiation.
- How long was the break between the termination of employment and the commencement of work? With limited exception, at least six months must elapse between retirement and an agreement or contract for reemployment.
- Are the retiree's duties substantially the same as they were before retirement? The retiree cannot be rehired for the sole purpose of performing the same job duties as performed before retirement.
- Is the work to be performed related to a specific project? Specific projects with defined scopes of work and deadlines may be appropriate.
- Is the work to be performed that which is typically done by a City employee? A retiree cannot indefinitely replace an authorized full-time position.
- What is the length of the contract? A contract with a retiree cannot continue indefinitely, and is limited to a one-year contract.
- Is the retiree receiving any benefits based on credited past service? There cannot be accrual of leave or reliance on prior seniority for benefits.
- Were all benefits paid out at the time of termination? This would identify a person who has retired.
- Is the retiree acting as an independent contractor? Are the manners, means, and mode of completing the work under the sole control of the retiree? A contract cannot be used if the person is performing the same duties assigned prior to retirement, is using work and parking space and related equipment, and has similar work hours.

Any questions regarding these requirements should be forwarded to the Human Resources and Law Departments.

### **4. Contracts with Retirees**

After meeting all of the requirements in Section 3 above, City departments may request approval to employ retirees through employment contracts when the scope of the contract falls into one of the following two categories:

**A. Performance During Recruitment** – The retiree may be contracted to perform the full range of duties associated with the retiree's pre-retirement assignment for a limited amount of time when a recruitment effort must be extended to find a replacement. If a current eligible list for the employee's classification is available, this type of contract is not appropriate. **At least 30 days must have elapsed between the employee's retirement date and the initiation of a contract.** Written approval from the Human Resources Director is required prior to initiating a contract with a retiree for the purpose of performing duties during a recruitment effort.

The life of the contract may not exceed one year. There cannot be a commitment to a future job as described in Section 3 above.

**B. Performance on a Specific Project** – The retiree is contracted to perform work that is described in a detailed Scope of Work document. This work is usually for a specific project or to perform specific tasks comprising less than the full range of duties associated with a City position. Compensation should be based on clearly identified deliverables with deadlines, and not solely on an hourly rate. **At least six months must have elapsed between the employee's retirement and the initiation of a contract.**

The life of the contract should not exceed one year with one additional year of renewal. There cannot be a commitment to a future job as described in Section 3 above.

Any contract with a retired employee must clearly establish that the employment relationship with the retiree is as an independent contractor, and not as a City employee. In that regard, there is a strong preference to require the contracted retiree to provide his own facilities and materials to avoid an appearance that the person is a City employee. Any facilities or materials provided to the contracted retiree by the City should be specified in the contract.

Additionally, the contract must make it clear that the City does not have the right to control the procedures for accomplishing the contracted services. It is recommended that the contracted retiree formalize his own business by filing an assumed name certificate, having a letterhead and/or business card, opening a bank account in the business name, or providing an appropriate business license, and following all other requirements for doing business with the City.

A sample contract can be provided by contacting the Law Department's, Employment Law section, or the Human Resources Department.

## **5. Reemployment of Retirees**

Retirees may be reemployed into authorized non-pension eligible positions as described below. These positions are limited to either temporary/part-time, or temporary/full-time positions without benefits. COPERS retirees may not be hired into benefit-eligible positions, including job share positions. **At least six months must elapse between the retiree's retirement date and the date of reemployment.**

**A. Positions Authorized for Performance in a Similar Capacity** – In this instance, the retiree is reemployed to perform the same or similar work that was performed before retirement. For example, a Senior Human Resources Clerk is reemployed one year after

he retired, to assist a different City department with payroll during a payroll clerk's maternity leave; or a retired Customer Service Clerk is reemployed to assist with a forecasted peak workload for a 45-day period.

Assignments for work in a similar capacity may not exceed 120 days or 1000 hours per calendar year. The rate of pay shall not exceed the maximum established for the classification.

**B. Positions Authorized for Performance in a Different Capacity** - In this instance, the retiree is reemployed to perform completely different work from that performed prior to retirement, on a part-time basis. For example, a retired Groundskeeper is reemployed as a Meal Delivery Aide, or a retired Secretary II is reemployed to work as a part-time Library Clerk.

If the work to be performed is substantially different, the retiree may continue working indefinitely in the part-time capacity.

**6. Additional Procedures**

- A. AR 3.10 requires City departments to receive approval in the form of a Letter of Exception, if a personal service contract exceeds \$40,000 in value, and if the department does not intend to issue a request for proposals or request for qualifications.<sup>1</sup> Exceptions to this process must be approved by the department director. Documentation of that approval must be maintained by the department.<sup>2</sup>
- B. The Phoenix City Charter, Article XIX, Section 1, requires all City contracts be in writing under the supervision of the City Attorney, executed by the City Manager, and countersigned by the City Clerk.<sup>3</sup>
- C. The reemployment of retirees, whether they are participants in the COPERS or PSPRS plan, is subject to the normal qualification, certification, and employment provisions of the Personnel Rules.
- D. The Personnel Rules allow the employment of individuals into the COPERS who have retired under the PSPRS. **A PSPRS retiree may be reemployed into a full-time COPERS-eligible position following a 60-day break in service, provided that the duties of the COPERS position are significantly dissimilar from the retiree's pre-retirement classification.** These individuals shall be treated as new employees with regard to rate of pay, all other compensatory payments, employee benefits, rate of leave accrual, and seniority.
- E. The hiring of a COPERS participant into a temporary non-fringe benefit position is subject to the normal operating procedures, budget, and fiscal approvals for such temporary positions.

In all cases, if the reemployed retiree is receiving the benefits of a disability pension or long term disability benefits, the hiring department must inform the appropriate pension board or the Human Resources Department, Benefits Section in writing. The hiring department is also required to provide to the appropriate pension board or the Human Resources Department, Benefits Section all information necessary to determine the effect of the reemployment on the disability pension or disability benefits received.

<sup>1</sup> AR 3.10 Section III(2)(A)(2); <sup>2</sup> AR 3.10 Section III(3)(A); <sup>3</sup> See also AR 4.21

**7. Effective Date of Reemployment**

Arizona state statutes that govern conflicts of interest may prohibit a retiree from working for a contractor in an area in which the employee personally participated during his employment.<sup>1</sup> Work pursuant to a contract cannot commence until approvals are received and any potential conflict of interest has been assessed. Appointments of retirees to City positions cannot be effective until all approvals are received from the Human Resources and Budget and Research Directors.

**8. Exceptions**

The City Manager may grant specific exceptions or variances to the provisions of this AR in extreme and unusual circumstances.

DAVID CAVAZOS, City Manager



by Lisa Takata

Deputy City Manager

<sup>1</sup> ARS § 38-504; see also City's Ethics Policy





## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>		A.R. NUMBER A.R. 2.93 Revised
SUBJECT  <b>CITY EMPLOYEE GIFT POLICY</b>		FUNCTION Miscellaneous PAGE 1 OF 4
SUBJECT  <b>CITY EMPLOYEE GIFT POLICY</b>	EFFECTIVE DATE	September 9, 1996

### I. PURPOSE

To reinforce the already strong policy for employees receiving gifts from persons or entities who conduct business, or could potentially conduct business, with the City of Phoenix.

### II. POLICY

City employees must consider ethical principles before accepting personal gifts. No City employee shall accept any gift, service, or favor which would lead toward favoritism or the appearance of favoritism in any way. Generally, token gifts such as food and plants can be accepted if they are of minimal value, can be shared with the entire work unit, and will not be perceived as influencing decisions. The City of Phoenix Ethics Handbook (available from Personnel) discusses in greater detail the ethical considerations of accepting gifts.

If an employee concludes that he or she may accept an entertainment or sports/athletic event gift (usually in the form of tickets), the employee must declare the gift with the City Clerk Department using the "Declaration Form" (attached). A list of examples of such gifts is listed in Appendix A and B. A declaration must be made regardless of whether or not the gift is used by the employee. A personal gift from a friend or family member or winning a promotional gift where the opportunity is open to the general public does not require declaration. Employees who pay for the ticket or elect to make a charitable contribution in the name of the donor for the face value of the gift do not need to file a declaration. Employees should declare gifts within 2 working days of acceptance.

### III. VIOLATION OF GIFT POLICY

Any employee in violation of this policy will be subject to appropriate disciplinary action.

FRANK FAIRBANKS, City Manager

by Marsha Wallace  
Marsha Wallace, Assistant to the City Manager

## APPENDIX A

### SAMPLE LIST OF SPORTS/ATHLETIC GIFTS TO DECLARE

Any gift of sports/athletic event with a monetary value  
Rounds of golf  
Arizona State University games  
Boxing events  
Cardinals football games  
Coyotes hockey games  
Fiesta Bowl  
Diamondbacks baseball games  
Masters Golf Tournament  
National Finals Rodeo  
NBA All Star Games  
NCAA Final Four Games  
Phoenix Roadrunner games  
Phoenix Suns tickets  
Phoenix International Raceway events  
Phoenix Open Golf Tournament  
Phoenix and regional rodeos  
Professional bowling tournaments where fees are charged  
Rattler's football games  
Special closed circuit TV sporting events where fees are charged  
Super Bowl  
Spring Cactus League baseball  
Firebirds baseball tickets  
Summer games  
U.S. Open Golf  
U.S. Open Tennis  
University of Arizona games  
World Series

## APPENDIX B

### SAMPLE LIST OF ENTERTAINMENT GIFTS TO DECLARE

Any gift of entertainment with a monetary value  
Arizona Jewish Theatre Company  
Arizona Shakespeare Festival  
Arizona Theatre Company  
Arizona Ballet  
Arizona State University plays, concerts, ballets, operas  
Desert Stages  
Gammage Broadway Series  
Helen K. Mason Center for Performing Arts  
IMAX Theatre  
Phoenix Theatre tickets  
Movie theater tickets  
Museum tickets  
Red River Opry  
Renaissance Festival  
St. George Productions, Inc.  
Sundome Center for Performing Arts  
Symphony Hall performances  
Theatrical agencies productions  
Theme park tickets  
University of Arizona plays, concerts, ballets, operas  
Phoenix Zoo tickets



## **City of Phoenix**

### ***DECLARATION FORM***

*for*

#### *Entertainment or Sports/Athletic Event Gifts*

---

Your Name \_\_\_\_\_ Work Phone \_\_\_\_\_

Department \_\_\_\_\_

Event/Activity \_\_\_\_\_

Date of Event \_\_\_\_\_ Monetary Value \_\_\_\_\_

Name of Person or Business Gift is from \_\_\_\_\_

Address of the Person or Business Listed Above \_\_\_\_\_

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Comments/Explanation: \_\_\_\_\_

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Employee's Signature \_\_\_\_\_

Date \_\_\_\_\_

cc: Department Head

*Please return form to the City Clerk Department*



## **City of Phoenix**

**To:** Ethics Review Ad Hoc Task Force

**Date:** August 3, 2012

**From:** Jeff Stapleton  
Mayor's Office

**Subject:** RESEARCH - ETHICS POLICIES FROM PEER CITIES

The attached exhibits provide language used by other peer cities of similar size to Phoenix with respect to how their codes define conflicts of interest, financial interests, gifts, and lobbying.

**Exhibit A:** Conflict of Interest Definitions from Peer Cities including definitions of a 'financial interest' or 'substantial economic interest'

**Exhibit B:** Definitions of a 'gift' from Peer Cities

**Exhibit C:** Definition of 'Lobbying' and 'Lobbyist' from Peer Cities

# Exhibit A

Contained in this exhibit is a sampling of conflict of interest definitions from peer cities. Our research yielded a couple cities that have explicit definitions of what constitutes a conflict of interest. While a conflict of interest definition may be comprehensive, the areas centering around 'economic interests' 'financial interests' or 'economic benefits' often require further definition or explicit terms to add sufficient strength to the code. For this reason, Exhibit A also includes examples from peer cities as to how varying terms such as an 'economic interest' a 'financial interest' or 'economic benefit' are defined.

## Conflict of Interest Definitions Included:

Dallas, TX

San Antonio, TX

Indianapolis, IN / Marion County, IN

San Francisco, CA City/County (w/ accompanying state definitions)

## Definitions of a Financial Interest:

County of El Paso, TX

Baltimore, MD

## Definitions applicable to Phoenix:

Contained in this binder within Section 3 'Ethics Legal Framework' is an exhibit (see: 'Exhibit A') that contains the relevant state statutes with respect to conflict of interest that Phoenix has adopted into the city charter.

# Dallas, TX

*Source: Dallas City Code*

## Chapter 12A: Code of Ethics

### Article II. Present City Officials and Employees

#### SEC. 12A-3. Improper Economic Benefit

(a) Economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the economic interests of:

- (1) the official or employee;
- (2) the official's or employee's outside client;
- (3) the official's or employee's outside employer;
- (4) a business entity in which the official or employee knows that he or she holds an economic interest;
- (5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which he or she holds an economic interest;
- (6) a business entity for which the city official or employee serves as an officer or director or in any other policymaking position; or
- (7) a person or business entity:
  - (A) from whom, within the past 12 months, the official or employee, directly or indirectly, has:
    - (i) solicited an offer of employment;
    - (ii) received and not rejected an offer of employment;or
  - (iii) accepted an offer of employment; or
- (B) with whom the official or employee, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

(b) Substantial economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect particularly the substantial economic interests of:

- (1) the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity;
- (2) the official's or employee's domestic partner;
- (3) an outside employer of the official's or employee's parent, child, spouse, or other family member within the first

degree of consanguinity or affinity, or domestic partner, but only if the official or employee knows the family member or domestic partner has a substantial economic interest in the outside employer;

(4) a business entity in which the official or employee knows that a

substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which a substantial economic interest is held by his or her:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner; or

(6) a person or business entity:

(A) from whom, within the past 12 months, the official's or employee's spouse or domestic partner, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment;

or

(iii) accepted an offer of employment; or

(B) with whom the official's or employee's spouse or domestic partner, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

URL: (<http://www.dallascityhall.com/pdf/Ethics/CodeOfEthics.pdf>)

## **Chapter 12A: Code of Ethics**

### **Article I: Definition of Policy**

#### **Sec. 12A-2. Definitions**

(2) AFFECT PARTICULARLY AN ECONOMIC INTEREST or AFFECT PARTICULARLY A SUBSTANTIAL ECONOMIC INTEREST. An action is likely to "affect particularly an economic interest" or "affect particularly a substantial economic interest," whichever is applicable, if it is likely to have an effect on the particular interest that is distinguishable from its effect on members of the public in general or on a substantial segment of the public.

(6) BENEFIT means anything reasonably regarded as pecuniary gain or pecuniary advantage, including a benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

(17) ECONOMIC INTEREST includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights, having more than de minimis value. Exceptions are as follows:

(A) Service by a city official or employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an economic interest in the property of the organization.

(B) If a city official's primary source of employment is with a governmental entity other than the city, such employment by the governmental entity does not create for that city official an economic interest in the property or contracts of the governmental entity.

(C) Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund.

(31) SUBSTANTIAL ECONOMIC INTEREST.

(A) A person has a "substantial economic interest" in a business entity if:

(i) the person owns 10 percent or more of the voting stock, shares, or other ownership interest in the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or

(ii) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(B) A person has a "substantial economic interest" in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(C) For purposes of determining a "substantial economic interest," ownership of an interest in a mutual or common investment fund that holds securities or other assets does not constitute direct or indirect ownership of such securities or other assets unless the person in question participates in the management of the fund. (Ord. Nos. 24316; 24485; 27748; 28020)

URL: (<http://www.dallascityhall.com/pdf/Ethics/CodeOfEthics.pdf>)

# San Antonio, TX

Source: San Antonio City Ethics Code

## **Section 2-43: Conflicts of Interest**

- a. "General Rule: To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that he or she knows is likely to affect the economic interests of:
  1. the official or employee;
  2. his or her parent, child, spouse, or other family member within the second degree of consanguinity or affinity;
  3. his or her outside client;
  4. a member of his or her household;
  5. the outside employer of the official or employee or of his or her parent, child (unless the child is a minor), spouse, or member of the household (unless member of household is a minor);
  6. a business entity in which the official or employee knows that any of the persons listed in Subsections (a)(1) or (a)(2) holds an economic interest as that term is defined in Section 2-42;
  7. a business entity which the official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in Subsections (a)(1) or (a)(2) holds an economic interest as defined in Section 2-42;
  8. a business entity or nonprofit entity for which the city official or employee serves as an officer or director or in any other policy making position; other than non-profit boards to which the official or employee is appointed by the City Council or city management as a non-voting member to represent the best interests of the city; or
  9. a person or business entity with whom, within the past twelve months:
    - a. the official or employee, or his or her spouse, directly or indirectly has
      - i. solicited an offer of employment for which the application is still pending,
      - ii. received an offer of employment which has not been rejected, or
      - iii. accepted an offer of employment; or
    - b. the official or employee, or his or her spouse, directly or indirectly engaged in negotiations pertaining to business opportunities, where such negotiations are pending or not terminated."

URL: (<http://www.sanantonio.gov/atty/ethics/codetext.htm#Section 2-43 Improper Economic Benefit>)

### **Section 2-42: Definitions**

(n). *Economic Interest.* “Economic interest” includes, but is not limited to, legal or equitable property interests in land, chattels, and intangibles, and contractual rights having more than de minimis value. Service by a city official or employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create for that city official or employee an economic interest in the property of the organization.

Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an economic interest in such securities or other assets unless the person in question participates in the management of the fund. Ownership of stock in a publicly traded corporation does not constitute ownership for purposes of this code if the employee or official owns less than 10% of the voting stock or shares of the entity and the value of the stock is less than \$15,000.

URL: (<http://www.sanantonio.gov/atty/ethics/codetext.htm#Section 2-42 Definitions>)

# Indianapolis, IN / Marion County, IN

Source: Revised Code of the Consolidated City and County of Indianapolis / Marion County

## Chapter 293 – Ethics Code

### Article II. Standards of Ethical Conduct

#### **Section 293-210- Conflicts of interest; discussion, decisions, and voting.**

- a. At a meeting held in accordance with IC 5-14-1.5, an official shall not participate in any decision or vote, and an appointee or employee shall not participate in any discussion, decision, or vote, if he or she has knowledge that any of the following has a financial interest in the outcome of the decision or vote:
  1. The official, appointee, or employee;
  2. A member of the immediate family of the official, appointee, or employee;
  3. A business organization in which the official, appointee, or employee is serving as an officer, a director, a trustee, a partner, employee, or subcontractor; or
  4. Any person with whom the official, employee, or appointee is negotiating or has an arrangement concerning prospective employment.
- b. An official, appointee, or employee who identifies a potential conflict of interest under this article shall recuse himself or herself from further action on the matter, and may seek an advisory opinion by filing a written description detailing the nature and circumstances of the matter and making full disclosure of any related financial interest in the matter.
- c. When an advisory opinion is sought under this section, the office of corporation counsel shall:
  1. Assign the particular matter to another person and implement all necessary procedures to screen the official, appointee, or employee seeking an advisory opinion from involvement in the matter; or
  2. Make a written determination that the interest is not so substantial that the office of corporation counsel considers it likely to affect the integrity of the services that the city or county expects from the official, appointee, or employee.

- d. A written determination under subsection (c)(2) shall be filed with the office of corporation counsel, and constitutes conclusive proof that the potential conflict of interest is not a violation of this chapter.

URL:

(<http://www.indy.gov/eGov/City/OCC/Ethics/Documents/Ethics%20Ordinance.pdf>)

Chapter 293 – Ethics Code

## Article II. Standards of Ethical Conduct

### **Section 293-211- Conflicts of Interest; contracts**

- a. Subject to subsection (b), an official, appointee, or employee, or a member of an official's, appointee's, or employee's immediate family, may not knowingly have a financial interest in a contract made by that official's, appointee's, or employee's agency.
- b. The prohibition in subsection (a) does not apply to:
  1. An official, appointee, or employee who does not participate in or have official responsibility for any of the activities of the contracting agency, if:
    - a. The contract is made after public notice or, where applicable, through competitive bidding;
    - b. The official, appointee, or employee files with the office of corporation counsel a statement making full disclosure of all related financial interests in the contract;
    - c. The contract can be performed without compromising the performance of the official duties and responsibilities of the official, appointee, or employee; and
    - d. In the case of a contract for professional services, the chief administrative officer of the contracting agency makes and files a written certification with the office of corporation counsel that no other official, appointee, or employee of that agency is available to perform those services as part of his or her regular duties;
  2. An official, appointee, or employee who, acting in good faith, learns of an actual or prospective violation of the prohibition in subsection (a), provided that, not later than thirty (30) days after learning of the actual or prospective violation, the

official, appointee, or employee makes a full written disclosure of any financial interests to the contracting agency and the office of corporation counsel, and terminates the financial interest.”

URL:

(<http://www.indy.gov/eGov/City/OCC/Ethics/Documents/Ethics%20Ordinance.pdf>)

## Chapter 293 – Ethics Code

### Article I. General Provisions

#### **Sec. 293-102. Definitions.**

*Financial interest* means an interest which will result in an ascertainable increase or decrease in the income or net worth of the councillor, official, appointee, or employee or a member of that individual's immediate family, but does not include an interest:

- (1) Of a councillor, official, appointee, or employee in the common stock of a corporation unless the combined holdings in the corporation of the councillor, official, appointee, or employee, that individual's spouse, and that individual's dependent are more than one percent (1%) of the outstanding shares of the common stock of the corporation; or
- (2) That is held as an asset in a blind trust.

URL:

(<http://www.indy.gov/eGov/City/OCC/Ethics/Documents/Ethics%20Ordinance.pdf>)

# San Francisco, CA / San Francisco County, CA

*NOTE: San Francisco and other California cities rely on State of California Government Code to define what constitutes a financial interest. The applicable State of California codes are included below.*

*Source: San Francisco Campaign and Governmental Conduct Code*

## Article III. CONDUCT OF GOVERNMENT OFFICIALS AND EMPLOYEES

### Chapter 2. CONFLICT OF INTEREST AND OTHER PROHIBITED ACTIVITIES

#### **SEC. 3.206. FINANCIAL CONFLICTS OF INTEREST.**

- (a) Incorporation of the California Political Reform Act. No officer or employee of the City and County shall make, participate in making, or seek to influence a decision of the City and County in which the officer or employee has a financial interest within the meaning of California Government Code Section 87100 et seq. and any subsequent amendments to these Sections.
- (b) Incorporation of California Government Code 1090, et seq. No officer or employee of the City and County shall make a contract in which he or she has a financial interest within the meaning of California Government Code Section 1090 et seq. and any subsequent amendments to these Sections.
- (c) Future Employment. No officer or employee of the City shall make, participate in making, or otherwise seek to influence a governmental decision, affecting a person or entity with whom the officer or employee is discussing or negotiating an agreement concerning future employment.

#### **SEC. 3.212. DECISIONS INVOLVING FAMILY MEMBERS.**

- (a) Prohibition. No officer or employee of the City and County may make, participate in making, or otherwise seek to influence a decision of the City and County regarding an employment action involving a relative. Nothing in this Section shall prohibit an officer or employee from acting as a personal reference or providing a letter of reference for a relative who is seeking appointment to a position in any City department, board, commission or agency other than the officer or employee's department, board, commission or agency or under the control of any such department, board, commission or agency.
- (b) Delegation. A Department Head who is prohibited under Subsection (a) from participating in an employment action involving a relative shall

delegate in writing to an employee within the department any decisions regarding such employment action.

(c) Definitions. For purposes of this Section, the term "employment action" shall be limited to hiring, promotion, or discipline, and the term "relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship created by adoption.

#### SEC. 3.218. INCOMPATIBLE ACTIVITIES.

(a) Prohibition. No officer or employee of the City and County may engage in any employment, activity, or enterprise that the department, board, commission, or agency of which he or she is a member or employee has identified as incompatible in a statement of incompatible activities adopted under this Section. No officer or employee may be subject to discipline or penalties under this Section unless he or she has been provided an opportunity to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with the duties of the officer or employee.

(b) Statement of Incompatible Activities. Every department, board, commission, and agency of the City and County shall, by August 1 of the year after which this Section becomes effective, submit to the Ethics Commission a statement of incompatible activities. No statement of incompatible activities shall become effective until approved by the Ethics Commission after a finding that the activities are incompatible under the criteria set forth in Subsection (c). After initial approval by the Ethics Commission, a department, board, commission or agency of the City and County may, subject to the approval of the Ethics Commission, amend its statement of incompatible activities. The Ethics Commission may, at any time, amend the statement of incompatible activities of any department, board, commission or agency of the City and County.

(c) Required Language. Each statement of incompatible activities shall list those outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers and employees of the department, board, commission, or agency of the City and County. This list shall include, but need not be limited to, activities that involve: (1) the use of the time, facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or influence of the City and County officer or employee's position for private gain or advantage; (2) the receipt or acceptance by an officer or employee of the City and County of any money or other thing of value from anyone other than the City and County for the performance of an act that the officer or employee would be required or expected to render in the regular course of his or her service or employment with the City and County; (3) the performance of an act in a capacity other than as an officer or employee of the City and County that may later be subject directly or indirectly to the control, inspection,

review, audit or enforcement of the City and County officer or employee's department, board, commission or agency; and (4) time demands that would render performance of the City and County officer or employee's duties less efficient. The Ethics Commission may permit City boards and commissions to exclude any required language from their statement of incompatible activities if their members, by law, must be appointed in whole or in part to represent any profession, trade, business, union or association.

- (d) Meet and Confer. No statement of incompatible activities or any amendment thereto shall become operative until the City and County has satisfied the meet and confer requirements of State law.
- (e) Notice. Every department, board, commission and agency of the City and County shall annually provide to its officers and employees a copy of its statement of incompatible activities.
- (f) Existing Civil Service Rules. Rules and Regulations relating to outside activities previously adopted or approved by the Civil Service Commission shall remain in effect until statements of incompatible activities are adopted pursuant to this Section.

#### **SEC. 3.222. PROHIBITING OFFICERS FROM CONTRACTING WITH THE CITY AND COUNTY.**

- (a) Definitions. For purposes of this Section, the following definitions shall apply:
  - (1) Business. The term "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or undertaking organized for economic gain.
  - (2) City and County. The term "City and County" includes any commission, board, department, agency, committee, or other organizational unit of the City and County of San Francisco.
  - (3) Contract. The term "contract" means any agreement other than a grant or an agreement for employment in exchange for salary and benefits.
  - (4) Subcontract. The term "subcontract" means a contract to perform any work that a primary contractor has an agreement with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community College District to perform.
- (b) Prohibition. During his or her term of office, no officer shall enter, submit a bid for, negotiate for, or otherwise attempt to enter, any contract or subcontract with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community

College District, where the amount of the contract or the subcontract exceeds \$10,000.

(c) Exceptions. This Section shall not apply to the following contracts or subcontracts:

- (1) A contract or subcontract with a nonprofit organization;
- (2) A contract or subcontract with a business with which an officer is affiliated unless the officer exercises management and control over the business. A member exercises management and control if he or she is:
  - (A) An officer or director of a corporation;
  - (B) A majority shareholder of a closely held corporation;
  - (C) A shareholder with more than five percent beneficial interest in a publicly traded corporation;
  - (D) A general partner or limited partner with more than 20 percent beneficial interest in the partnership; or
  - (E) A general partner regardless of percentage of beneficial interest and who occupies a position of, or exercises management or control of the business;
- (3) A contract or subcontract entered into before a member of a board or commission commenced his or her service;
- (4) An agreement to provide property, goods or services to the City and County at substantially below fair market value; or
- (5) A settlement agreement resolving a claim or other legal dispute.

(d) Waiver. The Ethics Commission may waive the prohibitions in this section for any officer who, by law, must be appointed to represent any profession, trade, business, union or association.

(e) Limitation. Failure of an officer to comply with this Section shall not be grounds for invalidating any contract with the City and County.

URL:

([http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco\\_ca](http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca))

*Source: State of California Government Code*

## TITLE 9. POLITICAL REFORM

### CHAPTER 7. CONFLICTS OF INTEREST

#### Article 1. General Prohibition

##### **§ 87100. Prohibition because of financial interest.**

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

## TITLE 9. POLITICAL REFORM

### CHAPTER 7. CONFLICTS OF INTEREST

#### Article 1. General Prohibition

##### § 87103. Financial interest.

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.
- (c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.
- (d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- (e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents,

spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

URL: (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=87001-88000&file=87100-87105>)

## Further Language that Defines a 'Financial Interest'

### County of El Paso, TX

Source: County of El Paso Code of Ethics:

**2.16. Substantial financial interest means:**

- 2.16.1. A person has a substantial financial interest in a business entity if:**
  - 2.16.1.1. the person owns ten percent (10%) or more of the voting stock or shares of the business entity; owns either ten percent (10%) or more or \$15,000 or more of the fair market value of the business entity; or**
  - 2.16.1.2. funds received by the person from the business entity exceed ten percent (10%) of the person's gross income for the previous year.**
- 2.16.2. A person has a substantial financial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.**
- 2.16.3. A local public officer is considered to have a substantial financial interest under this section if a person related to the public officer pursuant to the definition of "family member" herein, has a substantial financial interest.**

### Baltimore, MD

Source: City of Baltimore Code:

**Article 8 Section 2-16**

- a. "Financial interest".** "Financial interest" means ownership of:
  - i. (1) more than 3% of a business entity;
  - ii. (2) securities of any kind that represent or are convertible into ownership of more than 3% of a business entity; or
  - iii. (3) any interest as the result of which the owner:
    - 1. (i) received more than \$1,000 in any 1 of the preceding 3 calendar years; or
    - 2. (ii) is entitled to receive more than \$1,000 in the current or any subsequent calendar year.
- b. § 2-19. "Interest".**
  - i. **(a) In general.**
    - 1. "Interest" means, except as specified in subsection (b) of this section, any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held wholly or partly, jointly or severally, or directly or indirectly.
  - ii. **(b) Exclusions.**
    - 1. "Interest" does not include:

- a. (1) *an interest held in the capacity of a personal representative, agent, custodian, fiduciary, or trustee, unless the holder has an equitable interest in the subject matter;*
- b. (2) *an interest in a time or demand deposit in a financial institution;*
- c. (3) *an interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money, either in a lump sum or periodically for life or some other specified period; or*
- d. (4) *a common trust fund or a trust that forms part of a pension or a profit-sharing plan that:*

# Exhibit B

Contained in this exhibit is a sampling of definitions with respect to how a 'gift' is defined.

Definitions of 'gift' included:

San Antonio, TX

San Jose, CA

Jacksonville, FL

Denver, CO

Definitions applicable to Phoenix:

Contained in this binder within Section 4 'City Ethics Practices and Policies' is the City of Phoenix Ethics Handbook which contains 2 appendices that provide language relevant to City of Phoenix gift policies:

Appendix B (p.27): ARS 38-505: Additional Income Prohibited for Services

Appendix D (p.32): ARS 41-1232.08 Entertainment ban: state and political subdivisions;

# San Antonio, TX

*Source: San Antonio City Ethics Code*

## Section 2-45 Gifts

### (a) General Rule.

- (1) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit for himself or herself or his or her business:
  - (A) that reasonably tends to influence or reward official conduct; or
  - (B) that the official or employee knows or should know is being offered with the intent to influence or reward official conduct.

A city official or employee may accept a public award or reward for meritorious service of professional achievement, provided that the award or reward is reasonable in light of the occasion and it is not prohibited under the Texas Penal Code Section 36.08.

- (2) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit, from:
  - (A) any individual or entity doing or seeking to do business with the City; or
  - (B) any registered lobbyist or public relations firm; or
  - (C) any person or entity seeking action or advocating on zoning or platting matters before a city body, save and except for
    - i) items received that are of nominal value; or
    - ii) meals in an individual expense of \$50 or less at any occurrence, and no more than a cumulative value of \$500 in a single calendar year from a single source.

Doing business with the city includes, but is not limited to, individuals and entities that are parties to a discretionary contract, individuals and entities that are subcontractors to a discretionary contract, and partners and/or parents and/or subsidiary business entities of any individuals and entities that are parties to a discretionary contract and individuals or entities that seek or have low-bid contracts with the city.

### (b) Special Applications. Subsection (a)(2) does not include:

- (1) a gift to a city official or employee relating to a special occasion, such as a wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the gift is fairly commensurate with the occasion and the relationship between the donor and recipient;
- (2) advancement for or reimbursement of reasonable expenses for travel in connection with official duties authorized in accordance with city policies; such payments must be disclosed in a travel report as required in

Section 2-76; payment for or reimbursement of expenses for travel in excess of authorized rates under city policy will be treated as a personal gift to the official or employee for any applicable reporting requirements under Sections 2-73, 2-74 or 2-78;

- (3) a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion and it is not prohibited under the Texas Penal Code Section 36.08;
- (4) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;
- (5) a scholarship or fellowship awarded on the same terms and based on the same criteria that are applied to other applicants;
- (6) any solicitation for civic or charitable causes;
- (7) admission to an event in which the city official or employee is participating in connection with his or her spouse's position;
- (8) ceremonial and protocol gifts presented to city officials from a foreign government or international or multinational organization and accepted for the City of San Antonio;
- (9) admission to a widely attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, offered by the sponsor of the event, and unsolicited by the City official or employee, if attending or participating in an official capacity, including:
  - (A) the official or employee participates in the event as a speaker or panel participant by presenting information related to matters before the City; or
  - (B) the official or employee performs a ceremonial function appropriate to that individual's position with the City; or
  - (C) attendance at the event is appropriate to the performance of the official duties or representative function of the official or employee;
- (10) admission to a charity event provided by the sponsor of the event, where the offer is unsolicited by the City official or employee;
- (11) admission to training or education program, including meals and refreshments furnished to all attendees, if such training is related to the official or employee's official duties and the training is in the interest of the City.

(c) Campaign Contribution Exception. The general rule stated in Subsection (a) does not apply to a campaign contribution made pursuant to the Texas Election Code.

(d) Gifts to Closely Related Persons. A city official or employee shall take reasonable steps to persuade:

- (1) a parent, spouse, child, or other relative within the second degree of consanguinity or affinity, or

- (2) an outside business associate not to solicit, accept, or agree to accept any gift or benefit;
- (3) that reasonably tends to influence or reward the city official's or employee's official conduct, or
- (4) that the official or employee knows or should know is being offered with the intent to influence or reward the city official's or employee's discharge of official duties.

If a city official or employee required to file a financial disclosure report under Division 7 (Financial Disclosure) knows that a gift or benefit meeting the requirements of Subsections (d)(3) or (d)(4) of this rule has been accepted and retained by a person identified in Subsections (d)(1) or (d)(2) of this rule, the official or employee shall promptly file a report with the Office of the City Clerk disclosing the donor, the value of the gift or benefit, the recipient, and the recipient's relationship to the official or employee filing the report.

(e) Definitions.

- (1) For purposes of this rule, a person is an "outside business associate" if both that person and the city official or employee own, with respect to the same business entity:
  - (A) ten (10) percent or more of the voting stock or shares of the business entity, or
  - (B) ten (10) percent or more of the fair market value of the business entity.
- (2) For purposes of this rule, a "sponsor" of an event is the person or persons primarily responsible for organizing the event or sponsoring a table or tables. A person who simply contributes money or buys tickets to an event is not considered a sponsor.
- (3) A "source" is the individual or entity that funds an expenditure or series of expenditures. Expenditures made by multiple agents of the same source are deemed to be expenditures from a single source.
- (4) Any item of "nominal value" is an item with a fair market value of \$50 or less.

URL: (<http://www.sanantonio.gov/atty/Ethics/codetext.htm#Section 2-45 Gifts>)

# San Jose, CA

*Source: San Jose Municipal Code*

## Title 12: Ethics Provisions

### Chapter 12.08: Prohibition of Gifts

#### **12.08.010 Gifts prohibited.**

A. No officer or designated employee of the city or its redevelopment agency shall accept any gift, directly or indirectly, from any person who is subject to the decision-making or recommending authority of such officer or employee, except as specifically provided in this chapter.

B. "Person subject to the decision-making or recommending authority" means any individual, firm or entity whose interest or whose employer's or client's interest:

1. Has been materially affected by the work of such officer or employee within the two years prior to the time the gift is given; or
2. In the future could reasonably be foreseen to be materially affected by the work of such officer or employee.

(Ords. 24499, 27258.)

#### **12.08.015 Political Reform Act requirements.**

A. The reporting and disclosure of gifts shall be done in accordance with the requirements of the Political Reform Act, California Government Code Section 81000 et seq., as amended, and the requirements in this chapter.

B. The gift limitations and disqualification requirements under the political reform act are applicable to gifts which are not prohibited by this chapter.

(Ord. 27258.)

#### **12.08.020 Gift defined.**

"Gift" means a voluntary transfer of any thing, service, payment or value to the extent that legal consideration of equal or greater value is not received.

A. As used in this chapter, the term "gift" includes:

1. Any rebate or discount in the price of any thing of value unless the rebate or discount is made in the regular course of business to members of the public.
2. An officer's or employee's community property interest, if any, in a gift received by that individual's spouse.
3. The provision of travel, including transportation, accommodations and food, except as expressly permitted pursuant to Section 12.08.030.

B. As used in this chapter, the term "gift" does not include:

1. Campaign contributions which otherwise comply with Title 12 of the San José Municipal Code and which are required to be reported under Chapter 4 of the Political Reform Act of 1974 as amended.
2. Any devise or inheritance.

(Ords. 24499, 27258.)

**12.08.030 Gifts not prohibited.**

This chapter does not prohibit those gifts which strictly fall within the exceptions enumerated herein:

- A. Gifts with a value less than fifty dollars: Gifts, including meals and beverages provided to an officer or employee in a business or social setting, that have a value less than fifty dollars, as long as the total value of all such gifts received from any one donor do not exceed fifty dollars in any calendar year.
- B. Informational material: Informational material such as books, reports, pamphlets, calendars, or periodicals or reimbursement for any such expenses. Informational material does not include provision of educational trips including transportation, accommodation and food.
- C. Hospitality: Gifts of hospitality involving food, beverages or occasional lodging provided to any officer or designated employee by an individual in such individual's primary residence.
- D. Reciprocal gifts: Gifts exchanged between any officer or designated employee and an individual, other than a lobbyist as defined in Chapter 12.12, on holidays, birthdays, baby showers, or similar occasions provided that the presents exchanged are not substantially disproportionate in value.
- E. Panels and seminars: Free admission, food, beverages, and similar nominal benefits provided to an officer or employee at an event at which the officer or employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event.
- F. Admission given by sponsor of an event: Admission to ceremonial, political, civic, cultural or community functions provided by a sponsor of the event for the personal use of the officer or employee. For example, cultural events include theatrical productions and art exhibits; political events include political fund raisers.
  1. Admission to regularly scheduled athletic events, such as tickets to professional sporting events, are not included as an exception to prohibited gifts.
  2. A sponsor of an event shall not include individuals, persons or organizations whose sponsorship of the event is solely limited to funding or monetary support such as the purchase of tickets.
- G. Employment interview - government employer: Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment

interview, when the interview is conducted at least one hundred fifty miles from San José and where the situs of the employment will be at least the same distance from the city.

H. Employment interview - private employer: Transportation, accommodation, food and directly related expenses incurred in connection with an employment interview and a bona fide prospect of employment, when the expenses are advanced or reimbursed to an officer or designated employee by a potential employer, provided that the officer or designated employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.

I. Authorized travel: Transportation, accommodation, food and directly related expenses for any officer or designated employee which has been authorized by a majority of the city council or redevelopment agency board or which is pursuant to a written city or redevelopment agency policy for intrastate or interstate travel regardless of the source of payment.

J. City or redevelopment agency business: Transportation provided to an officer or designated employee by a contractor or other person doing business with the city or redevelopment agency, provided that such transportation is related to city or redevelopment agency business which is within the scope of employment or the duties of such officer or designated employee, and further provided that such transportation is not in excess of one hundred twenty-five miles one way. Nothing in this subsection shall be interpreted to limit the city council's or redevelopment agency board's discretion to approve travel under subsection I. above.

K. Flowers: Flowers, plants or balloons which are given on ceremonial occasions, to express condolences or congratulations, or to commemorate special occasions.

L. Prizes and awards from bona fide competitions: A prize or award received shall be reported as a gift unless the prize or award is received in a bona fide competition not related to the recipient's status as a city or redevelopment agency employee. If reported as a gift, the prize or award must comply with the disclosure and disqualification requirements under the Political Reform Act of 1974, as amended.

M. Wedding gifts: Wedding gifts from an individual other than a lobbyist as defined in Chapter 12.12.

(Ords. 24499, 27258.)

**12.08.040 Acceptance of gifts.**

A gift shall be deemed to have been accepted except where:

A. It is not used, and, within thirty days after receipt, is returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

- B. It is treated as and remains the property of the city or the redevelopment agency.
- C. It is received by an officer or designated employee in his or her official capacity or as a representative of the city or redevelopment agency, is reported to the city council or agency board, and the council or board approves the retention.  
(Ords. 24499, 27258.)

**12.08.050 Reporting gifts to domestic partner, spouse and children.**

- A. At the time of filing the annual disclosure statement required by the political reform act or any applicable conflict-of-interest code, each city and redevelopment agency officer and designated employee shall file a family gift report on a form to be provided by the city clerk.
- B. The officer or designated employee shall indicate on such report any gifts known to have been accepted during the relevant reporting period by such officer's or employee's domestic partner, spouse and any dependent child where such gifts would have been prohibited to the officer or employee. The value of any such gift and the donor must be disclosed. If the officer or employee has no knowledge of any such gift having been received, the report shall so state.
- C. For purposes of this section, "domestic partner" shall mean any person registered as a domestic partner by an employee with the city of San José.  
(Ords. 24499, 27258.)

URL: (<http://www.sanjoseca.gov/Clerk/commissionboard/Election/SJMCTitle12.pdf>)

# Jacksonville, FL

*Source: City of Jacksonville Ordinance Code*

Title XVI: Judicial Code

Chapter 602: Jacksonville Code of Ethics

Part 2: Definitions

## Sec. 602.201. - Definitions.

### (p) Gift

(1) Gift means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for his or her benefit or by any other means, for which equal or greater consideration is not given. Among other things, a gift may be:

- (i) Real property;
- (ii) The use of property;
- (iii) Tangible or intangible personal property;
- (iv) The use of tangible or intangible personal property;
- (v) A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similar situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin;
- (vi) Forgiveness of indebtedness;
- (vii) Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging or parking;
- (viii) Food or beverage;
- (ix) Membership dues;
- (x) Entrance fees, admission fees, or tickets to events, performance or facilities;
- (xi) Plants, flowers, or floral arrangements;
- (xii) Services provided by persons pursuant to a professional license or certificate;
- (xiii) Other personal services for which a fee is normally charged by the person providing the services;
- (xiv) Any other similar service or thing having an attributable value not already provided for in this Section.

(2) Gift does not include:

(i) Salary, benefits, services, fees, commissions, or expenses associated primarily with the donee's employment or business, or provided to the donee as part of the donee's bona fide fact finding efforts on behalf of his or her agency, or provided to the donee by the city, and does not include gifts provided by the City or any governmental agency, to the extent that such gift is not inconsistent with the applicable provisions of Section 112.3148, Florida Statutes;

(ii) Contributions or expenditures reported pursuant to F.S. Ch. 106, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party;

(iii) An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service;

(iv) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;

(v) The use of a public facility or public property, made available by a governmental agency, for a public purpose;

(vi) An honorarium or an expense related to an honorarium event paid to a person or a person's spouse;

(vii) Transportation provided to an officer or employee by an agency in relation to officially approved governmental business.

(viii) Gifts provided directly or indirectly by a state, regional or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials, officers, or employees, and whose membership is primarily composed of elected or appointed officials, officers, or staff, to members of that organization or officials, officers, or staff of a governmental agency that is a member of that organization.

(ix) Gifts solicited or accepted from a relative, as that term is defined in F.S. § 112.312(21).

(3) For purposes of Section (1) above, intangible personal property means property as defined in F.S. § 192.001(11)(b).

(q) Governmental action means any administrative or legislative action other than an action which is ministerial or quasi-judicial in nature.

(r) Honorarium

(1) Honorarium means a payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee, or to any other person on his or her behalf, as consideration for:

- (i) A speech, address, oration or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media;
- (ii) A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.

(2) The term honorarium does not include:

- (i) The payment for services related to employment held outside the reporting individual's public position which resulted in the person becoming a reporting individual;
- (ii) Any ordinary payment or salary received in consideration for services related to the reporting individual's or procurement employee's public duties;
- (iii) A campaign contribution reported pursuant to F.S. Ch. 106
- (iv) The payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.

URL: (<http://www.coj.net/departments/ethics-office/docs/ethics-code-chapter-602-2012-revisions.aspx>)

- (8) Gifts on special and infrequent occasions if the gift is appropriate to the occasion. These occasions include weddings, funerals, and illnesses;
- (9) Gifts to commemorate a public event in which the officer, official, or employee participated in an official capacity, provided that the gift is appropriate to the occasion. Such occasions include ground breaking ceremonies and grand openings;
- (10) Memberships and passes from the Denver Art Museum, Denver Botanic Gardens, Denver Museum of Nature and Science, and Denver Zoo;
- (11) Gifts from family members;
- (12) Items which are similarly available to all employees of the city or the general public on the same terms and conditions.

(c) It shall not be a violation of this article for an officer, official, or employee to solicit donations to the city or to solicit or redirect donations for charitable purposes to a 501(c) or other charitable organization or to provide assistance to individuals affected by illness, crime or disaster or who have educational or other charitable needs, provided that solicitation and financial records are maintained and provided that the soliciting person, or a member of the soliciting person's immediate family does not keep or use the gift or receive any monetary benefit therefrom.

(d) It shall not be a violation of this article for a member of an officer's, official's or employee's immediate family to accept a gift which arises from an independent relationship of an adult member, if:

- (1) The officer, official or employee does not use the gift; and
- (2) It cannot reasonably be inferred that the gift was intended to influence the officer, official, or employee in the performance of his or her duties.

(Ord. No. 96-01, § 1, 1-29-01; Ord. No. 523-02, § 2, 7-1-02; Ord. No. 931-04, §§ 8, 9, 9-7-04; Ord. No. 698-09, § 5, 11-30-09)

URL: (<http://library.municode.com/index.aspx?clientId=10257>)

# Exhibit C

Contained in this exhibit is a sampling of definitions with respect to how 'lobbying' or 'lobbyists' are defined

Definitions of 'lobbying' or 'lobbyist' included:

Dallas, TX

San Jose, CA

Seattle, WA

Indianapolis, IN / Marion County, IN

Definitions applicable to Phoenix:

Contained in this binder within Section 3 'Ethics Legal Framework' is an exhibit (see: 'Exhibit D') that contains the relevant city codes that define 'lobbying' and 'lobbyist'

# Dallas, TX

Source: Dallas City Code

Chapter 12A. Code of Ethics

Article III-A. Lobbyists

## **SEC. 12A-15.2. DEFINITIONS.**

(9) **LOBBYIST** means a person who engages in lobbying, whether directly or through the acts of another. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists.

(10) **LOBBY or LOBBYING.**

(A) "Lobby or lobbying" means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question.

(B) "Lobby or lobbying" does not include a communication:

(i) merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a city official;

(ii) made by a public official or employee (including, but not limited to, an official or employee of the city of Dallas) acting in his or her official capacity;

(iii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iv) made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;

(v) made at a meeting open to the public under the Texas Open Meetings Act;

- (vi) made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;
- (vii) made in writing as a petition for official action and required to be a public record pursuant to established city procedures;
- (viii) made in an oral or written response narrowly tailored to address an oral or written request by a city official for specific information;
- (ix) the content of which is compelled by law;
- (x) made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
- (xi) made on behalf of an individual with regard to that individual's employment or benefits;
- (xii) made by a fact witness or expert witness at an official proceeding; or
- (xiii) made by a person solely on behalf of that individual, his or her spouse or domestic partner, or his or her minor children.

URL:

[http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:dallas\\_tx](http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates$fn=default.htm$3.0$vid=amlegal:dallas_tx)

# San Jose, CA

Source: San Jose Municipal Code

## Title 12: Ethics Provisions

### **12.12.180 Lobbying.**

“Lobbying” means influencing or attempting to influence a city official or city official-elect with regard to a legislative or administrative action of the city or redevelopment agency.

- A. “Influencing” means the purposeful communication, either directly or through agents, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official actions of a city official or city official-elect, by any means, including, but not limited to providing or using persuasion, information, incentives, statistics, studies or analyses.
- B. “Legislative action” means the drafting, introduction, consideration, modification, enactment or defeat of any resolution, ordinance, amendment thereto, report, nomination or other action of the mayor, city council, redevelopment agency of the city, or city board or commission, or task force or any joint powers authority of which the city is a party.
- C. “Administrative action” means the proposal, drafting, development, consideration, advocacy, recommendation, adoption, amendment or approval of any rule, regulation, agreement or contract, permit, license or hiring action.

(Ord. 27221.)

### **12.12.190 Lobbyist.**

“Lobbyist”, unless exempt under Section 12.12.300 means:

- A. “Lobbyist (contract).” An individual who engages in lobbying on behalf of one or more clients (acting individually or through agents, associates, employees or contractors) and who has received or has entered into an agreement for compensation of one thousand dollars or more (“threshold compensation”) for any services which includes engaging in lobbying during any consecutive three-month period.
- B. “In-house lobbyist”:
  1. An individual who is an officer or employee of an organization or association which has a membership and for which the officer or employee is compensated for purposes of advancing the goals or mission of the umbrella organization or association, such as a trade association, and who engages in lobbying on its behalf in an aggregate amount of twenty hours or more within any three-month period; or
  2. An individual who is an owner of a business or employed by a business or organization and who is compensated more than one thousand dollars in a month beyond reimbursement for their

reasonable travel, meals or incidental expenses for engaging specifically in lobbying, and whose duties as an employee include lobbying on behalf of his or her employer, and who engages in lobbying on its behalf in an aggregate amount of twenty hours or more within any three-month period.

C. "Expenditure lobbyist." A person who makes payments or incurs expenditures of five thousand dollars or more during any calendar year in connection with carrying out public relations, advertising or similar activities with the intent of soliciting or urging, directly or indirectly, other persons to communicate directly with any city official in order to attempt to influence a legislative or administrative action. The five- thousand-dollar threshold shall not include:

1. Compensation paid to contract lobbyists or employees for lobbying; or
2. Dues payments, donations, or other economic consideration paid to an organization, regardless of whether the dues payments, donations or other economic consideration are used in whole or in part to lobby.

(Ord. 27221.)

# Seattle, WA

*Source: City of Seattle Municipal Code*

## Title 2 - ELECTIONS

### Chapter 2.06 - Lobbying Regulations

#### **SMC 2.06.010 Definitions.**

J. "Lobby" and "lobbying" each mean communications with city council members, legislative department staff, the mayor or the mayor's staff in an attempt to influence any of those individuals to develop, propose, draft, consider or reconsider, promote, adopt, enact, reject, take favorable action upon, approve, disapprove, veto, or fail to take action upon legislation.

"Lobby" and "lobbying" do not include the following:

1. Communications or other actions by any City officer or employee or agent acting within the scope of his or her employment authority or contract with the City;
2. Communications or other actions related to existing or proposed collective bargaining agreement(s) with the City or other legislation which could affect specific existing or proposed collective bargaining agreements with the City;
3. Communications or other actions by members of the news media related to news and feature reporting, commentary, and editorial opinion in a regularly-published periodical, on television or radio, or on a regularly-maintained Internet website or other means of electronic communication devoted to the dissemination of news or opinion and not created solely to influence a specific piece of legislation.

K. "Lobbying entity" means a law firm, consulting firm, public relations firm, or other similar organization that engages in lobbying through its employees or agents.

L. "Lobbyist" means any individual who lobbies for compensation, except persons who are reimbursed for minor incidental personal expenses.

URL: (<http://clerk.seattle.gov/~scripts/nph-brs.exe?d=CODE&s1=2.06.010.snum.&Sect5=CODE1&Sect6=HITOFF&l=20&p=1&u=/~public/code1.htm&r=1&f=G>)

# Indianapolis, IN / Marion County, IN

*Source: Revised Code of the Consolidated City and County of Indianapolis / Marion County*

## Title IV. Business and Commercial Regulation and Licenses

### Chapter 909 ~ Lobbyists

#### Sec. 909-101 – Definitions

‘Lobbying activity’ means action or communication made to promote, delay, oppose, or otherwise influence an agency action. The term does not include any of the following:

- (1) The application or negotiation of an award for any state or federal grant;
- (2) The resolution of any outstanding tax matter, including audits, assessments, administrative appeals, claims for refund, or collection activity;
- (3) Communication regarding the award of incentives related to an economic development project;
- (4) Paid advertising communications that are disseminated to the public by radio, television, or a newspaper or periodical of general circulation;
- (5) Any communications, including testimony submitted during public hearing or submitted in writing, at a meeting conducted pursuant to IC 5-14-1.5;
- (6) A response to a request for proposal, a bid, a request for quote, or other solicitation made by an agency in conformance with applicable public works or procurement statutes or rules promulgated thereunder;
- (7) Other public or private testimony or communications solicited by an agency; or
- (8) Action or communication made as a member of an advisory body.

‘Lobbyist’ means any individual who is primarily employed and receives payment, or who contracts for financial consideration, exceeding one thousand dollars (\$1,000) in any calendar year, for the purpose of engaging in lobbying activity. The term does not include any of the following:

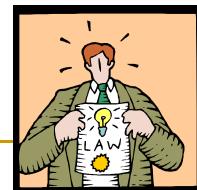
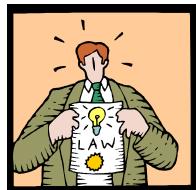
- (1) An official, appointee, or employee who attempts to influence an agency action that is within the scope of the individual’s official duties or employment;
- (2) An attorney or any other individual who represents a client in:
  - a. A public hearing; or

- b. The investigation of a criminal or civil matter or ordinance violation;
- (3) A person who represents a religious organization for the purpose of protecting the organization's constitutional rights;
- (4) Any newspaper or other periodical of general circulation, book publisher, news wire service, or radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical or radio or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisement that directly or indirectly urge agency action if such newspaper, periodical, book publisher, radio or television station, or individual engages in no additional activities in connection with agency action;
- (5) A person whose communication with an agency is for the sole purpose of gathering information relating to a bid, procurement, permit, or public work that is produced in a public record;
- (6) An individual acting on his or her own behalf; or under Article 1, Section 31 of the Constitution of the State of Indiana who assembles together with other individuals for the common good or petitions an agency for redress of grievances;
- (7) An individual employed as a salesperson to sell goods and services; or
- (8) An individual who is invited by an agency or an official for the purpose of giving advice.

URL: (<http://library.municode.com/index.aspx?clientId=12016>)

# Open Meeting Law

Joey Casto  
City Clerk Department



## THE ARIZONA OPEN MEETING LAW IS

Mandated  
by the  
State of Arizona

A.R.S. § 38-431



## And Applies: A.R.S. 38-431.01

### To All Public Bodies

(Boards, Commissions, Committees, and Subcommittees)

for all meetings:

- To any subcommittees formed by a board or commission
- with less than a quorum if doing the business of a subcommittee
- when business is ***discussed***, not just when action is taken

## Quorum

A.R.S. 1-216

Number of members required at a meeting for the meeting to be held



Meeting cannot start (or take place) unless a quorum is present

## What if there is no quorum?

- It is Not a meeting
- No business can be discussed nor any action taken
- A Quorum can be lost
  - Through member leaving
  - Member declaring Conflict of Interest

## Meeting Agendas

A.R.S. 38-431.01 & A.R.S. 38-431.02

- Must be posted 24 hours in advance
- Must be specific
  - Public is entitled to know what will take place
  - Only listed items may be discussed
  - Only items listed for action may have an action taken



## Methods of Voting

### Roll Call –

Individual names are called and each member states their vote

Chair Announces the results of the Vote

OML does not permit secret ballots nor voting by proxy

### Voice Vote –

Those in favor call out 'aye', those opposed call out 'nay'



## Communication

(A.R.S 38-431.01 & 38-431.02)

### At the meeting

#### ■ Allowed:

- ❑ Discussion of the merits of an item listed on the posted agenda
- ❑ Action on any item listed for action on the posted agenda

#### ■ Prohibited:

- ❑ Discussion or action for a topic not listed on the posted agenda
- ❑ Discussion or action without a quorum present

## Communication

(A.R.S 38-431.01 & AZ Atty. Gen Op. I05-004)

### Outside the Meeting

#### ■ Allowed:

- Communication with staff for the purpose of clarification or to request an item on a future agenda (other Commission members should not be included in the communication)

#### ■ Prohibited:

- Communication among Commission members (via phone, fax, e-mail, or social media) on future action items to circumvent OML
- Requesting staff to poll other members for their opinion on an issue

## If a Member has a Conflict of Interest

#### ■ On Conflict Items, the Member

- shall disclose conflict
- shall not discuss nor vote on matter
- shall not be counted for quorum

#### ■ Conflicts must be recorded in minutes

A.R.S. 38-501 et seq.

## Calls to the Public

A.R.S. 38-431.01

The Public can comment on non-agenda items, but the Committee cannot discuss. They can:

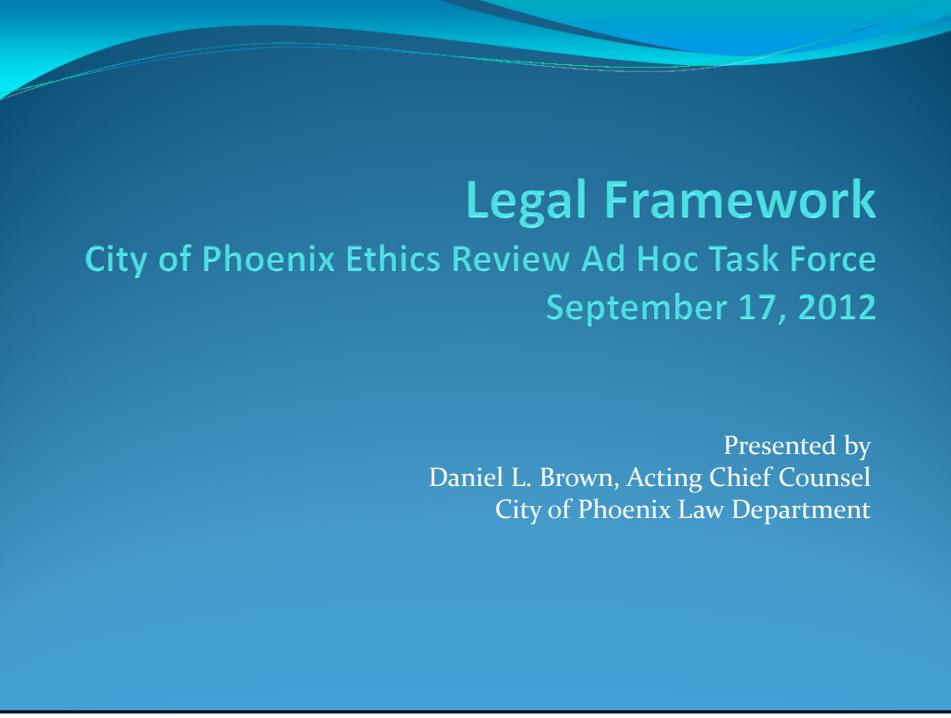
- Direct staff to follow up or place on future agenda
- Respond to Personal Attacks
- Impose reasonable time restrictions
- Have speaker fill out a card for the record



OML does not establish right to speak, but it is considered good government

## Questions



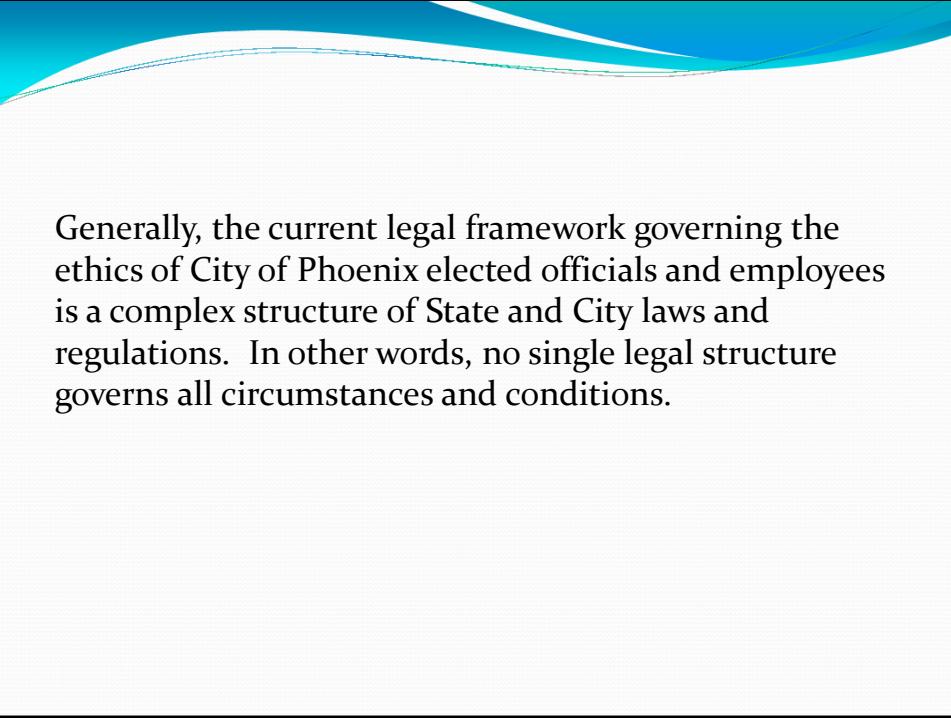


# Legal Framework

## City of Phoenix Ethics Review Ad Hoc Task Force

### September 17, 2012

Presented by  
Daniel L. Brown, Acting Chief Counsel  
City of Phoenix Law Department



Generally, the current legal framework governing the ethics of City of Phoenix elected officials and employees is a complex structure of State and City laws and regulations. In other words, no single legal structure governs all circumstances and conditions.

## Significant Arizona Statutes Related to Ethics Applicable to the City

- A.R.S. § 38-481 – Employment of Relatives
- A.R.S. § 38-503 – Conflict of Interest
- A.R.S. § 38-504 – Prohibited Acts
- A.R.S. § 38-505 – Additional Income Prohibited
- A.R.S. § 38-510 – Penalties
- A.R.S. § 41-1232.08 – Entertainment Ban; State and political subdivisions

### A.R.S. 38-481 - Employment of relatives

- A. **It is unlawful**, unless otherwise expressly provided by law, **for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government** of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.
- B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.
- C. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

## A.R.S. 38-503 – Conflict of Interest

- A. **Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.**
- B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.
- C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:
  - 1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.
  - 2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.
- D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

## A.R.S. 38-504 (A) – Prohibited Acts

- A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding **twelve months** or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was **directly concerned** and in which the officer or employee personally participated during the officer's or employee's employment or service by a **substantial and material exercise of administrative discretion**.

**No lobbying for hire on matter directly involved**

## A.R.S. 38-504(B) – Prohibited Acts cont'd

### No disclosure of confidential information

B. During the period of a public officer's or employee's employment or service and for **two years** thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

## A.R.S. 38-504(C) – Prohibited Acts

### No soliciting of bribes

C. **A public officer or employee shall not use or attempt to use** the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a **substantial and improper influence on the officer or employee** with respect to the officer's or employee's duties.

## A.R.S. 38-505(A) – Additional Income Prohibited

A. No public officer or employee may receive or agree to receive **directly or indirectly** compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter **which is pending** before the public agency of which he is a public officer or employee.

May not receive bribe  
for pending matter

## A.R.S. 38-510 – Penalties

A. A person who:

1. **Intentionally or knowingly violates** any provision of sections 38-503 through 38-505 is guilty of a **class 6 felony**.
2. **Recklessly or negligently violates** any provision of sections 38-503 through 38-505 is guilty of a **class 1 misdemeanor**.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

## A.R.S. 41-1232.08(B) –Entertainment Ban; Political Subdivisions

B. A person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board or any person acting on that person's behalf **shall not make an expenditure or single expenditure for entertainment for an elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board. An elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board shall not accept an expenditure or single expenditure for entertainment** from a person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board.

**Lobbyist shall not make and elected officials shall not receive expenditures for entertainment.**

## Significant City of Phoenix Ethics Laws and Regulations:

- Charter Chapter XI, § 1 – State Conflict of Interest Provisions apply.
- P.C.C. § 2-52 – City of Phoenix Ethics Policy
- P.C.C. § 2-53 – Complaints of Ethics Policy Violations by Board, commission or committee members
- P.C.C. § 2-1001 – Lobbyists
- Administrative Regulation 2.91 – Conflicts in Employment, Supervisory and Contractual Relationships
- Administrative Regulation 2.93 – City Employee Gift Policy

## Charter, Chapter XI § 1 – Conflict of Interest; State law applies

The provisions of the state law governing conflict of interest of officers and employees shall apply.

### P.C.C. § 2-52 - City of Phoenix Ethics Policy

**Seminal provision of City ethics policy applies to all elected officials and employees.**

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its employees and officials, whether elected or appointed. Accordingly, all City officers and employees, members of City boards, commissions and committees and members of the City Council should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City position or powers for improper personal gain.

**Applies to elected officials, board members, and employees**

**Note:**  
**No remedy for a violation**

## P.C.C. § 2-53 - Complaints of Ethics Policy violations by board, commission or committee members

- A. Any person who is a resident of the City of Phoenix or who is affected by the actions of a City board, commission, or committee may file with the City Clerk a written complaint containing specific allegations of violations of the City's Ethics Policy by any member of any board, commission, or committee.
- B. Within five days of receiving the complaint, the City Clerk shall forward the complaint to the City Manager or his designee.
- C. The City Manager or his designee shall appoint an independent Hearing Officer to review the complaint and to conduct any hearings which may be necessary.
- D. After the conclusion of a hearing on a complaint alleging a violation of the City's Ethics Policy by a member of a board, commission or committee, the Hearing Officer shall prepare a written report with findings of fact and recommendations. The report shall be provided to the City Manager or his designee for such action as he deems appropriate.
- E. Compliance with this Section is not required for the Council to take action pursuant to Section 2-51.

**Note: does not apply to elected officials or employees**

## P.C.C. § 2-1001(6)(7) - Lobbyists

6. No person shall make a gift to, or expenditure on behalf of an elected City official through another person to conceal the identity of the person making the gift or expenditure.
7. No person shall give a gift to an elected City official for the performance of official duties **or if it may reasonably be interpreted to be offered in order to influence** any action or decision of an elected City official.

## A.R. 2.91



### City of Phoenix

#### ADMINISTRATIVE REGULATION

SUBJECT: CONFLICTS IN EMPLOYMENT, SUPERVISORY AND CONTRACTUAL RELATIONSHIPS

A.R. NUMBER
2.91 Revised
FUNCTION
Personnel and Payroll
Page 1 of 4
EFFECTIVE DATE
November 18, 2008
REVIEW DATE

#### Transmittal Message

AR 2.91 has been revised to address concerns and practices that have evolved since the original issue date in 1986. Questions regarding this AR should be directed to the Personnel Department at (602) 262-7552.

#### Summary of Changes

In addition to employment and supervisory relationships, the AR has been revised to address contractual relationships involving family members. All employee disclosure forms will now be maintained in the department personnel file instead of submitted to the City Clerk. Disclosure forms for City Council, board and commission members will continue to be submitted to the City Clerk. Relationships to be considered under this AR have been expanded beyond the definition provided in Arizona Revised Statutes.

#### (1) Purpose

The purpose of this regulation is to communicate a Citywide policy regarding employment, supervisory and contractual relationships among family members.

#### (2) Definition

Arizona Revised Statutes, Section 38-502 defines "relative" as the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half-blood and their spouses, and the parent, brother, sister, or child of a spouse.

For purposes of administering this city policy, managers may also consider other relationships that can create the appearance of a conflict. Such relationships may include a court-appointed legal guardian, an individual who has acted as a parent substitute, and/or a person residing in the employee's household as a member of the family. Roommates or other individuals who share a substantial financial interest with the employee should also be disclosed to avoid the appearance of a conflict.

A.R. 2.91 Revised  
Personnel and Payroll  
Page 2 of 4

#### (3) Policies

##### (a) Appointment to City Employment

No officer or employee of the City of Phoenix shall appoint any individual who may have a conflict with the officer or employee as defined in Section 2, to any position within the City. Officers and employees within the City authorized to make appointments shall disqualify themselves from considering or making appointments, or from participating in the appointment process. Written notice of such disqualification should be forwarded to the Department Head where the appointment is being made. In situations where an individual is under consideration for promotion or hiring and there is a potential conflict with an individual in an executive or middle management position in the same department, or in the City Manager's Office, the Personnel Director will review the hiring or promotion process and make a determination on the decision.

##### (b) Immediate Supervisory Relationships

No officer or employee shall be permitted to directly supervise a relative or other individual as defined in Section 2. This includes direct supervision as well as lead assignments. Department heads are responsible for enforcing this policy. Every attempt should be made to reassign or transfer employees who may find themselves by reason of marriage, promotion, or reorganization, in an immediate supervisory relationship with a relative. As a last resort, the layoff rule shall be utilized.

By way of example, supervision includes, but is not limited to, any participation in the hiring decision, promotional decision, work assignment decision, shift assignment decision, disciplinary decision, or the evaluation process of another employee.

Irrespective of the immediate supervisory relationship, no officer or employee shall participate in any manner in a decision involving the pecuniary interest of a relative or other individual as defined in Section 2, including hiring, promotion(s), discipline, and merit increase(s). In addition, no officer or employee shall in any way attempt to influence others in the decision regarding the pecuniary or employment (assignments, shifts, discipline, etc.) interests of a relative or other individual as defined in Section 2.

##### (c) Disclosure of Relationship

An officer or employee, in addition to disqualifying himself/herself from participation in any decision regarding the employment or supervisory interest of a relative(s) or other individual(s) as defined in Section 2, the officer or employee shall make known the existence of the relationship and the interest by filing, in writing, a form disclosing the relationship and the interest involved (see attached). The form will be maintained in the officer or employee's department personnel file. The officer or employee is responsible for updating the information on file as changes occur; however, departments should, at a minimum, request updates from staff on an annual basis.

	<p style="margin: 0;">A.R. 2.91 Revised Personnel and Payroll Page 3 of 4</p> <p style="margin: 0;">Because of their broader management responsibilities, all executives and middle managers must notify their department head or Deputy City Manager in writing of the name(s) of the relative(s), or other individual(s) defined in Section 2 working in any department in the City and the defined relationship. Due to the nature of work, some departments may require broader notification requirements than those contained in this regulation.</p> <p style="margin: 0;">(d) <u>Contractual Relationships</u></p> <p style="margin: 0; background-color: #ffffcc; padding: 5px;">Any officer or employee who has, or whose relative has, a substantial pecuniary or proprietary interest (as defined in Arizona Revised Statutes, Section 38-502), in any contract, sale, purchase or service to the City of Phoenix, shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.</p> <div style="text-align: center; margin-top: 10px;">  <p style="margin: 0; font-size: 0.8em;">_____ Frank Fairbanks</p> <p style="margin: 0; font-size: 0.8em;">Frank Fairbanks, City Manager</p> </div>
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	<p style="text-align: right;">A.R. 2-51 Permittee and Payroll Page 4 of 4</p> <p style="text-align: center;">   <b>City of Phoenix</b>          CITY OF PHOENIX, ARIZONA, A MUNICIPALITY AND          AN INDEPENDENT CORPORATION OF THE STATE OF ARIZONA          Code of Law 2009       </p>																					
<p><b>Employment Application</b></p> <p>Please print clearly in capital letters. Do not use ink pens or markers.</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td>First Name</td> <td>Last Name</td> <td>Middle Initial</td> <td>Suffix</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> <p><b>Other Personal Information</b></p> <p>Please print clearly in capital letters. Do not use ink pens or markers.</p> <div style="border: 1px solid black; width: 100%; height: 100px; margin-top: 10px;"></div>			First Name	Last Name	Middle Initial	Suffix																
First Name	Last Name	Middle Initial	Suffix																			
<p>Signature _____ Date _____</p> <p>Signed this _____ day of _____, 20____.</p> <p>ObjectiveX Name _____ Date _____</p> <p>ObjectiveX Name _____ Date _____</p> <p style="text-align: right;">SPECIALTY</p>																						

## A.R. 2.93

- applies solely to City employees
- does not apply to elected officials



City of Phoenix

### ADMINISTRATIVE REGULATION

A.R. NUMBER	A.R. 2.93 Revised
FUNCTION	Miscellaneous
SUBJECT	CITY EMPLOYEE GIFT POLICY

EFFECTIVE DATE	September 9, 1996
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#### I. PURPOSE

To reinforce the already strong policy for employees receiving gifts from persons or entities who conduct business, or could potentially conduct business, with the City of Phoenix.

#### II. POLICY

City employees must consider ethical principles before accepting personal gifts. No City employee shall accept any gift, service, or favor which would lead toward favoritism or the appearance of favoritism in any way. Generally, token gifts such as food and plants can be accepted if they are of minimal value, can be shared with the entire work unit, and will not be perceived as influencing decisions. The City of Phoenix Ethics Handbook (available from Personnel) discusses in greater detail the ethical considerations of accepting gifts.

If an employee concludes that he or she may accept an entertainment or sports/athletic event gift (such as in the form of tickets), the employee must declare the gift with the City Work Department using the "Declaration Form" (attached). A list of examples of such gifts is listed in Appendix A and B. A declaration must be made regardless of whether or not the gift is used by the employee. A personal gift from a friend or family member or winning a promotional gift where the opportunity is open to the general public does not require declaration. Employees who pay for the ticket or elect to make a charitable contribution in the name of the donor for the face value of the gift do not need to file a declaration. Employees should declare gifts within 2 working days of acceptance.

#### III. VIOLATION OF GIFT POLICY

Any employee in violation of this policy will be subject to appropriate disciplinary action.

FRANK FAIRBANKS, City Manager

by *Marsha Wallace*  
Marsha Wallace, Assistant to the City Manager

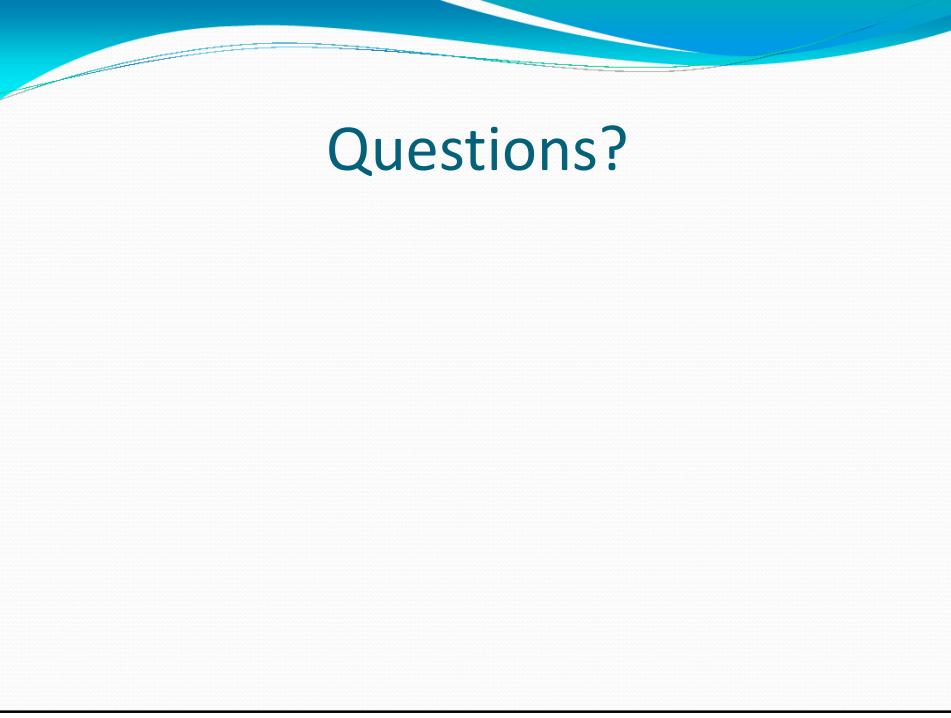
### APPENDIX A

#### SAMPLE LIST OF INCONSTITUTIONAL GIFT DECLARATION FORM

Any gift of questionable nature or monetary value  
Books or art  
Arizona Diamondbacks games  
Entertainment  
Golf  
Health related games  
Hospitality games  
Hotel stays  
Inconsequential business gifts  
Marathon golf tournament  
National Football League  
NBA All Star Games  
NCAA Final Four Games  
Private foundation grants  
Private donor grants  
Private international foundation awards  
Private Open Golf Tournament  
Private and regional racers  
Professional tennis tournaments (ex: Wimbledon)  
Private travel grants  
Sports related travel (i.e. spending over a week that are charged)  
Tennis tournaments  
Tournament League invites  
Golf tournament invites  
Banquet invites  
A.A. Open golf  
U.S. Open Tennis  
University of Arizona games  
World Series

<b>APPENDIX B</b>	
<b>NAME LIST OF ENTERTAINMENT GIFT TO DECLARE</b>	
Any gift of entertainment with a monetary value Arizona Broadway Company Arizona Shakespeare Festival Arizona Theatre Company Arizona Ballet Arizona State University plays, concerts, lectures, expense Arizona Opera Arizona Repertory Theatre Herkis & Wilson Center for Performing Arts ZMAX Theatre Phoenix Theatre Works Music Theater Works Museum Works Red River Opry Renaissance Festival St. George Productions, Inc. Thunderbird Center for Performing Arts Symphony Hall, performances Theatrical agencies/productions Theatre now tickets University of Arizona plays, concerts, lectures, expense Phoenix Zoo tickets	

<b>City of Phoenix</b>	
<b>DECLARATION FORM</b>	
<i>for</i>	
<b>Entertainment or Sports/Athletic Event Gift</b>	
Your Name _____	Work Name _____
Department _____	
Event/activity _____	
Date of Event _____	Monetary Value _____
Nature of Person or Business (gift is from) _____	
Address of the Person or Business (if not above) _____	
Comments/Explanation _____	
_____	
_____	
_____	
_____	
Employee's Signature _____	
Title _____	
<input checked="" type="checkbox"/> I am responsible for this	
<i>Please return form to the City Clerk Department</i>	



Questions?



# Ethics Review Ad Hoc Task Force

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September 17, 2012



## City of Phoenix - Ethics Policy

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To uphold, promote and demand the highest  
standards of ethics from all of its  
employees and officials,  
whether elected,  
appointed or hired.



## Ethics History

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1978

- Municipal Integrity Program
- City also implemented more stringent pre-hire background investigations

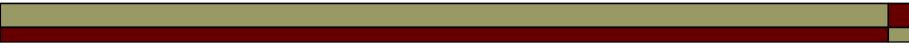


## Ethics Handbook History

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1990/91

- Handbook developed by City ad-hoc committee, including:
  - Thelda Williams – Councilmember
  - Carlos Arauz – Personnel Director
  - C. Timothy Delaney – State Solicitor General
  - Roderick G. McDougall – Phoenix City Attorney
  - Bruce Meyerson – local attorney
  - Katherine Patry – local business owner



## Ethics Training

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1991

- Following City Council approval, over 500 employee training sessions were conducted over the next 24-30 months
- Ethics was also added to the City's new employee orientation program



## Ethics Handbook Revision

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1997

- Ethics Handbook revised to reflect:
  - Implementation of new City Administrative Regulations
  - Provide practical examples of situations that might arise regarding use of ethical standards
  - Improve look and usability of handbook
- Refresher training delivered citywide

## Ethics History

2003 - 2005

- FAQs developed for members of City boards, commissions and committees
- Ethic Handbook revised to reflect new/revised A.R.S. 41-1232.08 regarding;
  - Receipt of tickets for entertainment, sports and athletics activities
  - Clarified language on methods for reporting of improper behavior

## City's Commitment

- Core Training –
  - Customer Service
  - Civil Treatment
  - Ethics
- Ethics training continues to be a significant component of new employee orientation.
- Customized refresher courses to departments upon request.



## City's Value Statements

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- We are dedicated to serving our customers
- We value and respect diversity
- We work as a team
- We each do all we can
- We learn, change, and improve
- We focus on results
- We work with Integrity
- We make Phoenix better!



## Electronic Communications

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- Governs the acceptable use of the City's information systems
  - Subject to records retention policies & public records law
  - Must use city authorized software and safeguard City information systems
  - Permits incidental personal use
  - Prohibits transmitting or displaying offensive or improper messages or materials; personal business; forwarding chain letters or solicitations



## Political Activity

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- Defines allowable and prohibited political activities for City employees
  - Employees may:
    - privately express opinions on candidates for Mayor and Council
    - Actively participate in non-City political campaigns and make financial contributions
  - Employees may not:
    - Participate in any way in City Mayor & Council campaign activities



## Solicitation by or of City Employees

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- Governs the activities at work to minimize pressure to contribute financially to any outside enterprise
  - Employees may be allowed minimal City time to work on City/department sponsored fund raising activities
  - Passive solicitation is permitted only during non-working hours with department approval

## Work Conduct - Harassment

- Sexual harassment and protected category harassment will not be tolerated. Policy defines prohibited activities and reporting procedures
  - Protected category = gender, race, color, sexual orientation, religion, age, disability, national origin, genetic information or any other legally protected basis that is not welcome, that is offensive, demoralizing, and/or interferes with work effectiveness

## Outside Employment

- Establishes parameters for employees to ensure that work does not interfere with, or is in conflict with, City employment. Prohibited if -
  - the employee will be required to act upon the work in an official capacity
  - if using City records which is not available to the public
  - when employment will bring the City disrepute
  - when in conflict with the City/department's mission
  - Work results in excessive absences, or decline of City job performance

## Conflicts of Interest

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- Defines relationships that create conflicts regarding employment, supervisory and contractual relationships and identifies the duty to disclose.
  - Appointment to City employment
  - Immediate supervisory relationships
  - Contractual relationships

## Contract or Rehire of Retirees

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- Establishes procedures and conditions for contracting or rehiring retired City employees
  - The immediate rehiring of a retired City employee to perform part, or all, of their previous job is prohibited
  - Contracts with retirees permitted during the recruitment/selection or for a specific project limited in duration
  - Re-employment permitted into non-pension eligible positions (different capacity or not to exceed 1000 hours)

## **Gift Policy**

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- No city employee shall accept any gift, service, or favor which would lead toward favoritism or the appearance of favoritism.
  - Token gifts such as food can be accepted if they are of minimal value, can be shared, and will not be perceived as influencing decisions
  - Employees may accept an entertainment or sports/athletic event gift (tickets) but must declare within 2 days of acceptance

## **Ethics Related Violations**

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- Most common violations -
  - Misuse of city resources for personal use/gain
  - Misuse of city time - lunch and rest breaks
- Other violations –
  - Acceptance of gifts, such as tickets to entertainment/sports activities
  - Inappropriate workplace conduct towards others
  - Failure to disclose potential conflict of interest or appearance of favoritism

## Integrity Committee

Established to provide employees with a way  
to report fraudulent and unethical behavior  
of city employees

- City Auditor
- City Attorney
- Deputy City Manager

## Components of Ethics Program

- Culture of Integrity
- Policies / Code of Conduct
- Training programs
- Reporting procedures
- Auditing and compliance monitoring



	<h2>Presenters</h2>
	<ul style="list-style-type: none"><li>• <b>Janet Smith, Human Resources Director</b><ul style="list-style-type: none"><li>– City of Phoenix Code of Ethics</li><li>– Phoenix Police Operations Orders</li><li>– Phoenix Fire Department Professional Standards</li></ul></li><li>• <b>Gary Verburg, City Attorney</b><ul style="list-style-type: none"><li>– Participating in City Elections</li></ul></li><li>• <b>Toni Maccarone, Public Information Director</b><ul style="list-style-type: none"><li>– Internet and Media Transparency</li></ul></li><li>• <b>Cris Meyer, City Clerk</b><ul style="list-style-type: none"><li>– Website Improvements</li></ul></li><li>• <b>Bill Greene, City Auditor</b><ul style="list-style-type: none"><li>– Integrity Committee</li></ul></li><li>• <b>Jeff DeWitt, Finance Director; James Scarboro, Deputy Finance Director</b><ul style="list-style-type: none"><li>– Ensuring Ethical Procurement</li></ul></li></ul>



## The Phoenix Way

- The “Magic of Phoenix”
- How people join the “Phoenix Team”
- Performance-based promotions
- Equal basis of service delivery
- Budget process
- Customer and community involvement (several hundred people)
- Constant improvement

3



## Janet Smith, Human Resources Director City of Phoenix Code of Ethics

- Presented at first Ethics Task Force meeting
- Policy: “To uphold, promote and demand the highest standards of ethics from all of its employees and officials, whether elected, appointed or hired.”
- Ethics training is a significant part of new employee orientation.

4

	<p>Janet Smith, Human Resources Director</p> <h2>Phoenix Police Operations Orders</h2> <ul style="list-style-type: none"> <li>Operations Order 1.1 – Guiding Values: PRIDE <ul style="list-style-type: none"> <li>– Protection and Prevention</li> <li>– Responsibility and Respect</li> <li>– Integrity and Ideals</li> <li>– Dedication to Duty</li> <li>– Employee Excellence</li> </ul> </li> <li>Other Operations Orders also relate to ethical conduct</li> <li><a href="http://phoenix.gov/police/help/">phoenix.gov/police/help/</a></li> </ul>
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5

	<p>Janet Smith, Human Resources Director</p> <h2>Phoenix Fire Department Professional Standards</h2> <ul style="list-style-type: none"> <li>“Professional Standards” booklet distributed to all Firefighters during training</li> <li>Related policies include: <ul style="list-style-type: none"> <li>– Management Procedures</li> <li>– Standard Operating Procedures</li> </ul> </li> <li><a href="http://phoenix.gov/fire/forfiredeps/books/">phoenix.gov/fire/forfiredeps/books/</a></li> </ul>
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6



Gary Verburg, City Attorney

## Participation in City Elections

- Chapter XXV, Section 11 of the City Charter and City Code sections 12-217 and 218 prohibits:
  - (1) any officer or employee from soliciting or receiving campaign funds related to a City candidate election and;
  - (2) prohibits City employees from taking part in the management, affairs or campaigns of City elected officials.
- State statute prohibits the use of any City resources to influence the outcome of an election (ARS 9-500.14)

7



Gary Verburg, City Attorney

## Participation in City Elections

**Administrative Regulation 2.16 provides further definition of what is and what is not permitted.**

- City employees **may engage** in the following political activity:
  1. Privately express a personal opinion related to a City candidate election;
  2. Be politically active in bond and proposition matters provided it is done on the employee's private time.
  3. Participate on campaigns for national, state and county elections on the employee's own time.
- City employees **may not engage** in the following political activity:
  1. Use City authority to interfere with the results of an election;
  2. May not solicit funds from other employees for any political purpose;
  3. May not sign recall or nomination petitions for City candidate elections'
  4. May not display political advertising on any City property;
  5. May not use City title or employment in political advertisements and endorsements.

8



David Cavazos, City Manager

## Sample Industry Policies

- **International City/County Management Association**
  - “Tenet 7: Refrain from all political activities...”
- **International Public Management Association for Human Resources Principles and Values Statement**
  - “To avoid a conflict of interest;”
- **American Institute of Certified Planners Code of Ethics and Professional Conduct**
  - “B-14: We shall not use the power of any office to seek or obtain a special advantage...”
- **American Association of Airport Executives Code of Ethics**
  - “3. Refrain from participation in the election of the members of the employing governmental body...”

9



Toni Maccarone, Public Information Director

## Increased Transparency in Decision-Making

- City Council Formal, Policy and Subcommittee meetings broadcast:
  - Cox Cable PHX11
  - Streamed live on phoenix.gov
  - Facebook.com/cityofphoenixaz
- Meetings replayed on PHX11 and posted to youtube.com/cityofphoenixaz
- Facebook (2700 followers), Twitter and YouTube (22,000 views since Feb. launch)
- Live Online Budget Hearing, plus 15 budget hearings, all posted to YouTube
- Improved online Public Records, moved to more prominent online placement

10



Cris Meyer, City Clerk  
**Increased Transparency  
Through Website Improvements**

- Registered lobbyist information available online
- Elected official financial disclosure statements available online
- Public Meeting Notices for all City boards and commissions
- Official Records Search:
  - City Contracts
  - Ordinances and Resolutions
  - City Council Reports (CCRs) and Requests for Council Action (RCAs)
  - City Council, Subcommittee and Board and Commission meeting agendas, results and approved minutes
  - Registration documents for political committees and Independent Expenditure organizations
  - Campaign finance reports

11



Cris Meyer, City Clerk  
**Formal Meeting Page**

- Please visit our [Public Records Search](#) page for an official copy of the minutes.
- Subscribe to our [Formal Agenda list serve](#).
- 2012 Tentative Council Meeting Calendar
- 2013 Tentative Council Meeting Calendar

DATE	NOTES	AGENDA	ADD-ON PACKET	BACK-UP REPORTS	RESULTS	MINUTES	VIDEO
10/03/12		<a href="#"></a>					
09/19/12		<a href="#"></a>		<a href="#"></a>	<a href="#"></a>		
09/05/12		<a href="#"></a>	<a href="#"></a>	<a href="#"></a>	<a href="#"></a>		<a href="#">Watch Now</a>
08/29/12		<a href="#"></a>		<a href="#"></a>	<a href="#"></a>		<a href="#">Watch Now</a>
07/03/12	Special Start Time: 1:00 PM	<a href="#"></a>	<a href="#">Watch Now</a>				



Bill Greene, City Auditor

## Integrity Committee

- Membership:
  - City Auditor
  - City Attorney
  - Deputy City Manager
- Provides methods for employees to report complaints
- Facilitates investigation of complaints
- Ensures proper complaint resolution
- Assesses corrective action

13



Bill Greene, City Auditor

## City Auditor's Role

- City Auditor's role in Integrity Committee:
  - Researching and investigating allegations
  - Coordinating with other departments for investigations
  - Reporting summary results to the Integrity Committee and the City Manager's Office
- City Auditor Department promotes ethical culture and behavior through:
  - Compliance and operational audits
  - Internal control assessments
  - Internal control development
  - Fraud risk assessments, prevention, detection

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Jeff DeWitt, Finance Director

## Ensuring Ethical Procurement

### Recent Developments:

- **Consolidated Procurement Websites** – Established central websites to identify all formal (above \$50,000) solicitation notices as well as award recommendations.
- **Vendor Management System** – Established a central vendor registration and notification system within the City's website.
- **Transparency Policy** – Established a policy limiting communications between vendors and City officials\*. Any meeting requests of this type are limited to public meetings only.
- **Appeal Process** – Established a consolidated policy regarding the processing of solicitation protests and appeals, including options for a four-person appeal panel or an independent hearing officer.

\* City Council, City Manager's Office, applicable Department Directors

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Jeff DeWitt, Finance Director

## Ensuring Ethical Procurement

### Upcoming Developments:

- **Updated Procurement Regulations** – Currently revising City procurement regulations with the objective of standardizing processes across Departments, improving competitiveness and transparency of City procurement.
- **eProcurement System** – Starting with the new Vendor Management System and moving towards a Citywide eProcurement system, to eventually include all aspects of the procurement process, from the requisition to issuance of the payment, “Req-to-Check”.
- **Centralized Procurement Training** – Implementing the newly revised procurement regulations across the Departments via the establishment of a central training program. Maintain institutional knowledge and assist in the development of new and existing staff.
- **Procurement Compliance Support** – Assuring Departmental compliance with new procurement regulations through a central oversight program. Ensuring compliance while reporting on attainment of City procurement policies.

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## Conclusion

The Phoenix Way is exemplified by our excellent employees every day

**Questions?**

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# Ethics Based Leadership

Traaen & Associates, LLC  
[www.TraaenandAssociates.com](http://www.TraaenandAssociates.com)  
602.510.3989

Source – A Matter of Ethics:  
Facing The Fear of Doing The  
Right Thing Copyright 2012

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## Defining Ethics

An agent, acting in a capacity of trust with (full) compelling transparency.

Doing the *right* thing at the *right* time.

Accepting responsibility for a decision ‘before’ the decision is implemented.

Source – A Matter of Ethics:  
Facing The Fear of Doing The  
Right Thing Copyright 2012

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## Public Perceptions & Ethics

### Fear Underlying Ethical Concerns

1. Real issues
2. Borrowed issues
3. Unfounded issues
4. Unknown issues

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## Best Practices – Perceptions Public Service Values

- Trustworthiness
- Fairness
- Responsibility
- Respect
- Compassion
- Loyalty

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## Best Practices – Key Methods

1. Comprehensive adoption of standards.
2. Organization wide inclusion of ‘ethics discussions’ on a regular basis.
3. Role modeling at every level of the organization [measurement in performance assessments].

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## Best Practices – Barriers

1. Ill conceived goals – unintended consequences.
2. Motivated blindness – conflicts of interest.
3. Indirect blindness – outsourcing.
4. Slippery Slope – gradual conduct.
5. Overvaluing Outcomes – ignore unethical decisions.

*Harvard Business Review, April 2011*

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Facing The Fear of Doing The  
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## Social Media

**Social Networkers are more likely to believe that questionable behaviors are acceptable.**

**When asked 'Do you feel it is acceptable to ....?' [Two groups **Active Social Networkers** versus **Other U.S. Workers**]**

- 1. Friend a client/customer on a social network ....59% versus 28%**
- 2. Blog or tweet negatively about your company or colleagues....42% versus 6%**

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## Social Media II

**3. Buy personal items with your company credit card as long as you pay it back .... 42% versus 8%.**

**4. Do a little less work to compensate for cuts in benefits or pay ....51% versus 10 %.**

**5. Keep a copy of confidential work documents in case you need them in your next job ..50% versus 15%**

**[Conclusion – Active Social Networkers show a higher tolerance for activities that could be considered unethical.]**

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## Best Practices – Social Media

1. Set expectations clearly.
2. Conduct training for all levels (including elected, appointed and general workforce members).
3. Provide examples of professional communications. [If you are ‘talking’ about your organization, you are on stage.]
4. Official/appointee/employee: Do *nothing* that brings dishonor to the organization.

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## Bonus Recap: Checklist

### Ethics Within High Performing Organizations

- Employment Practices
- Employee, Client and Vendor Information
- Public Information/Communications
- Conflicts of Interest
- Relationship with Vendors
- Environmental Issues
- Ethical Management Practices
- Political Involvement

**[The organization measures its effectiveness]**

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## Resources

1. [‘Ethics and Social Media – Where Should You Draw The Line?’](http://mashable.com/2012/03/17/social-media-ethics/)  
<http://mashable.com/2012/03/17/social-media-ethics/>
2. [Ethics Resource Center](#) – National Business Ethics Survey – both private and public sector institutional research.
3. [Markkula Center for Ethics](#). Santa Clara University, Santa Clara, California.  
<http://www.ethics.org/resource/critical-elements-organizational-ethical-culture>

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Right Thing Copyright 2012

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## Questions

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## Best Practices Relating to Elected Officials and Boards and Commissions

City of Phoenix Ethics Review Ad Hoc Task Force  
October 29, 2012

Presented by  
Daniel L. Brown, Acting Chief Counsel  
City of Phoenix Law Department



### Best Practices: City of Phoenix

#### A. Phoenix City Code, Section 2-52, sets out the City of Phoenix Ethics Policy:

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its employees and officials, whether elected or appointed. Accordingly, all City officers and employees, members of City boards, commissions and committees and members of the City Council should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City position or powers for improper personal gain.

**Note: Ethics policy expressly applies to employees,  
City boards and commissions and elected officials.**

## Best Practices: City of Phoenix cont'd

### B. Enforcement of Ethics Policy

1. Phoenix Charter ("Charter") Chap. III, Sec. 2 and Phoenix City Code ("PCC") Section 2-4 authorize the City Manager to administer and enforce all ordinances, including the ethics policy, related to employees.
2. PCC Section 2-53 sets out the enforcement of the ethics policy related to boards and commissions:
  - A. Any person who is a resident of the City of Phoenix or who is affected by the actions of a City board, commission, or committee may file with the City Clerk a written complaint containing specific allegations of violations of the City's Ethics Policy by any member of any board, commission, or committee.
  - B. Within five days of receiving the complaint, the City Clerk shall forward the complaint to the City Manager or his designee.

## Best Practices: City of Phoenix cont'd

- C. The City Manager or his designee shall appoint an independent Hearing Officer to review the complaint and to conduct any hearings which may be necessary.
- D. After the conclusion of a hearing on a complaint alleging a violation of the City's Ethics Policy by a member of a board, commission or committee, the Hearing Officer shall prepare a written report with findings of fact and recommendations. The report shall be provided to the City Manager or his designee for such action as he deems appropriate.
- E. Compliance with this Section is not required for the Council to take action pursuant to Section 2-51

**Note: Even though Ethics Policy applies to elected officials, there is no formal process in the City Code or Charter to enforce it other than the general authority to prosecute violations of Charter and ordinances pursuant to the Phoenix City Charter, Chap. XXI, Sec. 7.**

## Best Practices: City of Mesa

### A. A single code of ethics applies to elected officials and board members:

It is the Policy of the City of Mesa to uphold, promote, and demand the highest standards of ethics from all of its officials, whether elected to City Council or appointed to advisory boards. Accordingly, all members of City boards, commissions, committees and the City Council ("elected officials and advisory board members") shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or powers improperly or for personal gain.

## Best Practices: City of Mesa cont'd

The City of Mesa and its elected officials and advisory board members all share a commitment to ethical conduct in service to their community. This Code of Ethics has been created to ensure that all elected and appointed officials and advisory board members have clear guidance for carrying out their responsibilities.

**Note: The Mesa Code of Ethics is substantially similar to that of the City of Phoenix.**

## Best Practices: City of Mesa cont'd

B. Enforcement of ethics code is found in Section 206 of the Mesa City Charter, which applies to council and board members:

Section 206 (B):

1. The Mayor or a Councilmember shall forfeit their office if they (1) lack at any time during their term of office any qualification for the office prescribed by this Charter or by law, or (2) violate any express prohibition of this Charter. (Amd. Charter Election 3-14-00/3739)
2. In addition, it shall constitute grounds for forfeiture of office, suspension, censure, reprimand, monetary penalty, letter of warning, other form of discipline, or some combination of the foregoing penalties, at the sole discretion of the City Council, if five (5) or more City Councilmembers agree that a Councilmember,

## Best Practices: City of Mesa cont'd

including the Mayor, or a citizen advisory board member appointed under Section 501 of this Charter, has: (Amd. Charter Election 3-14-00/3739)

(a) **Violated the mandatory code of ethics for Councilmembers and citizen advisory board members adopted by the Mesa City Council by resolution and in effect when the alleged conduct occurred; (Amd. Charter Election 3-14-00/3739)**

## Best Practices: Arizona Legislature

- A. A.R.S. § 38-519 establishes an ethics committee to propose, and the legislature to adopt, a code of ethics with provisions to enforce it:**
  - A. An ethics committee is established in the senate and an ethics committee is established in the house of representatives, each consisting of five members. The president of the senate and the speaker of the house of representatives shall appoint to the ethics committee of their respective house five members, not more than three of whom may be from the same political party.
  - B. Each ethics committee shall propose, and each house of the legislature shall adopt, not later than thirty days after the beginning of the first regular legislative session, a code of ethics and conflict of interest requirements as part of the rules of the respective house in the same manner as other rules are adopted.

## Best Practices: Arizona Legislature cont'd

- C. On the request of a member of the legislature or on its own initiative, each ethics committee may issue advisory opinions interpreting the code of ethics, conflict of interest and financial disclosure requirements.
- D. Each ethics committee shall investigate complaints and charges against members of its house and, if necessary, report the results of the investigation to its house with recommendations for further action.
- E. A member is subject to punishment or expulsion as provided by article IV, part 2, section 11, Constitution of Arizona, for any violation of the code of ethics, conflict of interest or financial disclosure requirements.

## Best Practices: Arizona Legislature cont'd

### B. Arizona Senate Rule 29 and Arizona House Rule 34 – Legislative Code of Ethics

A. No member shall:

1. Intentionally solicit, accept or agree to accept from any source whether directly or indirectly and whether by himself or through any other person any personal financial benefit, including any gift, for himself or another upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public official will thereby be influenced.
2. Disclose or use information designated by law as confidential in any manner prohibited by law.

## Best Practices: Arizona Legislature cont'd

3. Knowingly disclose or use, other than in the performance of his official duties, information gained as a result of his official position and which is not available to the general public, for his personal financial benefit or the financial benefit of any other person, including compensation from any employment, transaction or investment entered into that utilizes or is based upon such information.
4. Enter into any contract with a public agency for the sale of goods or services or have an interest in the profits or benefits of a contract entered into with a public agency by any other person or entity for the sale of goods or services, unless:
  - (a) The total gross annual income value of the contract is less than one thousand dollars, or
  - (b) The contract is entered into by a business of which the member, his spouse or any minor child of whom the member has custody, owns or controls, individually or combined, less than ten percent thereof, or

## Best Practices: Arizona Legislature cont'd

- (c) The contract has been awarded through public and competitive bidding pursuant to law, or
- (d) The subject of the contract between a member and a public agency is an appointment or employment for which an exception exists pursuant to article IV, part 2, section 4 or 5 of the Constitution of Arizona.
- 5. Appear for a fee on behalf of another person or entity before any public agency for the purpose of influencing such agency by use of threat to initiate or take an action in the discharge of his official duties that would be adverse to such agency.
- 6. Participate in any action of the Senate if the member has a substantial interest as defined in section 38-502, Arizona Revised Statutes.

## Best Practices: Arizona Legislature cont'd

### B. For the purposes of this rule:

- 1. A member shall be deemed to "have an interest in the profits of a contract" if the contract is entered into by the member or his spouse or any minor child of whom the member has legal custody.
- 2. "Public agency" means all courts and any department, agency, board, commission, institution or instrumentality of this state but does not include counties, cities and towns or any other political subdivision.
- 3. "Business" includes any corporation, partnership, joint venture, sole proprietorship, business trust, enterprise, organization, trade, occupation or profession.

## Best Practices: Arizona Legislature cont'd

4. "Gift" includes any gratuity, special discount, favor, service, economic opportunity, loan or other benefit received without lawful consideration and not provided to members of the public at large but does not include political campaign contributions if such contributions are publicly reported as required by law.
5. "Fee" includes any compensation but does not include benefits received pursuant to law as a result of being a legislator.

**Note: The House and Senate Code of Ethics does not apply to State employees or members of boards and commissions. The conflict of interest statutes are the sole ethics code to apply to all groups.**

## Best Practices: Arizona Legislature cont'd

### C. State of Arizona Boards and Commissions

#### 38-501. Application of article

- A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.
- B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.
- C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

## Best Practices: Congress

A. Code of Ethics for Government Service articulated broad guidelines for employees including officeholders. The Code of Ethics for Government Service articulates broad ethical guidelines for “all Government employees, including officeholders.” The 85<sup>th</sup> Congress adopted this Code in 1958. Among other things, the Code stresses that any person in government service should:

- Adhere to the highest moral principles;
- Give a full day’s labor for a full day’s pay;

## Best Practices: Congress

- Never discriminate unfairly by dispensing special favors;
- Never accept favors or benefits that might be construed as influencing the performance of governmental duties;
- Make no private promises binding on the duties of office;
- Engage in no business with the Government inconsistent with the performance of governmental duties;
- Never use information received confidentially in the performance of governmental duties for making private profit; and
- Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

## Best Practices: Congress cont'd

### B. Code of Ethics enforced by House Committee on Ethics.

- U.S. Constitution art. I, § 5, cl. 2 authorizes each house to punish its members for disorderly behavior and with concurrence of two-thirds of the house, expel a member.
- House rule authorizes the Standards Committee to enforce Standards of Conduct for members, officers and employees, to investigate alleged violations of laws, rules or regulations.
- Approval by House or two thirds committee may report substantial evidence of violation by a member.

## Best Practices: Military Code of Ethics

- A. Department of Defense ("DOD") Regulation 5500.07R specifies the code of conduct.
- B. Executive Order 13940 (January 9, 2009) Ethics for government service to set out Ethical Values:

SECTION 2. EXECUTIVE ORDER 12834 13940 (Reference (b))

12-200. E.O. 12834 13940 (Reference (b))

SECTION 3. CODE OF ETHICS FOR GOVERNMENT SERVICE

42-200. Display of Code—In accordance with 5 U.S.C.A. 2301 note (reference (a)), each agency shall display, in appropriate areas of any Federal Government building in which at least 20 civilians are regularly employed by the agency, copies of the following Code of Ethics for Federal Government Service.

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting and accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

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Change 7, 11/17/2011

VIII. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

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Change 7, 11/17/2011

## SECTION 4.3. DoD HUMAN GOALS

12-400300. DoD Human Goals. On April 17, 1990, DoD established human goals as follows:

## DEPARTMENT OF DEFENSE

## HUMAN GOALS

## THE ATTAINMENT OF THESE GOALS REQUIRES THAT WE STRIVE

To attract to the Department of Defense people with ability, dedication, and capacity for growth;

To provide opportunity for everyone, military and civilian, to rise to as high a level of responsibility as possible, dependent only on individual talent and diligence;

To assure that equal opportunity and safety programs are an integral part of readiness;

To make military and civilian service in the Department of Defense a model of equal opportunity for all regardless of race, color, sex, religion, or national origin;

To provide equity in civilian employment for older persons and disabled individuals and to provide a safe environment that is accessible to and usable by them;

To hold those who do business with or receive assistance from the Department to full compliance with its policies of equal opportunity and safety;

To help each service member in leaving the service to readjust to civilian life;

To provide a safe and healthful work environment, free from recognized occupational hazards for all personnel; and

To contribute to the improvement of our society, including its disadvantaged members, by greater utilization of our human and physical resources while maintaining full effectiveness in the performance of our primary mission.

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Change 7, 11/17/2011

## SECTION 5.4. ETHICAL VALUES

12-500400. General. Ethics are standards by which one should act based on values. Values are core beliefs such as duty, honor, and integrity that motivate attitudes and actions. Not all values are ethical values (integrity is; happiness is not). Ethical values relate to what is right and wrong and thus take precedence over non-ethical values when making ethical decisions. DoD employees should carefully consider ethical values when making decisions as part of official duties.12-504401. Primary Ethical Valuesa. Honesty. Being truthful, straightforward and candid are aspects of honesty.

(1) Truthfulness is required. Deceptions are easily uncovered and usually are. Lies erode credibility and undermine public confidence. Untruths told for seemingly altruistic reasons (to prevent hurt feelings, to promote good will, etc.) are nonetheless resented by the recipients.

(2) Straightforwardness adds frankness to truthfulness and is usually necessary to promote public confidence and to ensure effective, efficient conduct of Federal Government operations. Truths that are presented in such a way as to lead recipients to confusion, misinterpretation or inaccurate conclusions are not productive. Such indirect deceptions can promote ill-will and erode openness, especially when there is an expectation of frankness.

(3) Candor is the forthright offering of unrequested information. It is necessary in accordance with the gravity of the situation and the nature of the relationships. Candor is required when a reasonable person would feel betrayed if the information were withheld. In some circumstances, silence is dishonest, yet in other circumstances, disclosing information would be wrong and perhaps unlawful.

b. Integrity. Being faithful to one's convictions is part of integrity. Following principles, acting with honor, maintaining independent judgment and performing duties with impartiality help to maintain integrity and avoid conflicts of interest and hypocrisy.

c. Loyalty. There are many synonyms for loyalty: fidelity, faithfulness, allegiance, devotion and fealty. Loyalty is the bond that holds the nation and the Federal Government together and the armed forces in cohesion and effect. It is not blind obedience or unquestioning acceptance of the status quo. Loyalty requires careful balancing among various interests, values and institutions in the interest of harmony and cohesion.

d. Accountability. DoD employees are required to accept responsibility for their decisions and the resulting consequences. This includes avoiding even the appearance of impropriety because appearances affect public confidence. Accountability promotes careful, well thought-out decision-making and limits thoughtless action.

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Change 7, 11/17/2011

e. **Fairness.** Open-mindedness and impartiality are important aspects of fairness. DoD employees must be committed to justice in the performance of their official duties. Decisions must not be arbitrary, capricious or biased. Individuals must be treated equally and with tolerance.

f. **Caring.** Compassion is an essential element of good government. Courtesy and kindness, both to those we serve and to those we work with, help to ensure that individuals are not treated solely as a means to an end. Caring for others is the counterbalance against the temptation to pursue the mission at any cost.

g. **Respect.** To treat people with dignity, to honor privacy and to allow self-determination are critical in a government of diverse people. Lack of respect leads to a breakdown of loyalty and honesty within a government and brings chaos to the international community.

h. **Promise Keeping.** No government can function for long if its commitments are not kept. DoD employees are obligated to keep their promises in order to promote trust and cooperation. Because of the importance of promise keeping, it is critical that DoD employees only make commitments that are within their authority.

i. **Responsible Citizenship.** It is the civic duty of every citizen, and especially DoD employees, to exercise discretion. Public servants are expected to engage personal judgment in the performance of official duties within the limits of their authority so that the will of the people is respected in accordance with democratic principles. Justice must be pursued and injustice must be challenged through accepted means.

j. **Pursuit of Excellence.** In public service, competence is only the starting point. DoD employees are expected to set an example of superior diligence and commitment. They are expected to be all they can be and to strive beyond mediocrity.

#### SECTION 6.5. ETHICAL DECISION-MAKING

**12-600500. General.** Virtually everyone in Federal Government service makes job related decisions. Some of these decisions may seem trivial, but others may also be critical to the performance of their official duties. In some cases, the ethical element of decision-making will go no further than to consciously acknowledge that there are no significant ethical ramifications to consider. In other cases, in-depth ethical analysis is called for in addition to application of ethics rules. The following plan for decision-making ensures careful review of ethical consequences when there are alternative solutions that seem proper under existing laws and regulations. DoD employees should consider incorporating the following plan in official decision-making.

#### 12-604501. Ethical Decision-Making Plan

a. **Define the Problem.** Proceed from a general statement of the problem to specific statements of the decisions to be made. As you take the following steps, such as identifying goals and naming stakeholders, new problems or needed decisions may become apparent. Be willing to add these to your problem list as you need.

b. **Identify the Goal(s).** Proceed from a general statement of an end result both long term and short term. Make a list of what you want to take the following step. Given a choice, something to strive toward. They are statements of the best possible results. The very best is not always achieved for everyone. Many problems do not allow for "win-win" outcomes. Be prepared to fall somewhat short of some goals for the sake of ethics and other considerations.

c. **List Applicable Laws or Regulations.** Laws and regulations are basic constraints within which official decisions are made. Until all relevant laws and regulations are considered, ethical decision-making is impossible. Although it is conceivable that an ethical decision could violate a law or regulation, such circumstances are rare.

d. **List the Ethical Values at Stake.** Listing the ethical values at stake can awaken you to problems and goals that you may not have otherwise considered. It may alert you to stakeholders you may not have recognized. Listing the values reminds you of your commitment to them at a time when the stress of the problem may cause you to forget.

e. **Name All the Stakeholders.** A stakeholder is anyone who is likely to be affected by a decision. Many stakeholders will be apparent because of the previous steps you already followed. More will occur to you as you give the matter a few minutes of thought. Do not forget to include yourself and the people who may depend on you for support, both at work and at home. As you list the stakeholders, try to note the way your decision could affect them. In other words, name what is at stake for the stakeholder.

f. **Gather Additional Information.** This step is frequently overlooked. The stress from the problem urges speedy solutions. However, hasty decisions usually create problems of their own. Take the time to gather all necessary information. Ask questions, demand proof when appropriate, check your assumptions.

g. **State All Feasible Solutions.** By this time, some feasible solutions will have presented themselves. You can clean up by sharing the lists and information you have pulled together and "brain storming." As you state the feasible solutions, note which stakeholders could be affected and what might be gained or lost.

h. **Eliminate Unethical Options.** There may be solutions that seem to resolve the problem and reach the goal but which are clearly unethical. Remember that short term solutions are not worth sacrificing our commitment to ethics. The long term problems of unethical solutions will not be worth the short term advantages. Eliminate the unethical solutions.

i. **Rank Remaining Solutions** Other solutions may not be clearly unethical but may be questionable. You may have to rely on intuition or "gut feelings" to weed out these solutions. Put these possible solutions at the bottom of your list. Rank the remaining solutions, which are all ethical ones, in order of how close they bring you to your goal and solve the problem.

j. **Commit To and Implement the Best Ethical Solution** Commitment and implementation are vital to the ethical decision-making process. Determining which solution is the best ethical one is a meaningless exercise unless implementation of the ethical solution follows. If the right decision is not implemented, the door is left wide open for others to implement unethical solutions.

#### SECTION 76. REFERENCES

##### 12-~~200600~~ References

- (a) Executive Order 12674, "Principles of Ethical Conduct for Government Officers and Employees," April 12, 1988, as amended
- (b) Executive Order 13334 (13940), "Ethics Commitments by Executive Branch Appointees Personnel," January 20, 2013, 1493, 2009
- (c) Title 5, United States Code Annotated, Section 2301 note

#### Summary of Best Practices

Jurisdiction	Single Ethics Code Applies	Enforcement	Removal	Other Discipline
Phoenix	EM: Y BD: Y EL: Y	EM: City Manager BD: City Manager EL: None except by CACA/AG	EM: Y BD: Y EL: None (recall)	EM: Y BD: Y EL: None
Mesa	EM: Y BD: Y EL: Y	EM: City Manager BD: Council EL: Peer	EM: Y BD: Y EL: Y	EM: Y BD: Y EL: Y
Arizona Legislature	EM: N BD: N EL: Y *conflicts % stat. apply to all	EM: AG/GOV BD: AG EL: AG/Peer	EM: Y BD: Y EL: Y	EM: Y BD: Y EL: Y
Federal (US House DOD)	EM: Y BD: Y EL: Y	EM: Exec. BD: Peer	EM: Y BD: Y EL: Y	EM: Y BD: Y EL: Y

EM = Employee

BD = Boards and Commissions

EL = Elected Officials.

## Conclusions

- A. Generally, the same ethical code applies to employees, boards and commissions, and elected officials.
- B. Generally, enforcement is by peer review with direction to staff to assist and advise body as necessary.
- C. A charter amendment is required if Task Force wishes to recommend removal of elected official from office as a possible remedy for an ethical violation. Other remedies may be adopted by Council through an ordinance.

## Questions?

# ETHICS - BEST PRACTICES FOR EMPLOYEES

Ethics Review Ad Hoc Task Force

October 29, 2012

## Ethical Violations

### ○ Conflicts of interest



- State of New York IT official used position to gain employment for himself and girlfriend

### ○ Campaign-finance law

- Fiesta Bowl employees encouraged to contribute to particular politicians



## Ethical Violations

- Transparency in government

- Bell, California officials setting salary inappropriately & without transparency



- Inappropriate behavior

- Baltimore transportation employees gambling and drinking on the job



## Recent Headlines

### City of Phoenix

- Inappropriate Behavior / Misconduct

- Inappropriate comments or behavior in the work place

- Misuse of City position

- Diverting City funds to contractor for personal gain

## Disciplinary Actions (last 3 fiscal years)

- Approximately 120 incidents per year
- Most common = Wasting City resources/time

271	62	25
<ul style="list-style-type: none"><li>• Wasting City Resources</li><li>• Using Inappropriate Language</li></ul>	<ul style="list-style-type: none"><li>• Violating Anti-Harassment Policies</li><li>• Falsifying Records</li></ul>	<ul style="list-style-type: none"><li>• Conflict of Interest, Gift/Favor, Favoritism</li><li>• Stealing or Unauthorized possession</li></ul>

## Best Practices – Ethics Resource Center

- Vision and Values Statement
- Code of Ethics
- Ethics Officer
- Ethics Committee
- Communication and training
- Ethics Help line
- Measurements and rewards
- Monitoring and tracking
- Periodic evaluation
- Ethical Leadership

## What are others doing?

Organization	Components	Applicability	Enforcement
U.S. Office of Government Ethics	<ul style="list-style-type: none"> <li>• Ethics Standards</li> <li>• 14 General Principles</li> <li>• Online resources</li> <li>• Annual training</li> <li>• Gift policy - \$20+</li> </ul>	Federal Executive Branch employees	Department of Justice
City of Mesa	<ul style="list-style-type: none"> <li>• Ethics policy</li> <li>• Ethics hotline and web-based reporting</li> <li>• Ethics handbook for elected officials; guidelines for ee's</li> </ul>	Employees, officials, volunteers and temp workers	Auditor's Office
City of San Antonio	<ul style="list-style-type: none"> <li>• Ethics code</li> <li>• Website</li> <li>• Complaint form</li> <li>• Gift policy - \$50+</li> </ul>	Employees and City officials	Ethics Review Board (advisory opinions) City Attorney (advisory opinions)
City of Dallas	<ul style="list-style-type: none"> <li>• Ethics code</li> <li>• Website</li> <li>• Waste/Fraud Hotline</li> <li>• Gift policy - \$50+</li> </ul>	Employees and City officials	Ethics Advisory Commission (ethics code) Auditor's Office (waste and fraud)

## Other Considerations

- Resource Website
  - FAQs, easy access, training online
- Selection processes
  - Interview questions, testing
- Periodic training
  - Communication, expectations, challenges
- Gift Policy
  - Nominal value

## Example Web Sites

- U.S. Office of Government Ethics
  - <http://www.oge.gov/>
- City of San Antonio
  - <http://www.sanantonio.gov/atty/ethics/AdvisoryOpReq.asp>
- City of Dallas
  - <http://www.ci.dallas.tx.us/cso/ethics.html>

## EMPLOYEES, VOLUNTEERS AND HEARING OFFICERS SUBCOMMITTEE RECOMMENDATIONS



Ethics Review Ad Hoc Task Force  
November 26, 2012



### Subcommittee Charge

- Identify gaps between the application of ethical standards and best practices as it applies to employees, volunteers and hearing officers.
- Work with staff to identify improvements to City policies, training and education, and other resources or practices.
- Focus on receipt of gifts, familial conflicts, financial conflicts, and professional conflicts.



## Members and Timeline

- Subcommittee members include:
  - Judge Elizabeth Finn, Chairperson
  - Tim Burke, Member
  - Bill Hardin, Member
  - Judge Cecil Patterson, Member
- Public meetings held on the following dates:
  - November 8
  - November 15
  - November 19



## Recommendations

### Training, Communication, and Other Resources

1. Update the City's HR website to include ethics-related resources
  - FAQs
  - Ethical dilemmas
  - Ethics-related policies and procedures
  - Contact information



## Recommendations

### Training, Communication, and Other Resources

2. Add mandatory and periodic ethics training
  - “Top 10” ethical dilemmas
  - Updates on ethics related to new information/technology
  - Include both Court and non-Court employees in the same class
  - Classroom and on-line training



## Recommendations

### Training, Communication, and Other Resources

3. Update the City’s HR website to include information regarding the Civil Service Board and progressive discipline
  - FAQs
  - Information regarding progressive discipline
  - Explanation of discipline



## Recommendations

### Training, Communication, and Other Resources

4. Add information to Planning and Development website regarding ethics standards for Zoning Hearing Officers
  - Information on standards for attorneys who serve as hearing officers
  - Formal zoning interpretations to be added to PDD's public website



## Recommendations

### Policy Changes

5. Revise City's Ethics Handbook and gift policy
  - Updated information regarding new or revised policies
  - Supervisory approval on receipt of gifts – use judgment on conflict or appearance of conflict
  - Token gifts of minimal value allowed



## Recommendations

### Policy Changes

#### 6. Changes to draft social media policy

- Not representing the City on personal social media sites
- Not posting confidential or personally-identifiable information
- Not accessing personal social media sites on City time or using City resources
- Subject to HR or EO investigations when posting items related to co-workers and supervisors



## Recommendations

### Policy Changes

#### 6. Changes to draft social media policy continued

- Accountability for postings that violate the City's anti-harassment standards or Civil Treatment policy even if to a personal site or on own time
- Policy violations - the employee must allow the supervisor access to their social media site
- Allowed to search for information about a prospective employee on a public domain and consider in the selection process (*Supervisor's Toolkit*)



## Recommendations

### Policy Changes

7. Add ethics-related questions to interview selection process or use assessment tool
  - Information will be included in *“Supervisor’s Toolkit for Selection Interviews and Hiring Process Guidelines”*.



## Recommendations

### Policy Changes

8. Add ethics requirements for volunteers
  - Add ethics statement to volunteer website and volunteer application
  - Ongoing volunteers required to participate in ethics training
  - Staff will monitor compliance with ethics training requirement



## Summary

- Three public meetings held
- 8 draft recommendations developed, grouped into 2 topic areas:
  - Training, Communication, and Other Resources
  - Policy Changes
- Questions?



# Elected Officials and Boards and Commissions Subcommittee Recommendations

Rick Romley, Chair  
Ethics Review Ad Hoc Task Force

November 26, 2012



## Charges of the Subcommittee

The recommendations are aimed at providing clarity on these questions:

- What are the ethical standards expected of elected officials and board/commission members?
- Who would enforce those standards for elected officials and board/commission members?
- What process should exist for reporting and enforcement?
- What types of penalties, if any, should be incurred for violations?



## Summary of Recommendations

- Recommendations are presented in the following categories
  - General Principals
  - Gift Policy
  - Ethics Committee / Enforcement Mechanism
  - Addressing Future Ethical Issues



## General Principals



## General Principles

- Ethics Policy standards must apply as equally as possible to all officials, board members, employees, and volunteers
- Publish new ethics handbook for elected officials and boards and commissions members

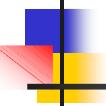


## Gift Policy for Elected Officials



## Gift Policy for Elected Officials

- All gifts over \$50.00 shall be disclosed within 48 hours of receiving the gift.
- Gifts should be searchable in an online database
- Disclosures for gifts received by Elected Officials will remain on file during full term in office and for 2 years after leaving office.



## Ethics Committee and Enforcement Mechanism



## Ethics Committee

- Purpose

- Oversee the investigation and enforcement of the City of Phoenix Ethics Policy applicable to Elected Officials and Boards and Commissions Members
- Committee should have the ability to appoint an independent investigator and hearing officer to carry out its purpose



## Ethics Committee

- Membership Composition

- 5 members
  - 1 Ethicist / 1 Former Elected Official
    - Appointed by City Council
  - 1 Member Appointed by a Judicial Branch or Body
  - Above 3 Members select 2 citizen members (who are residents of Phoenix)
  - Staggered Terms | 3 year terms
  - Vacancies are filled by the existing membership
  - Service is unpaid, but reimbursement for reasonable expenses incurred.

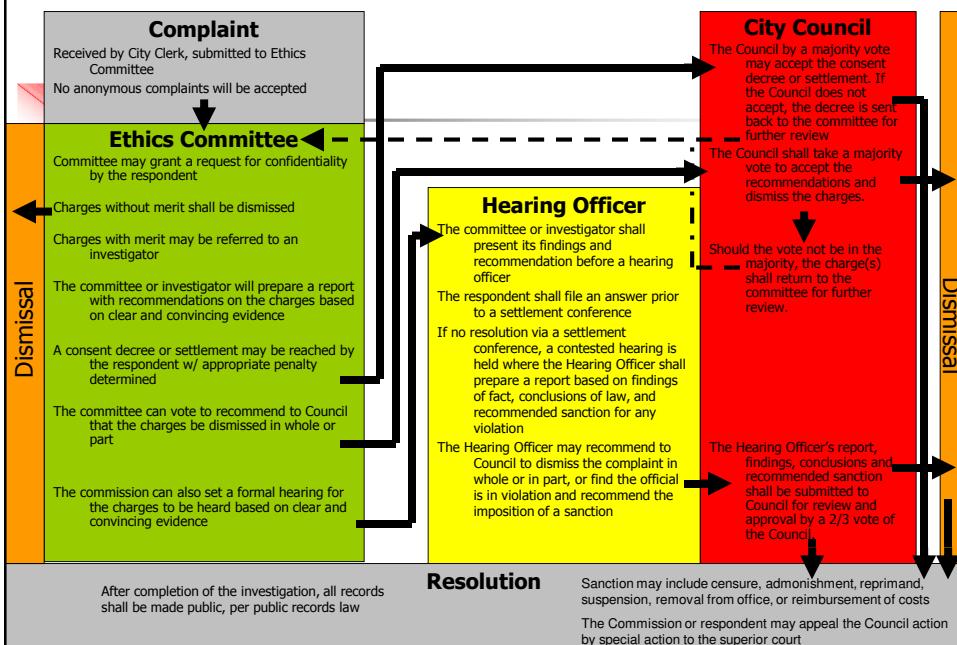
## Ethics Committee

- Authorities requiring Charter Amendments and Council Action:

- City of Phoenix should bear all reasonable commission costs related to an investigator and hearing officer
- Allow the removal of an elected official or board member for an ethics violation\*\*
- Allow the Commission to impose a fine in an amount up to \$10,000 per ethics violation\*\*

\*\*Requires City Council to call for a special election for voters to amend the City Charter

## Enforcement Mechanism



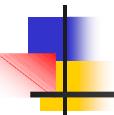


## Addressing Future Ethical Issues for the City of Phoenix



## Addressing Future Ethical Issues for the City of Phoenix

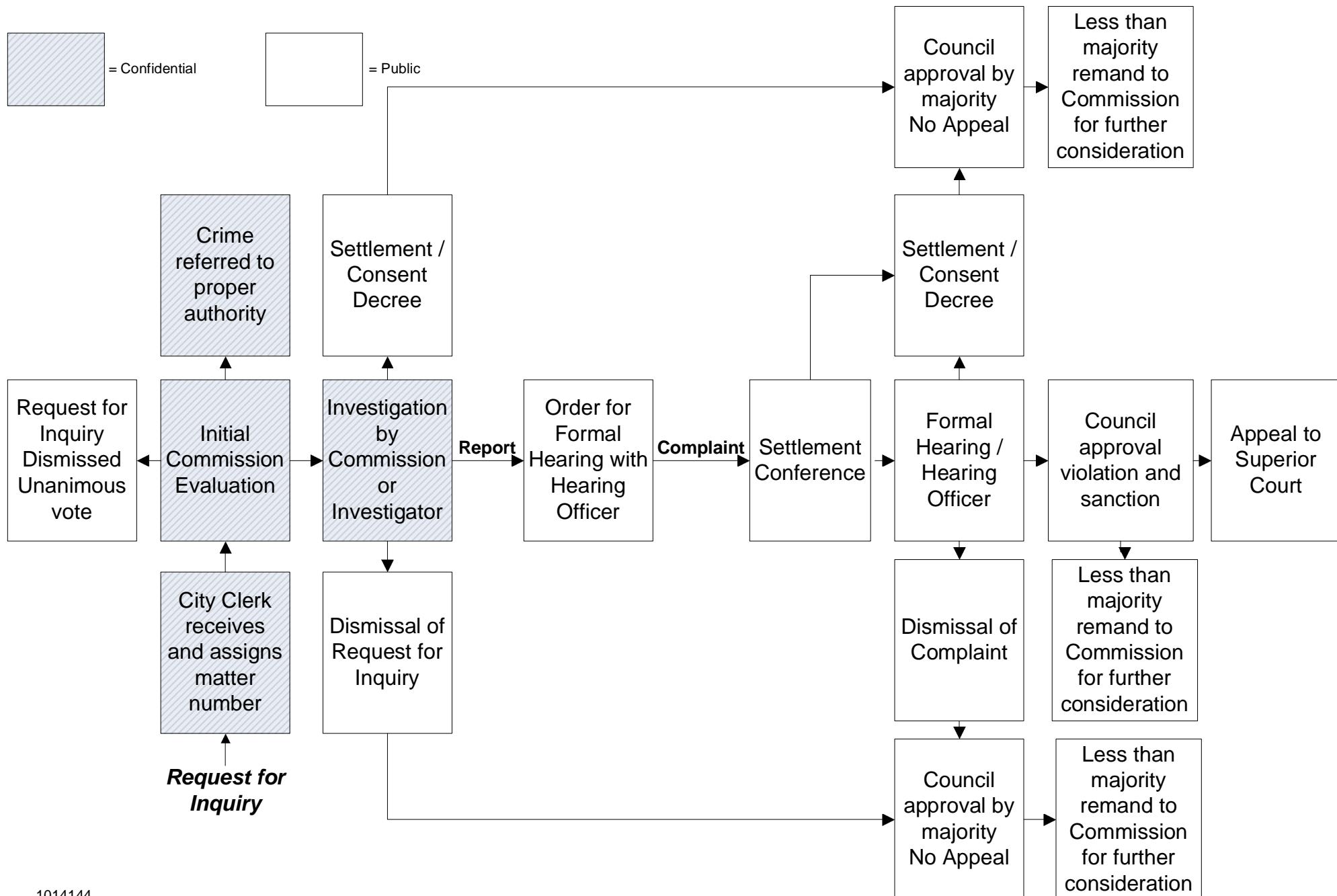
- Hearing Officers for Planning and Zoning Members
  - City of Phoenix should conduct a review
- Adopt an Ethics Review every 4 years
- This is just the beginning – An ongoing process must be developed!



## Questions and Discussion

Thank You

**City of Phoenix Ethics Review Task Force**  
**Proposed Ethics Investigation and Enforcement for Elected Officials and Board Members**  
**Process Flow Chart**  
January 14, 2013



# PRINCIPLES FOR DESIGNING AN INDEPENDENT ETHICS COMMISSION

Citizen demands for ethics accountability have put new state ethics commissions on the ballot for 2018

## Executive Summary

Poll<sup>1</sup> after poll<sup>2</sup> indicates the public's growing distrust of American government institutions and, to a degree, democracy itself. Americans expect the people who work for them to be accountable for their actions. A strong independent ethics agency is an essential part of a government that is representative, responsive, and accountable. This type of agency, referred to here as an "ethics commission," provides oversight that is critical to a functional democratic system by overseeing ethics, financial disclosure, lobbying, and campaign finance laws.

Taking steps at the state and local levels is critical to the success of instilling ethical standards and principles in government. In New Mexico and South Dakota, voters will be going to the polls this year to decide whether they should join their 44 sister states, and countless cities, towns, and counties, in adopting an ethics commission.<sup>3</sup> Vermont established a new ethics commission on January 1, 2018;<sup>4</sup> the City of Pittsburgh recently revamped its Ethics Hearing Board;<sup>5</sup> and Sandoval County in New Mexico is in the process of approving its first ethics commission.<sup>6</sup>

A well-designed and well-resourced ethics commission can help build public trust in government by creating a culture of integrity and holding officials accountable for violations of the public trust. Ethics, financial disclosure, lobbying, and campaign finance laws are intended to provide citizens with a level of transparency regarding who is trying to influence government and to hold officials accountable for real and perceived conflicts of interest. To fulfil these goals, an ethics commission must be built on the principles of independence, accountability, and transparency.

## Independence and Structure

An ethics commission must be independent of the officials it oversees to make clear that the commission serves the public interest and not the personal interests of public

officials. A state or local government must make decisions regarding where the commission fits in government, the structure and composition of the commission, and the staff that support the commission.

### Where Does an Ethics Commission Fit in Government?

Because it can be difficult for an ethics commission to be independent from other branches of government, an ethics commission should have features that allow it to operate as independently as possible. An ethics commission benefits from these legal arrangements by making clear that its activities are less dependent on the officials it oversees. States and cities across the country approach this question in different ways:

- In Colorado, the Independent Ethics Commission was moved from the executive branch to the judicial branch to maintain its independence and autonomy.<sup>7</sup>
- Missouri's Ethics Commission is established under the executive branch, but only for limited budgeting and reporting purposes. The executive branch in Missouri is prohibited from performing other supervisory duties and may not interfere with the work of the commission.<sup>8</sup>
- Oakland, CA, and Jacksonville, FL, established their commissions in their city charters, ensuring that they can be changed only by the more difficult process of amending the charter.<sup>9</sup>

### How Should the Commission Be Structured?

An ethics commission should be structured to effectively and fairly enforce the laws it administers. Unless the commission has built-in mechanisms to prevent partisan deadlock, the commission should have an odd number of commissioners. Having an odd number of commissioners ensures that the commission will be able to make decisions when voting on administrative regulations, enforcement matters, or other actions. In the case that a commission has an even number of commissioners, often with a bipartisan split to prevent one political party from dominating commission votes, there should be features that prevent it from paralysis by deadlocked votes. A commission that has an even number of commissioners should have a strong chairperson position that has agenda-setting authority or require that only a majority vote of the commission can overrule the recommendations of the general counsel. A commission should also avoid having too many commissioners because it dilutes accountability for individual commissioners and can make reaching consensus difficult. Typical commissions have between five and nine commissioners.<sup>10</sup>

## How Should Commissioners Be Selected?

The process for selecting commissioners should ensure that a commissioner is independent of the person making the appointment. A common procedure is to have the executive and legislative leadership split nomination and confirmation duties.

Another approach is to require that appointments be made by a nominating commission or local civic organizations that do not include the government officials the ethics commission oversees.

- Minneapolis's Ethical Practices Board is appointed by a committee made up of the Chief Judge of the Hennepin County District Court and the deans of the University of Minnesota and University of St. Thomas law schools; the nominations are supplemented by recommendations from nonpartisan civic groups and colleges.<sup>11</sup>
- For Milwaukee's Board of Ethics, seven local organizations, including the local chamber of commerce and the local NAACP chapter, submit nominees for appointment by the mayor.<sup>12</sup>
- In Maryland, the governor appoints three members, one of whom must be from the principal political party of which the governor is not a member. The governor also appoints a member nominated by the speaker of the house and a member nominated by the president of the senate.<sup>13</sup>

## Who Can Serve?

It should be clear to the public that the ethics commission serves the public interest and not the interests of those groups subject to the commission's oversight. A commission can demonstrate this independence by prohibiting a person from serving as a commissioner if that person is an elected official, a candidate for office, a contractor with state or local government, an employee of the state or local government, a lobbyist, or campaign consultant. In a similar vein, some commissions restrict commissioners from supporting election or ballot measure campaigns or from running for office for a certain time before or after serving as a commissioner.

- Oakland's ethics commissioners may not be employed by the city or have any direct or financial interest in any city activities, seek election to public office or contribute to municipal campaigns, or support any candidate or measure in an Oakland election.<sup>14</sup>
- Vermont's ethics commissioners may not be state employees or hold any legislative, executive, or judicial office; hold or enter into a lease or contract with the state; be a lobbyist; be a candidate for state or legislative office; or hold office in a state or legislative office candidate's committee, a political committee, or a

political party.<sup>15</sup>

- Oklahoma's ethics commissioners are not eligible to run for elected office for two years after the end of the commissioner's term.<sup>16</sup>

To further insulate an ethics commission from political meddling and allow commissioners to work independently of the interests of public officials, jurisdictions should provide that commissioners may only be removed for cause.<sup>17</sup> This safeguard allows commissioners to do their work without fear of reprisal.

- A commissioner on Massachusetts' State Ethics Commission may be removed only for substantial neglect of duty, inability to discharge the powers and duties of the office, violations of certain prohibitions on commissioner activities, gross misconduct, or conviction of a felony.<sup>18</sup>
- A commissioner on California's Fair Political Practices Commission may only be removed for substantial neglect of duty, inability to discharge the powers and duties of office, or a violation of certain prohibitions on commissioner activities.<sup>19</sup>

A jurisdiction must also decide how long a commissioner may serve. Commissioners are typically appointed to serve staggered terms of four or five years. Some commissions have explicit rules limiting commissioners to one or two terms while others have no term limits.<sup>20</sup>

#### Dedicated Staff

An ethics commission should have sufficient dedicated, paid staff to administer its laws. First, a commission should have an executive director and other administrative support staff to ensure that the commission keeps up with its work and is properly resourced. Second, a commission should have its own independent experts, including investigators, auditors, general counsel, and trainers. By relying on these independent experts, a commission can not only obtain independent advice and analysis of facts and law in specific cases, but also avoid the appearance that it depends on an elected official or appointee of an elected official, such as a secretary of state or city attorney.

- The Florida Commission on Ethics is required to hire an executive director and provide the executive director with office space, assistants, and secretaries.<sup>21</sup>
- Philadelphia's city charter requires its Board of Ethics to appoint an executive director, legal counsel, and other staff, subject to budget constraints.<sup>22</sup>

## Enforcement and Disclosure

An ethics commission should be structured to have the authority necessary to hold

public officials accountable and maintain the public trust. This oversight may also overlap with a legislature's internal ethics review process, such as an ethics committee of a state legislature.<sup>23</sup> In establishing an ethics commission, jurisdictions should take into account that aspect of coordinating ethics enforcement between various interested entities when determining commission oversight responsibilities.

### Enforcement

An ethics commission must have the ability to take actions to enforce ethics, lobbying, campaign finance, and financial disclosure laws to ensure effective oversight. The key powers for a commission include:

- Receiving and evaluating complaints.
  - The commission should be able to receive complaints from any member of the public.
  - While many ethics commissions require a sworn or verified complaint, each jurisdiction should carefully consider whether this requirement could have a chilling effect on potential complainants.
  - California's Fair Political Practices Commission allows any person to file a complaint as a sworn complaint, a non-sworn complaint, or an anonymous complaint.<sup>24</sup>
- Conducting audits, investigations, and hearings.
  - A commission should be able to subpoena witnesses and documents. Depending on the state constitution or local charter, to give a commission this subpoena power, it may be necessary to take additional steps, such as making this power enforceable by a court.
  - A commission should be able to initiate investigations on its own and perform regular audits. Some commissions are required to audit a certain percentage of political committees or other entities to encourage compliance with reporting requirements.
  - The Oregon Government Ethics Commission may initiate investigations based on complaints from any person or on its own motion.<sup>25</sup>
- Issuing orders compelling compliance and imposing civil fines and penalties for violations, with appropriate recourse to challenge those penalties.
- Referring appropriate cases for criminal prosecution.

## Disclosure

A commission should publicly disclose its enforcement actions, regardless of whether the commission issues a sanction or finds no violation, to foster transparency in government and to enhance the commission's credibility with the public.

- Florida's Commission on Ethics is required to publish its findings for each investigation.<sup>26</sup>
- Atlanta's Board of Ethics is required to make its findings and decision public as soon as is practical after the commission reaches its decision.<sup>27</sup>

## Training and Advice

Because transparency is a touchstone of effective ethics oversight, an ethics commission should provide the public and the people it oversees with information regarding the laws it administers and how to comply with those laws. Providing training, advice, and recommendations for legislative changes furthers an ethics commission's mission of creating a culture of integrity by educating the public and demonstrating how the commission functions.

### Training

An ethics commission should be required to provide trainings for government officials and employees. Training provides an opportunity for people in government and people working with the government to become familiar with local laws and understand what is required, permitted, or prohibited. Without a useful training program, officials and others doing business with the government may not be able to adequately recognize or resolve possible ethics problems.<sup>28</sup> Depending on the availability of resources, there may be various ways for an agency to provide this outreach: in-person presentations, online trainings, written materials, or even on-call staff to answer questions over the phone or through a website.

- The Connecticut Citizen's Ethics Board and Office of State Ethics provides training for all state employees annually.<sup>29</sup>
- The Memphis Board of Ethics is required to supervise the training of all city officers and employees regarding their ethics obligations.<sup>30</sup>

### Advice

A commission should be empowered to serve as an advisory body, providing guidance to individuals subject to ethics, campaign finance, financial disclosure, and lobbying laws. This service educates people who are subject to the commission's oversight,

helping them avoid violations and penalties. Advisory opinions should have legal significance: a public official who relies on an opinion when taking an action should be able to assert that reliance as a defense against liability for a violation of the law.

- The Arkansas Ethics Commission is specifically empowered to provide advisory opinions and guidelines for the laws it oversees and enforces.<sup>31</sup>
- In Iowa, Boise, ID, and the ethics commission legislation under consideration in Sandoval County, NM, a person who relies on an advisory opinion can use that reliance as a safe harbor against liability for a violation of the law.<sup>32</sup>

Further, advisory opinions should be published in order to demonstrate the role the commission plays in overseeing public officials and provide education on these laws for the wider public. Providing advisory opinions can help an ethics commission achieve one of the most important ethics goals: encouraging public officials to think ahead about and ensure professional handling of ethical conflicts.<sup>33</sup>

#### Legislative Recommendations

As an expert in often complex regulatory landscapes, an ethics commission should regularly provide recommendations for changes to ethics, lobbying, campaign finance, and financial disclosure laws. In addition to the power to create rules for administering these laws, a commission is often best positioned to evaluate how well a law is working and the ways in which a law may be overbroad, underinclusive, or otherwise deficient for effective oversight. These recommendations can educate lawmakers and the public about the state of oversight and accountability laws that apply in their jurisdiction.

- The Board of Ethics in Sioux Falls, SD, is tasked with recommending legislative action to effectuate the ethics policies it oversees.<sup>34</sup>
- Connecticut's Citizen's Ethics Board and the Kansas Government Ethics Commission are required to annually provide recommendations for legislative action to their legislatures.<sup>35</sup>

## A Culture of Integrity

Creating a culture of integrity is an intangible best practice at the heart of an ethics regime. Because this culture cannot easily be written into rules or policy, it is the best practice that is most challenging to achieve.<sup>36</sup> A commitment to ethical government, without any real or perceived bias, is necessary in selecting commissioners, hiring staff, and executing the commission's duties. It is also important to foster this commitment in the people the commission oversees. While difficult to achieve, the results would be obvious: more public officials seeking advice to understand their ethical obligations

and to prevent any ethics violations, more public support for an ethics commission, and an electorate that holds their elected officials at the ballot box for ethical failures.

## ABOUT THE CAMPAIGN LEGAL CENTER

Campaign Legal Center (CLC) is a nonpartisan, nonprofit organization based in Washington, D.C. Through litigation, policy analysis and public education, CLC works to protect and strengthen the U.S. democratic process across all levels of government. CLC is adamantly nonpartisan, holding candidates and government officials accountable regardless of political affiliation.

CLC was founded in 2002 and is a recipient of the prestigious MacArthur Award for Creative and Effective Institutions. Our work today is more critical than ever as we fight the current threats to our democracy in the areas of campaign finance, voting rights, redistricting, and ethics.

Most recently, CLC argued *Gill v. Whitford*, the groundbreaking Supreme Court case seeking to end extreme partisan gerrymandering. In addition, CLC plays a leading watchdog role on ethics issues, providing expert analysis and helping journalists uncover ethical violations. CLC participates in legal proceedings across the country to defend the right to vote.

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<sup>1</sup> *Public Trust in Government 1958-2017*, PEW RESEARCH CENTER (Dec. 14, 2017), <http://www.people-press.org/2017/12/14/public-trust-in-government-1958-2017/>.

<sup>2</sup> Jeffrey Jones et al., *How Americans Perceive Government in 2017*, GALLUP (Nov. 1, 2017), <http://news.gallup.com/opinion/polling-matters/221171/americans-perceive-government-2017.aspx>.

<sup>3</sup> National Conference of State Legislatures, *State Ethics Commissions: Jurisdiction*, <http://www.ncsl.org/research/ethics/50-state-chart-state-ethics-commissions-jurisdiction.aspx> (last visited May 10, 2018).

<sup>4</sup> Vermont creates first-ever ethics commission in wake of Center stories, THE CENTER FOR PUBLIC INTEGRITY (JUNE 14, 2017) <https://www.publicintegrity.org/2017/06/14/20922/vermont-creates-first-ever-ethics-commission-wake-center-stories>.

<sup>5</sup> Adam Smeltz, *City ethics board opens an office*, PITTSBURGH POST-GAZETTE (Nov. 1, 2016), <http://www.post-gazette.com/local/city/2016/11/21/City-ethics-board-opens-an-office/stories/201611210037>.

<sup>6</sup> Stephen Montoya, *County ethics law moves forward*, rroserver.com, Apr. 6, 2018, [http://www.rroserver.com/news/article\\_7230781a-39d9-11e8-841b-fbe58b4b4001.html](http://www.rroserver.com/news/article_7230781a-39d9-11e8-841b-fbe58b4b4001.html).

<sup>7</sup> Colorado Independent Ethics Commission, National Conference of State Legislatures, <http://www.ncsl.org/portals/1/documents/ethics/colorado.pdf>.

<sup>8</sup> Mo. Rev. Stat. § 105.955.

<sup>9</sup> Oakland, Cal., Charter, art. VI, § 603; Jacksonville, Fla., Charter, art. I, § 202.

<sup>10</sup> Megan Comlossy, *Ethics Commissions: Representing the Public Interest*, THE LEGISLATIVE LAWYER (2011), [http://www.ncsl.org/documents/lsss/Ethics\\_Commissions.pdf](http://www.ncsl.org/documents/lsss/Ethics_Commissions.pdf).

<sup>11</sup> Minneapolis, Minn. Code § 15.210(a).

<sup>12</sup> Milwaukee, Wis. Code § 303-15.

<sup>13</sup> Md. Code, Gen. Provisions § 5-202(a).

<sup>14</sup> Oakland, Cal. Code § 2.24.050.

<sup>15</sup> Vt. Stat. Ann. tit. 3, § 1221(3).

<sup>16</sup> Okla. Const. art. XXIX, § 1.

<sup>17</sup> Vt. Stat. Ann. tit. 3, § 1221(4).

<sup>18</sup> Mass. Gen. Laws ch. 268B, §2(g).

<sup>19</sup> Cal. Gov. Code § 83105.

<sup>20</sup> Megan Comlossy, *Ethics Commissions: Representing the Public Interest*, THE LEGISLATIVE LAWYER (2011), [http://www.ncsl.org/documents/lsss/Ethics\\_Commissions.pdf](http://www.ncsl.org/documents/lsss/Ethics_Commissions.pdf) (last visited May 9, 2018).

<sup>21</sup> Fla. Stat. § 112.321(4).

<sup>22</sup> Philadelphia, PA, Home Rule Charter, § 3-806(g).

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<sup>23</sup> National Conference of State Legislatures, *Committees and Commissions: What's the Difference?*, <http://www.ncsl.org/research/ethics/committees-and-commissions-whats-the-difference.aspx>

<sup>24</sup> California Fair Political Practices Commission, Electronic Complaint System, <http://www.fppc.ca.gov/enforcement/electronic-complaint-system.html>

<sup>25</sup> Or. Rev. Stat. § 244.260(1)(b).

<sup>26</sup> Fla. Stat. § 112.322(2)(b).

<sup>27</sup> Atlanta, Ga. Charter, art. VII § 2-806(5)c.

<sup>28</sup> ROBERT WECHSLER, LOCAL GOVERNMENT ETHICS PROGRAMS: A RESOURCE FOR ETHICS COMMISSION MEMBERS, LOCAL OFFICIALS, ATTORNEYS, JOURNALISTS, AND STUDENTS, AND A MANUAL FOR ETHICS REFORM 459 (2d ed. 2013).

<sup>29</sup> Conn. Gen. Stat. § 10-1-81(5).

<sup>30</sup> Memphis, Tenn. Code § 2-10-10(B)5.

<sup>31</sup> Ark. Code § 7-6-217(g)(2).

<sup>32</sup> Iowa Code § 68B.32A(12); Boise, Idaho Code § 2-24-02; Sandoval Cnty, N.M. Draft Ordinance § 8 (j) (2), available at: <http://www.sandovalcountymn.gov/wp-content/uploads/2018/03/Final-Draft-Sandoval-County-Ethics-Ordinance-v10.4.17.pdf>.

<sup>33</sup> WECHSLER, LOCAL GOVERNMENT ETHICS PROGRAMS 402.

<sup>34</sup> Sioux Falls, S.D., Code § 35.010(i).

<sup>35</sup> Conn. Gen. Stat. § 10-1-81 (6); Kan. Stat. Ann. § 25-4119a(f)

<sup>36</sup> Fighting "Small Town" Corruption, CENTER FOR THE ADVANCEMENT OF PUBLIC INTEGRITY (2016), [http://www.law.columbia.edu/sites/default/files/microsites/public-integrity/files/fighting\\_small\\_town\\_corruption\\_-\\_capi\\_practitioner\\_toolkit\\_-october\\_2016\\_1.pdf](http://www.law.columbia.edu/sites/default/files/microsites/public-integrity/files/fighting_small_town_corruption_-_capi_practitioner_toolkit_-october_2016_1.pdf).