

2023 Annual Report



City of Detroit Board of Ethics

City of Detroit Board of Ethics

Kristin Lusn, Esq., Chair
Carron Pinkins, Esq., Vice Chair
Dr. Yvette McElroy-Anderson, Member
Dr. Jameel Smith, Member
Robert Watt, Member

Christal Phillips, Executive Director
Dawn Widman, Senior Investigator
Michael O'Connell, Training Specialist
Hiran Alles, Administrative Assistant

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This report covers activities at the City of Detroit Board of Ethics from January 1, 2023 to December 31, 2023.

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EXECUTIVE DIRECTOR'S MESSAGE

On behalf of the Board of Ethics, I present the 2023 Annual Report. The report summarizes the activities undertaken by our small but committed staff, the number of Complaints and Requests for Advisory Opinions submitted, and the Hearings that were held. You will find recommendations and future goals that would advance the Board of Ethics' work, including the need for an independent Learning Management System and Proportional Funding.

I am proud of the progress that was made this year in increasing the Board of Ethics' visibility and promoting governmental ethics. For the first time, the Board of Ethics hosted a regional ethics conference in May 2023. Annual training for Board of Ethics members was held with experts in the parliamentary procedure and the Open Meeting Act. We continued working group meetings to revise the Ethics Ordinance and Administrative Rules. To round out a successful year, Board members and staff attended and participated in panels at the Council on Governmental Ethics Laws Conference in December.

Despite the many accomplishments made, there is always still more work to do to spread awareness of Board of Ethics services. Only through education and training can public servants understand how to submit proper disclosures and when to file Advisory Opinions with the Board of Ethics. This is why the funding for an Independent Learning Management System for ethics training is so crucial to this mission.

With sufficient resources, the Board of Ethics can succeed in building public trust and a strong ethical culture in the City of Detroit. I thank you for your support.

CHRISTAL PHILLIPS
EXECUTIVE DIRECTOR

Letter to the Mayor and City Council

DATE: April 1, 2024

TO: Hon. Michael E. Duggan, Mayor

Hon. Mary Sheffield, City Council President

Hon. James Tate, City Council President Pro Tem

Hon. Angela Whitfield-Calloway, City Council Member

Hon. Scott Benson, City Council Member

Hon. Latisha Johnson, City Council Member

Hon. Gabriela Santiago-Romero, City Council Member

Hon. Fred Durhal, III, City Council Member

Hon. Mary Waters, City Council Member

Hon. Coleman A. Young, II, City Council Member

FROM: Detroit Board of Ethics

SUBJECT: Annual Report of the Board of Ethics for 2023

The Detroit Board Ethics Annual Report includes its activities beginning January 1, 2023 to December 31, 2023. In accordance with Section 2-5-108 of the Ethics Ordinance this Report contains:

1. An analysis of Board activities, including Advisory Opinions, requested and issued; Complaints filed with each disposition; and Investigations opened and their disposition.
2. A compilation of Advisory Opinions issued; and,
3. Recommendations for improvement of the Disclosure Requirements, Standards of Conduct, and the administration and enforcement of the Ordinance.

Additionally, this Report includes training activity updates, which is included in the City of Detroit Charter at Sec. 2-106.9- Powers and Duties subsections 4 and 5.

cc: Hon. Janice M. Winfrey, Detroit City Clerk

Department Directors

Agency Leaders

The Board of Ethics

The Board of Ethics consists of seven (7) members who are City of Detroit residents. They must not be elective officers, appointees, or employees of the City of Detroit at any time during their term serving on the Board of Ethics.

As of December 31, 2023, the Board of Ethics had four (4) Board members with three (3) vacancies awaiting appointment by the Mayor and City Council.

The Board is required by its Administrative Rules to meet at least four (4) times a year with additional meetings as it deems necessary. In 2023, the Board of Ethics held a total of seven (7) meetings.

Board Members ending December 31, 2023:

- Kristin A. Lusn, Esq., Chair (Term Ends July 13, 2025)
- Carron Pinkins, Esq., Vice Chair (Term Ends June 30, 2024)
- Dr. Yvette McElroy-Anderson (Term Ends October 10, 2028)
- Robert Watt (Term Ends June 30, 2025)
- **Vacancy** (City Council Appointee)
- **Vacancy** (Mayoral Appointee)
- **Vacancy** (Joint Appointee)

Former Board Members:

- Urrond Williams (Resigned April 28, 2023)
- Michael Rafferty (Resigned May 3, 2023)
- Mario L. Morrow, Sr. (Resigned May 31, 2023)
- David Jones, Esq. (Term Ended December 12, 2023)

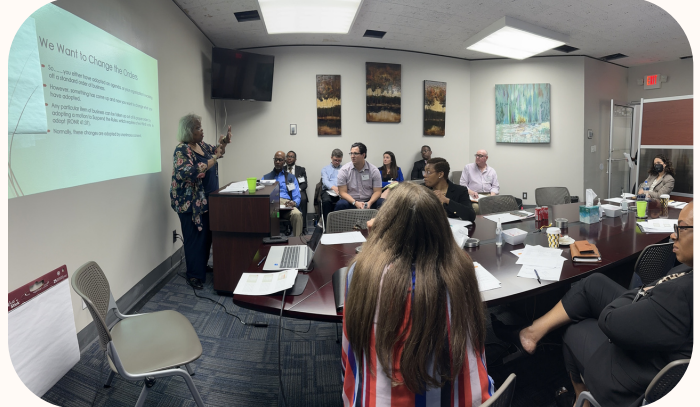
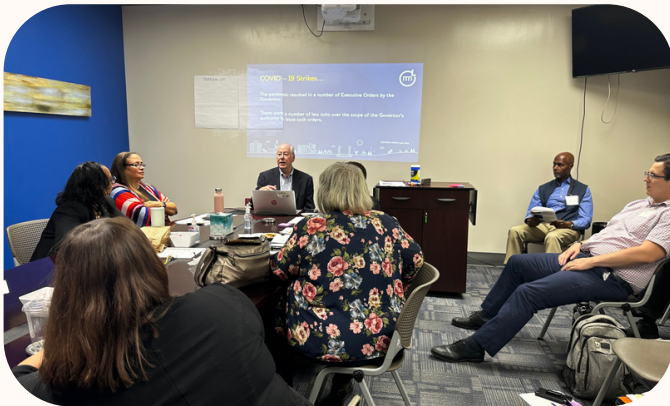
Key Activities and Accomplishments

REGIONAL ETHICS CONFERENCE

For the first time in Detroit history, the Board of Ethics hosted a regional ethics conference at its office on May 16, 2023. The one-day conference was attended by academics and public servants from ethics offices across the State of Michigan, including from the Cities of Birmingham, Eastpointe, Lansing, Macomb County, and Wayne County. The sessions were created based on attendees' votes on topics they thought were most relevant to governmental ethics offices. Presentations covered the Open Meetings Act, improving the deliberation process, investigation resources and techniques, strengthening ethics ordinances and enforcement, and parliamentary rules.

The Board of Ethics would like to thank everyone who attended and the following presenters who helped make the conference a success:

- Stacy Cobb-Muniz, Councilwoman, City of Eastpointe**
- Morela Hernandez, Professor, Ford School of Public Policy, University of Michigan**
- Frances Jackson, Registered Parliamentarian**
- Christopher Johnson, General Counsel, Michigan Municipal League**
- James D. Robb, Chair, Birmingham Board of Ethics**
- Dorie Vazquez-Nolan, Vice Chair, Macomb County Ethics Board**



Key Activities and Accomplishments

COGEL CONFERENCE

From December 3 to 6, 2023, the Board of Ethics participated in the **Council on Governmental Ethics Laws (COGEL) Conference** in Kansas City, Missouri. This annual conference brings together hundreds of ethics experts from around the world to discuss updates in campaign finance, governmental ethics, elections, lobbying, and freedom of information.

The Detroit Board of Ethics were also presenters at the conference. Investigator Dawn Widman was a panelist on effective investigative report writing and best practices in gathering evidence and interviewing witnesses. Ethics Training Specialist Michael O'Connell was a panelist on unlocking the power of data and generative AI.



GROW DETROIT'S YOUNG TALENT

For the fifth year, the Board of Ethics partnered with Grow Detroit's Young Talent program to host two interns in July and August 2023. In addition to attending a Board of Ethics meeting and assisting in daily administrative tasks, the interns had the opportunity to visit other City of Detroit departments to explore their career interests.

Key Activities and Accomplishments

WORKING GROUP TO REVISE THE ETHICS ORDINANCE AND ADMINISTRATIVE RULES

The Board of Ethics established a working group to revise the Ethics Ordinance and Administrative Rules in November 2022. The Administrative Rules will be submitted for approval in 2024. Upon final revision of the Administrative Rules, the group will resume meetings to revise the Ethics Ordinance.

ANNUAL BOARD TRAINING

Annual training for Board of Ethics members and staff was held on January 28, 2023. The training covered the Open Meetings Act, the Ethics Ordinance, parliamentary procedure, and the workflow process of Complaints, Investigations, and RAOs. Experts in parliamentary procedure and the Open Meetings Act gave presentations to the Board members, including **Christopher Johnson of the Michigan Municipal League** and **Eleanor Siewert**, professional registered parliamentarian and former mayor of the City of Birmingham.

CASE MANAGEMENT TRACKING SYSTEM

The Board of Ethics requested funding for WingSwept, a Case Management Tracking System that was implemented at the Office of Inspector General and the Office of the Ombudsman in 2017, and CRIO in 2019. Through the Green Belt/Lean Six Sigma Program, the Board of Ethics was allocated the funds to purchase WingSwept in 2023 and has expended its case management capabilities to more efficiently track Complaints, Investigations, Disclosures, and RAOs.

EDUCATIONAL OUTREACH

Executive Director Christal Phillips participated in a careers in public service panel at the **University of Michigan Ford School of Public Policy** in 2023. This was following the presentations the Executive Director gave on the Board of Ethics to two public policy classes at the Ford School in November 2022.

Ethics Training Specialist Michael O'Connell participated in **Constituent Services Hour** hosted prior to **City Council Evening Community Meetings** and monthly **Monday Morning Live** discussions for City of Detroit employees offered through the Office of Talent Development and Performance Management.

Key Activities and Accomplishments

GIFTS AND GRATUITIES PROCEDURES

Section 2-5-70 of the Ethics Ordinance prohibits public servants from accepting gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City of Detroit. Gifts received by public servants should be submitted to the Board of Ethics.

The Board of Ethics would like to recognize the following departments who turned in gifts to the Board of Ethics in 2023:

City Clerk's Office

City Planning Commission

Department of Innovation and Technology (DoIT)

Detroit Department of Transportation (DDOT)

CHARITABLE GIVING OF GIFTS AND GRATUITIES

Each year, the Board of Ethics receives gift submissions from public servants and departments that include perishable items, clothing, and books. The majority of gifts are submitted during the holiday season.

The Board of Ethics donated gift submissions to several organizations in and around Detroit in December 2023. A coat was donated to an anonymous child patient at the **Children's Hospital of Michigan** through its annual Adopt-A-Family program. Three perishable gift baskets were donated to **Vets Returning Home**, a non-profit and non-government funded organization dedicated to helping veterans transition into stable lives.

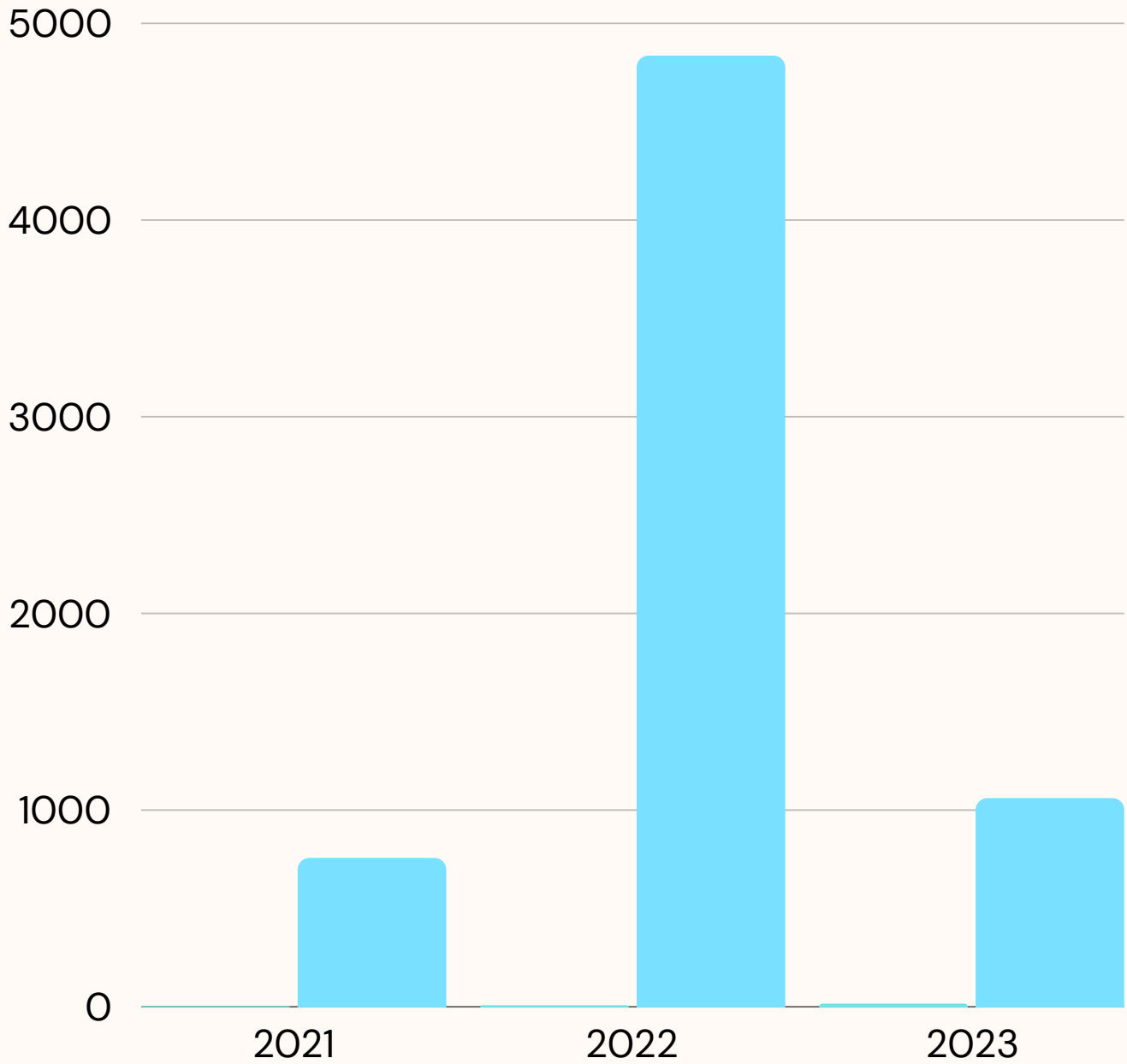
BENCHMARKING & PROFESSIONAL DEVELOPMENT

In May 2023, Executive Director Christal Phillips participated in meetings to exchange ideas and best practices with **Citizens for Responsibility and Ethics in Washington (CREW)**, **Board of Ethics and Government Accountability (BEGA DC)**, **Campaign Legal Center**, and the **Baltimore City Board of Ethics**.

Training Specialist Michael O'Connell spent two days training with **Alexander Kipp**, who serves as the Director of Education & Engagement for the **NYC Conflicts of Interest Board**. He also met with the **Massachusetts State Ethics Commission** on Learning Management System implementation, and was invited to perform a guest lecture at **Harvard University** on Municipal Ethics Laws.

Investigator Dawn Widman attended the 2023 **OSMOSIS Conference** on cyber intelligence investigation to learn skills related to exposing fraud and utilizing artificial intelligence.

Training



Training

The Board of Ethics 2023 Training results showed a marked decrease in participation from the previous year. The change in focus from online training to in-person interaction explains this decrease.

Studies reviewed by Board Staff have found that 90% of all training or the relay of information is more effective when presented in materials and presentations provided during in-person interaction. While effective, online training is not sufficient to provide Ethics training to nearly 10,000 Public Servants.

To that end, the Board of Ethics has taken the following steps to address the training shortfall and better serve City of Detroit Public Servants:

- Adoption of a rotating training schedule that focuses on 50% of City of Detroit Public Servants per year to complete 100% training every two years.
- Efforts to obtain an Independent Learning Management System to better supplement in-person training.
- Efforts to develop interdepartmental relationships to support the training of all City of Detroit Public Servants.

The training of City of Detroit Public Servants is more than an Ordinance Mandate. It is a vital component of risk management and fostering public trust in City Government.

RECOMMENDATIONS AND FUTURE GOALS

INDEPENDENT LEARNING MANAGEMENT SYSTEM

The Board of Ethics is the only oversight agency required to administer its own training. In 2023, the Board of Ethics requested funding to develop a robust Learning Management System that would provide a more effective eLearning tool to train the City's nearly 10,000 public servants. Currently, the Board of Ethics does not have administrative control of the Ethics training eLearning platform housed in EasyGenerator. An independent system offering data-driven training would allow the Board of Ethics to develop multiple learning tracks and individualized training. It would also allow the Board of Ethics to expand training to contractors and vendors as mandated by the Ordinance.

The Detroit City Council encouraged the allocation of \$150,000 ARPA dollars for the development, implementation and maintenance of a Learning Management System in its 2023-2024 Financial and Budgetary Priorities, Public Policy, Planning and Acting Resolution. Despite this recommendation from City Council, the resolution was not supported, and the funds were not granted.

The Board of Ethics believes an independent Learning Management System is crucial for the continued development of its training program as mandated by the City Charter, and to best serve the population of Public Servants, Contractors, Vendors, and the community at large.

PROPORTIONAL FUNDING

Section 8-214 of the City Charter states that oversight agencies, which include the Office of the Inspector General, Auditor General, Ombudsperson and Board of Ethics, shall receive proportional funding. The Board of Ethics remains the lowest funded oversight agency in the City and has never received proportional funding in compliance with Section 8-214. The failure to receive funding for an independent learning management system is a prime example as to why proportional funding is imperative in order "to insure the proper oversight of executive and legislative branches of government" as stated in the City Charter.

Hearings

The Board of Ethics may schedule hearings when it determines that an investigation has compiled facts sufficient to constitute a possible violation of the Ethics Ordinance.

HEARING ON I-2022-03

On July 19, 2023, the Board of Ethics held a Hearing on Investigation 2022-03 in regard to a City employee in the Department of Elections.

The Board found that a violation of the Ethics Ordinance, **Section 2-5-72. Prohibition on campaign activities by using City personnel or property, or during working hours.** had occurred, and to dispose of Investigation 2022-03 with no further action taken.

The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes), Carron Pinkins (Abstained).
Motion Carried.

HEARING ON I-2023-01

On December 8, 2023, the Board of Ethics held a Hearing on Investigation 2023-01 in regard to an elected public servant not disclosing an immediate family member's employment with the City.

The Board found that a violation of the Ethics Ordinance, **Section 2-5-32. Disclosure of immediate family member's employment or application.** had occurred. The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes), Yvette McElroy Anderson (Yes), Carron Pinkins (Yes). Motion Carried.

Carron Pinkins, Esq. made a motion to issue a public admonishment for the violation of Section 2-5-32 with respect to the Respondent not disclosing a family member that was hired to the Respondent's office. The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (No), Yvette McElroy Anderson (No), Kristin Lusn (No), Carron Pinkins (Yes). Motion Failed.

Dr. Yvette McElroy Anderson made a motion for a penalty of a public admission before the Board that the Respondent violated the Ethics Ordinance, Section 2-5-32 and to close the matter.

The Roll Call vote was as follows:

Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes). Yvette McElroy Anderson (Yes), Carron Pinkins (Abstained). Motion Carried.

Complaint Summaries

COMPLAINT SUMMARIES

Anyone can file a notarized Complaint against a public servant who they believe has violated a standard of conduct or disclosure requirement. In 2023, the Board of Ethics addressed nine (9) complaints, which are summarized below.

COMPLAINT 2023-01

Complaint 2023-01 alleged that the Respondent's behavior violated the following Standards of Conduct and Disclosure Requirements: Interest in real or personal property; Interest in City contracts; Relationship to City Employee; Campaign contributions and expenditures; Willfully or grossly neglect discharge of duties; Use of City property except in accordance with policies; Representation of private person, business; Self-interested regulation; Participation in City transaction where financial interest present; Participation in City transaction where financial interest present; and Improper use of position to influence decisions.

It was determined that 314 days had passed from the date of when the alleged conduct occurred to the date the Complaint was filed. As such, Complaint 2023-01 did not meet the relevant legal standard for consideration by the Board because the statute of limitations had passed. The Board dismissed Complaint 2023-01 pursuant to Section 2-5-145(b)(1)(a).

COMPLAINT 2023-02

Complaint 2023-02 alleged that the Respondent willfully or grossly neglected the discharge of his duties in violation of Section 5-105, Appointment of Deputies of the 2012 Detroit City Charter. It was determined that 224 days had passed from the date that the alleged conduct occurred to the date the Complaint was filed. Section 2-5-144 of the Code prohibits the Board from taking action on the Complaint. Complaint 2023-02 did not meet the relevant legal standard for consideration by the Board because the statute of limitations had passed. The Board dismissed Complaint 2023-02 pursuant to Section 2-5-145(b)(1)(a).

COMPLAINT 2023-03

Complaint 2023-03 alleged that the Respondent violated the following Standards of Conduct: Willfully or grossly neglect discharge of duties and Unduly influence decision to fill city position. It was found that the Complainant's allegations arose out of circumstances that took place beyond the 182-day filing limitation. As a result, the Board was precluded from consideration of this matter. Furthermore, the Ordinance

authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. It was found that the Complainant had filed a complaint containing the same or similar allegations with the OIG. The Board dismissed Complaint 2023-03 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-04

Complaint 2023-04 alleged that the Respondents' conduct amounted to a violation of the following Standards of Conduct: Willfully or grossly neglect discharge of duties; Use or disclosure of confidential information; and Improper use of position to influence decisions. The Complainant had filed a complaint with the same or similar allegations with the City's Labor Relations Department. The Ordinance authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. The Board found that the Labor Relations Department was better equipped to resolve the allegations as they dealt with employment issues. The Board dismissed Complaint 2023-04 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-05

Complaint 2023-05 alleged that the Respondents' conduct amounted to a violation of the following Standards of Conduct: Willfully or grossly neglect discharge of duties; Use or disclosure of confidential information; and Improper use of position to influence decisions. The Complainant had filed a complaint with the same or similar allegations with the City's Labor Relations Department. The Ordinance authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. The Board found that the Labor Relations Department was better equipped to resolve the allegations as they dealt with employment issues. The Board dismissed Complaint 2023-04 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-06

Complaint 2023-06 alleged that the Respondent violated every Standard of Conduct under the Ethics Ordinance by lying about the nature of a dispute that the Respondent responded to and having the Complainant conveyed to a hospital for psychiatric intervention. The Ordinance authorizes dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence, The Complainant had filed similar complaints with the MCRC, ACLU, and OCI. The Board dismissed Complaint 2023-06 pursuant to Section 2-5-145(b)(1)(e).

COMPLAINT 2023-07

Complaint 2023-07 alleged that the Respondent violated the following Standards of Conduct: Self-interested regulation and Improper use of position to influence decisions. The Board found that the Complaint did not allege facts sufficient to support a violation of Section 2-5-66 – Self-interested regulation and participation

prohibited. nor Section 2-5-67 of the Code – Improper use of official position prohibited. The Board dismissed Complaint 2023-07 pursuant to Section 2-5-145(b)(1)(b).

COMPLAINT 2023-08

Complaint 2023-08 alleged that the Respondent violated the following Standard of Conduct: Improper use of position to influence decisions. The Complainant alleged that the Respondent improperly used influence to delay and stop the approved capital renovations of the Complainant’s office. The Board determined that the alleged action did not indicate that the Respondent knowingly used their position in violation of state or federal law to improperly influence the decision to delay renovations. Therefore, the alleged action did not fall within the purview of concerns that the Ethics Ordinance seeks to address and did not constitute a violation of Section 2-5-67. Improper use of official position prohibited. The Board dismissed Complaint 2023-08 pursuant to Section 2-5-146(b)(1)(b).

COMPLAINT 2023-09

Complaint 2023-09 alleged that the Respondent violated multiple Standards of Conduct under the Ethics Ordinance by defrauding the Complainant and accepting payment for baseball tickets through a Facebook group. The baseball tickets were not subsequently transferred to the Complainant. The Ordinance authorizes the dismissal of complaints where there are other pending proceedings arising out of the same transaction or occurrence. The Complainant had filed a complaint with the same or similar allegations with a local law enforcement agency in their state better equipped than the Board of Ethics to deal with allegations of fraud and theft. The Board dismissed Complaint 2023-09 pursuant to Section 2-5-145(b)(1)(e).

RAO Summaries

OPINION SUMMARIES

A public servant, a former public servant, or an applicant or candidate to be a public servant may request an advisory opinion from the Board of Ethics regarding the public servant's own conduct. The Board of Ethics received eighteen (18) Requests for Advisory Opinions and issued ten (10) advisory opinions in 2023. Additionally, the Board sent two (2) letters that included summaries of the Board's recommendation due to quorum issues that prevented the Board from meeting before the matters expired.

OPINION 2022-16

Advisory Opinion 2022-16, submitted December 9, 2022, sought guidance regarding the Requestor prospectively seeking election to a City Council in a suburban city. The Council position comes with a stipend of \$5,000 to compensate council members for purchasing materials related to their work and for gas and maintenance on personal vehicles used in the course of council-related activities. The Board found that the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as a city council member of the suburban city as long as the Requestor comports with the Standards of Conduct of the Ethics Ordinance. The Requestor would not be able to accept the salary for the position and would need to donate it in order to comply with Section 2-5-70. Prohibition on gifts and gratuities; exceptions. of the Ethics Ordinance.

OPINION 2023-01

Advisory Opinion 2023-01, submitted January 5, 2023, sought guidance with respect to prospectively seeking employment with a public accounting and consulting firm in the City of Detroit. The firm currently provides subcontracting services to an infrastructure consulting firm that was awarded a 15 million dollar contract with the City of Detroit to provide consulting services related to the administration of the American Rescue Plan Act ("ARPA") funding. The Requestor is a public servant serving on a Board for the City of Detroit. The Board advised that the Requestor would be required to file a disclosure of interest form for any Board matter initiated by the public accounting and consulting firm and the company to which it provides subcontracting services.

OPINION 2023-02

Advisory Opinion 2023-02, submitted January 10, 2023, sought an opinion regarding the application of Standards of Conduct as to the Requestor's ongoing service as a board member for a non-profit organization. The Requestor has been a board member since 2019 and has been an employee of the City of Detroit since 2014. The Requestor's department at the City of Detroit began collaborating with the Requestor's non-profit organization on marketing and outreach services in June of 2022.

The Requestor notified leadership that there may be an existing conflict given the existing service agreement with the non-profit organization and the Requestor's service to the non-profit organization as a board member. The Requestor claimed that they were advised to refrain from participating in the reviewing/processing of any payments for the non-profit organization. The Board determined that the Requestor could continue to serve on the board of the non-profit organization but prohibited the Requestor from accepting compensation on the board. Furthermore, the Requestor must comport their conduct with the applicable Standards of Conduct of the Ethics Ordinance.

OPINION 2023-03

Advisory Opinion 2023-03, submitted January 13, 2023, indicated that the Requestor, the Deputy Director of the General Services Department ("GSD") intended to host an Employee Engagement Night to celebrate National Employee Appreciation Day and "engage [their] employees, boost morale, and show [their] employees how much [they] appreciate them." The Request further indicated that, due to the large number of employees and the high cost associated with accommodating such a crowd, the GSD management team are prospectively seeking donations from third party sponsors. Potential sponsors specifically named in the Request include Priority Health, Huntington Bank, and the Detroit Pistons. The Board advised the Requestor that the Ethics Ordinance prohibits them from accepting donations from the named prospective sponsors. The Requestor may accept donations from sponsors not presently or prospectively doing business with the City of Detroit.

OPINION 2023-04

Advisory Opinion 2023-04, submitted January 13, 2023, sought an opinion regarding the application of Disclosure requirements as to the Requestor's ongoing service as an uncompensated board member for a non-profit organization located in the City of Detroit. The non-profit organization has done business with the City of Detroit in the past but does not have any current matters pending with the City of Detroit. The Requestor indicated that they are never involved in reviewing any applications and/or proposals that the non-profit organization submits to the City of Detroit. The Board concluded that the Requestor could continue to serve on the non-profit organization's board provided that they comport their conduct with the applicable Standards of Conduct and Disclosure requirements.

OPINION 2023-05

Advisory Opinion 2023-05, submitted January 31, 2023, sought an opinion regarding the application of the Standards of Conduct as to whether the Requestor may accept paid consulting opportunities with independent research/consulting firms that routinely solicit the Requestor for their services. The Board advised the Requestor that any prospective research/consulting firm that does business or intends to do business with the City of Detroit would likely trigger the prohibitions set forth in Sections 2-5-65. Representation of private person, business, or organization prohibited; exceptions,

2-5-66. Self-interested regulation and participation prohibited., and 2-5-70. Prohibition on gifts and gratuities; exceptions, and likely be impermissible.

OPINION 2023-06

The Board declined to issue an advisory opinion because it determined that it did not merit review pursuant to Section 2-5-124(b)(2). Disposition of opinion requests. of the Ethics Ordinance. This was due to the Requestor being recently promoted. Therefore, there was no longer a conflict of interest issue originally presented in the request.

OPINION 2023-07

The Board declined to issue an advisory opinion pursuant to Section 2-5-124(b)(2). Disposition of opinion requests. of the Ethics Ordinance because the conduct giving rise to the Request had already passed, and the issue presented was moot and did not merit review.

OPINION 2023-08

Advisory Opinion 2023-08, submitted March 17, 2023, sought an opinion regarding the application of the Standards of Conduct as to the Requestor's prospective dissemination of both information and materials regarding two events to be hosted by the American Society for Public Administration (ASPA). The Requestor is an active member of ASPA and wanted to circulate flyers with information about ASPA events and, presumably, ASPA itself to co-workers who may be interested in attending or joining. The Board advised the Requestor that information relating to ASPA events may be circulated so long as, in doing so, the Requestor comports their conduct with the Ethics Ordinance.

OPINION 2023-09

The Board received Advisory Opinion 2023-09 on April 6, 2023. On July 19, 2023, the Board voted to decline to issue an advisory opinion due to quorum issues that prevented the Board from holding meetings prior to the Advisory Opinion expiring on July 9, 2023. In lieu of an advisory opinion, a letter was sent to the Requestor that included a summary of the Board's recommendation. The Requestor indicated that they owned a one/half (1/2) ownership interest in six different properties located in the City of Detroit. The Requestor sought an advisory opinion from the Board on the application of Disclosure Requirements and their ability to perform landlord responsibilities on the subject properties. The Board recommended that the Requestor recuse themselves of matters in their City of Detroit department that directly involve the Requestor's properties. The Requestor may perform landlord responsibilities provided that they comport with the applicable Disclosure Requirements and Standards of Conduct and governing provisions of Section 8-2-3 of the City Code.

OPINION 2023-10

The Board received Advisory Opinion 2023-10 on April 14, 2023. On July 19, 2023, the Board voted to decline to issue an advisory opinion due to quorum issues that prevented the Board from holding meetings prior to the Advisory Opinion expiring on July 9, 2023. In lieu of an advisory opinion, a letter was sent to the Requestor that included a summary of the Board's recommendation. The Requestor indicated that they were interested in serving as Treasurer of a City-registered block club and wanted an advisory opinion on whether the Ethics Ordinance would pose any limitations or barriers to their full involvement in that role. The Board recommended that the Requestor recuse themselves from any matter concerning the block club or any of its clients presented to the Requestor's office. If the block club is providing a service to or receiving tax abatements, credits, or any exemptions from the City of Detroit, Section 2-5-68. Solicitation or acceptance of loan or payment prohibited., would preclude the Requestor's ability to receive compensation for their service as Treasurer to the block club. In accordance with Section 2-5-70. Prohibition on gifts and gratuities; exceptions. the only things of value that the Requestor may accept from the block club without being required to provide remuneration are complimentary copies of information materials, and the Requestor may accept an admission or registration fee, travel expenses, entertainment, meals, or refreshments from the block club in connection with their service as its Treasurer, but not if the City of Detroit compensates the Requestor for any of those items in relation to the same activity.

OPINION 2023-11

Advisory Opinion 2023-11, submitted April 25, 2023, asked for an advisory opinion regarding the Requestor prospectively serving as the co-campaign manager for the campaign of another City employee seeking election to the Ferndale City Council. The Requestor is a resident of Ferndale and serves as an attorney in the Office of the Inspector General. The Requestor attached to the Request permission from their agency head to pursue this opportunity. The Board opined that the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as co-campaign manager to their colleague's Ferndale City Council campaign so long as the Requestor comports with the Standards of Conduct outlined in the opinion.

OPINION 2023-12

The Board declined to issue an advisory opinion pursuant to Section 2-5-124(b)(2). Disposition of opinion requests. of the Ethics Ordinance and advised the Requestor to seek guidance from their employer on Standards of Conduct and ethics issues. It was determined that the Requestor is not a public servant as defined in the Ethics Ordinance.

OPINION 2023-13

Advisory opinion 2023-13, submitted August 28, 2023, the Requestor was employed in a salaried TASS capacity but would soon have their employment dynamic changed to that of an hourly professional services contractor. The Requestor noted that their job duties will remain the same and that the only change is the structure of their compensation. The question presented by this Request was whether the Requestor could continue to perform their duties in light of the changing classification of their employment and compensation structure to that of a professional services contractor. Based on the information provided, if the Requestor is to be employed pursuant to a personal services contract, the prohibitions set forth in Section 2-5-71. One year post-employment prohibition. are inapplicable as personal services contracts are specifically exempted from the one year post-employment prohibition even though personal service contracts are included in the definition of a public servant.

OPINION 2023-14

The Board declined to issue an advisory opinion because it determined that it did not merit review pursuant to Section 2-5-124(b)(3). Disposition of opinion requests. of the Ethics Ordinance. The Board advised the Requestor to look to Advisory Opinion 2018-18 for guidance.

OPINION 2023-15

Advisory opinion 2023-15, submitted September 20, 2023, asked whether the Requestor, who simultaneously serves as a public servant for the City of Detroit and as an employee for a company, can prospectively bid on service contracts awarded by the City to said company. The Request noted that "said contracts will not occur during working hours." Based on the Requestor's job description with the City, it is highly unlikely that the Requestor has access to, or direct knowledge of, confidential information regarding the City's contract bid and award practices. The Board recommended that the Requestor would not be in violation of the Ethics Ordinance so long as the Requestor comports with the Standards of Conduct and Disclosure Requirements outlined in the opinion.

APPENDIX A
ADVISORY OPINIONS
ISSUED IN 2023



Kristin A. Lusn, Esq., Chairperson
Michael S. Rafferty, Vice Chairperson
David W. Jones, Esq.
Mario Morrow, Sr.
Robert Watt

Advisory Opinion #2022-16
Issued: February 23, 2023

Advisory Opinion #2022-16: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2022-16. The Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as a city council member for the City of [REDACTED]. Requestor can seek elective office without violating the Ethics Ordinance so long as he comports with the Standards of Conduct as outlined in this opinion. However, with respect to the first question posed in the Request, Requestor would not be able to accept the salary for the position and would need to donate it pursuant to [REDACTED]'s purported MOU in order to comply with Section 2-5-70.

I. Procedural Background

Request for Advisory Opinion 2022-16 (the "Request") was received by the Board of Ethics (the "Board") on December 9, 2022. In accordance with Sec. 2-6.101, the Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the "Ordinance"). The Public Servant maintains confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (Code), the 91-day period for review of this request will conclude on March 10, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on June 9, 2023.

At its meeting on February 23, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board heard a privileged and confidential Preliminary Analysis from legal counsel on the same day, and after consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor is a resident of [REDACTED] and serves as a [REDACTED] with the working title of [REDACTED] for the City of Detroit in the Office of [REDACTED] under the Office of the [REDACTED]. The Request asks for an advisory opinion

regarding Requestor prospectively seeking election to the [REDACTED] City Council. The Requestor invokes Advisory Opinion 2013-02¹ in support of the permissibility of his prospective pursuit of elective office and, generally, seeks clarification as to whether the Board sees any reason to distinguish his situation from that presented in 2013.²

The Council position comes with, what Requestor describes as, a stipend of \$5,000 to “compensate council members for purchasing materials related to their work and for gas and maintenance on personal vehicles used in the course of council-related activities . . .” The [REDACTED] City Council consists of four members elected to overlapping 4-year terms, with elections taking place every other odd year.

Requestor claims that, unlike Detroit, the [REDACTED] City Council operates on a part-time basis. Accordingly, Requestor posits that council members maintain day jobs and that council events typically occur in the evenings and on weekends. According to the City of [REDACTED] website, City Council meetings are held on the second and fourth Monday of each month at 7:00 p.m.³

The Request further indicates that Requestor is unaware of any contractual relationships between the City of [REDACTED] and the City of Detroit beyond joint “participation in various regional bodies and working groups related to infrastructure.” Requestor contends that he does not exercise “significant authority” within the meaning of Section 2-5-3 of the Ethics Ordinance.⁴

Requestor provided a detailed list of the duties of his position with the City of Detroit that reads as follows:

1. Manage the Office of [REDACTED] team, as well as the [REDACTED] team, responsible for an assigned portfolio of departments, authorities, and component units.
2. Supervise four [REDACTED] direct report
3. Partner with City departments to oversee the development of multiyear operating, capital, and blight remediation plans.
4. Prepare the City four-year financial plan and budget in conjunction with City agencies/departments and the Office of [REDACTED].
5. Liaise with multiple components of the Office of the Mayor to ensure budgetary coordination with Administration priorities.

¹ https://detroitmi.gov/sites/detroitmi.localhost/files/2018-02/ADVISORY_20OPINION_202013-02_20ISSUED_20APRIL_2012.2013_1_.pdf

² The reasoning of Advisory Opinion 2013-02 can be applied to the Request in so far as determining Requestor’s ability to pursue elective office. There is not a per se conflict of interest and, so long as Requestor comports his conduct with the governing sections of the Ethics Ordinance, Requestor can pursue elective office while maintaining his employment as a public servant with the City of Detroit.

⁴ Exercises significant authority means having the ability to influence the outcome of a decision on behalf of the City government in the course of the performance of a public servant’s duties and responsibilities.

6. Provide analysis and evaluation of capital resource allocation and operational issues and produce financial and operational data for both internal and external use.
7. Serve as final signoff for grant applications and grant acceptance letters for departments in portfolio prior to submission to City Council.
8. Prepare the Charter-mandated five-year Capital Agenda in collaboration with City departments, authorities, and component units.
9. Develop and explain directives, regulations, guidelines, and procedures to implement City Council legislation and Mayoral budget and program policies, particularly regarding capital and blight remediation initiatives and any policies affecting the departments in my portfolio.
10. Review program and project budget estimates for completeness, accuracy, and conformance with procedures and regulations.
11. Perform cost-benefit analyses to compare operating programs, review financial requests, and explore alternative funding methods.
12. Prepare monthly, quarterly, annual, and ad-hoc analyses and reports to maintain expenditure control.
13. Provide information to the Office of [REDACTED], and other City Executives as requested.
14. Coordinate with departments and Office of [REDACTED] to receive and process all supplemental capital and blight budget requests.
15. Manage emergency response and pandemic response budgets as need arises.

Requestor further noted that he serves as the final Office of [REDACTED] signoff for grant applications and grant acceptances.

III. Applicable Sections of the Ethics Ordinance Applied to the Information Presented

This Request involves Sections of the Ethics Ordinance pertaining to disclosure requirements and standards of conduct. The relevant applicable sections are as follows:

Disclosure Requirements

Sec. 2-5-31. – Disclosure of interests by public servants.

- (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:

- (1) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before City Council;
- (2) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before or within any office, department, or agency of the City; and
- (3) Any interest that the public servant, or an immediate family member, has in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement.

(b) All disclosures that are required under Subsection (a) of this section shall be made, in writing, on a form that is created by the Law Department and sworn to in the presence of a notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

The aforementioned disclosure requirement is, in part, predicated on the Requestor or an immediate family member having a financial interest in a contract or matter that is pending before City Council or an agency of the City. This Request, however, pertains to Requestor potentially serving on the ██████████ City Council. Based on the facts provided, there is no financial interest or pending contract present. A preliminary investigation into this matter found that the City of Detroit does contract with at least one business presently operating in the City of ██████████. However, neither such investigation nor this Request presents any information that would suggest a pecuniary interest by Requestor or an immediate family member in such contracts either in his current role or in his prospective elected position. This Request also does not provide any facts indicating that Requestor or an immediate family member has an interest in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement. Accordingly, there is likely no violation of the Ethics Ordinance disclosure requirements.

Because Requestor's self-enumerated job duties seem to indicate that he does exercise significant authority in his capacity as a public servant, Requestor would need to comport with the disclosure requirements of Section 2-5-33 for campaign contributions and expenditures.

Section 2-5-33 dictates in relevant part: (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority shall disclose campaign contributions and expenditures in accordance with applicable laws.

Standards of Conduct

Sec. 2-5-62 – Improper use or disclosure of confidential information prohibited.

Based on the job description provided by Requestor, it is highly likely that he has access to, or direct knowledge of, confidential information regarding the City's property, government, or affairs

that is not available to the public. Any use or disclosure of such information by Requestor in his prospective elected position would be a violation of the Ethics Ordinance.

Sec. 2-5-63. – Improper use of City property prohibited.

Section 2-5-63 bars the use of City property in violation of City policies and procedures. Requestor acknowledged as much in the Request and, in order to remain in compliance with, should continue to refrain from using city property in any relation to campaign activities.

Sec. 2-5-64. – Incompatible employment or rendering services prohibited.

Section 2-5-64 prohibits a public servant from engaging in employment or the rendering of services that would conflict or be incompatible with the proper discharge of their official duties. This section also bars employment or service that is reasonably expected to impair the public servant's independence of judgment or action in the performance of their duties. The information presented by Requestor, and that acquired by our preliminary investigation, indicates that the duties of Requestor's prospective elected position would be performed outside of work hours and would not conflict with his duties for the City of Detroit.

Sec. 2-5-65. – Representation of private person, business, or organization prohibited; exceptions

Section 2-5-65 bars, generally, public servants from representing persons, businesses, or organizations in any matter that is pending before a City agency. Requestor will not run afoul of this section so long as he refrains from representing the interests of the City of [REDACTED] or the [REDACTED] City Council before any body of, or in any matter before, the City of Detroit.

Sec. 2-5-70. – Prohibition on gifts and gratuities; exceptions.

In relevant part, Section 2-5-70, Prohibition on gifts and gratuities; exceptions, provides that:

- (a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.
- (b) The prohibition in Subsection (a) of this section shall not apply:
 - (4) To an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:
 - a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or
 - b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant

for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

As set forth above, a public servant is prohibited from accepting gifts, gratuities, honoraria, or other things of value from any person or entity doing business or seeking to do business with the City. Here, Requestor is receiving what he describes as a stipend to “compensate council members for purchasing materials related to their work and for gas and maintenance on personal vehicles used in the course of council-related activities . . .”, a thing of value, from the City of ██████, an entity that is doing business with the City.

Although the Ethics Ordinance does not define “doing business,” the phrase is defined the Codes’ chapter on taxation as “the conduct of any activity with the object of gain or benefit.”¹³ This definition can be applied here according to the “whole act rule” of statutory interpretation that “calls for courts to interpret a statutory term by assuming that a term used in a statute means the same thing wherever it appears, and that different words mean different things.”⁵

██████ is a party to several memorandums of understanding with the City of Detroit regarding police, fire, and street maintenance. Although there are no direct contractual dealings between the two cities, their collaboration through the MOUs would likely be considered “doing business.” As such, Requestor would be prohibited from accepting the pay that comes with the position under Section 2-5-70.

The prohibition on gifts and gratuities is not applicable in cases where the thing of value is intended to cover travel expenses in connection with the public servant’s provision of assistance to another government entity as long as the City does not compensate the public servant for such expenses. According to the Request, the stipend provided to ██████ City Council members is predominantly aimed at offsetting the cost of travel expenses and vehicle maintenance incurred to attend council meetings and events. Further, nothing suggests that the City of Detroit compensates Requestor for travel expenses. However, the ██████ City Manager clarified for us that the pay of city council members is directed by the ██████ City Charter and that council members receive a W2 for their pay as it is considered a salary. The City Manager further noted that, under another memorandum of understanding, council members can donate their salary. In order to comply with Section 2-5-70, Requestor would need to take advantage of the MOU allowing for the donation of his salary as it does not qualify for any of the exceptions.

IV. Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2022-16. The Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as a city council member for the City of ██████. Requestor can seek elective office

⁵ Nina A. Mendelson, Change, Creation, and Unpredictability in Statutory Interpretation: Interpretive Canon Use in the Roberts Court’s First Decade, 117 Mich. L. Rev. 71, 81 (2018)

without violating the Ethics Ordinance so long as he comports with the Standards of Conduct as outlined in this opinion. However, with respect to the first question posed in the Request, Requestor would not be able to accept the salary for the position and would need to donate it pursuant to ██████'s purported MOU in order to comply with Section 2-5-70.

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Dated: February 27, 2023



Kristin A. Lusn, Esq., Chairperson
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Robert Watt

Advisory Opinion #2023-01
Issued: February 23, 2023

Advisory Opinion #2023-01: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-01. Requestor, a member of [REDACTED], is allowed to seek employment with a public accounting and consulting firm in the City of Detroit, without violating the 2012 Detroit City Charter or 2019 Detroit City Code. Requestor would be required to file a disclosure of interest form for any [REDACTED] matter initiated by the public accounting and consulting firm and the company to which it provides subcontracting services.

I. Procedural Background

Request for Advisory Opinion 2023-01 (the “Request”) was received by the Board of Ethics (the “Board”) on January 5, 2023. The Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the “Ordinance”). The Public Servant maintains confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on April 6, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on July 6, 2023.

At its meeting on February 23, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board heard a privileged and confidential Preliminary Analysis from legal counsel on the same day, and after consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

Requestor serves as a member of the [REDACTED] for the City of Detroit. As a member of the [REDACTED], Requestor’s duties include:

Disclosure Requirements

Sec. 2-5-31. – Disclosure of interests by public servants.

(a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:

- (1) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before City Council;
- (2) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before or within any office, department, or agency of the City; and
- (3) Any interest that the public servant, or an immediate family member, has in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement.

(b) All disclosures that are required under Subsection (a) of this section shall be made, in writing, on a form that is created by the Law Department and sworn to in the presence of a notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

Standards of Conduct

Sec. 2-5-62 – Improper use or disclosure of confidential information prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use or disclose to third parties confidential information, which is gained by reason of the public servant's official duties, concerns the property, government or affairs of the City, or any office, department or agency thereof, and is not available to members of the public.

Sec. 2-5-63. – Improper use of City property prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use City property in violation of City policies and procedures.

Sec. 2-5-64. – Incompatible employment or rendering services prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly engage in or accept employment, or knowingly render services, for a private or public interest where such employment or service is in conflict or incompatible with the proper discharge of the public servant's official duties for the City, or where such employment or service is reasonably expected to impair the public servant's independence of judgment or action in the performance of the public servant's official duties for the City.

Sec. 2-5-65. – Representation of private person, business, or organization prohibited; exceptions

A public servant shall not act as an agent, attorney, or representative for another person, business, or organization in any matter that is pending before a City agency, except that:

- (1) A public servant may represent another person, business, or organization before a City agency where such representation is a required part of the public servant's official duties;
- (2) A public servant who is an uncompensated member of a City board, commission, or other voting body may act as an agent, attorney, or representative for another person, business, or organization in a manner that is pending before a City agency, other than the board, commission, or other voting body on which the public servant is a member; or
- (3) A public servant who is compensated by the City may act as an agent, attorney, or representative for another person, business, or organization in a matter that is pending before a City board, commission or other voting body, other than the board, commission or other voting body on which the public servant serves as an appointee or as an employee, or under a personal services contract, as long as the public servant does so:
 - a. Without compensation; and
 - b. On the public servant's leave time; and
 - c. For appointees, in accordance with Chapter 35, Article III, Division 2, of this Code, Vacation, Sick, Departmental, Funeral, and Jury Leave; or
 - d. For non-union employees, in accordance with Chapter 35, Article III, Division 2, of this Code, Vacation, Sick, Departmental, Funeral, and Jury Leave, and the City's Civil Service Rules; or
 - e. For union employees, in accordance with the employee's respective union contract and the City's Civil Service Rules; or
 - f. For individuals who provide services to the City pursuant to a personal services contract, in accordance with the applicable provisions of the contract.

Sec. 2-5-66. – Self-interested regulation and participation prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly vote, or knowingly participate in the negotiation or making of any City contract, or any other type of transaction with any business entity in which the public servant or an immediate family member has a financial interest.

Sec. 2-5-67. – Improper use of official position prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use the public servant's official position in violation of applicable law, to improperly influence a decision of the Mayor, of the City Council, of the City Clerk, or of a member of a City authority, board, commission, committee, council or group, or other City agency.

IV. Analysis

Sec. 2-5-31. Disclosure of interests by public servants.

Section 2-5-31 requires a public servant who exercises significant authority over a pending matter to disclose any financial interest, direct or indirect, that the public servant or an immediate family member has in any city contract or matter pending before within any office, department, or agency

of the City. The Ethics Ordinance defines the term “exercises significant authority” as “having the ability to influence of a decision on behalf of the City government in the course of the performance of a public servant’s duties and responsibilities. Per the Charter mandated duties delegated to the Board, there is no question that Requestor exercises significant authority over matters pending before the [REDACTED]. In light, of [REDACTED] contractual relationship with [REDACTED], Requestor would have an indirect financial interest in the [REDACTED] contract with the City. By virtue of that agreement, Requestor would be required to file a disclosure of interest form, for any [REDACTED] matter that is initiated by [REDACTED] or [REDACTED].

Furthermore, Requestor should recuse himself in all matters coming before the [REDACTED] that directly involve [REDACTED] or [REDACTED]. This would preclude Requestor from presiding over any matters that are initiated by [REDACTED] or [REDACTED] against a public servant for violating the Ethics Ordinance.

Sec. 2-5-62. Improper use or disclosure of confidential information prohibited.

As a member of the [REDACTED], Requestor is privy to confidential information. Section 2-5-62 of the Ethics Ordinance prevents a public servant from knowingly using or disclosing to third parties, confidential information about City property, government or affairs which is gained in the course of performance of the public servant’s official duties. Therefore, to avoid violating the Ethics Ordinance, Requestor should take special care to avoid divulging confidential information gained in the course of performing his official City duties to the benefit of [REDACTED], or any third party.

Sec. 2-5-63. Improper use of City property prohibited.

Section 2-5-63 of the Ethics Ordinance prohibits public servants from knowingly using City property in violation of City policies and procedures. To ensure that he does not run afoul of Section 2-5-63, Requestor should refrain from using City property while carrying out [REDACTED] duties.

Sec. 2-5-64. Incompatible employment or rendering services prohibited.

Section 2-5-64 of the Ethics Ordinance generally prohibits public servants from rendering services for public or private interests where such services would conflict with the rendering of a public servant’s duties, or impair the public servant’s independence of judgment or action in carrying out official duties. In the instant matter, Requestor is an uncompensated member of the [REDACTED], who is seeking prospective employment to provide auditing, invoice review and compliance monitoring of federal regulations with [REDACTED]. Per the Board’s investigation, [REDACTED] does business with the City pursuant to its sub-contractual relationship with [REDACTED]. However, there is no direct correlation between Requestor’s prospective responsibilities as an auditor/compliance monitor for [REDACTED] and his City responsibilities as a member of the [REDACTED], as the scope of his work undertaken for the [REDACTED] does not overlap with or influence the accounting or compliance standards of City contracts.

Nevertheless, Requestor should be extremely cautious in considering any [REDACTED] matter that may require an evaluation of a public servant’s participation in any accounting/compliance practices related to an underlying ARPA funded contract. In the event, that such consideration is needed, the Requestor should err on the side of caution and recuse himself from the proceeding.

Sec. 2-5-65. Representation of private person, business or organization prohibited; exceptions.

Section 2-5-65 generally prohibits public servants from acting as an agent, attorney or representative for another person, business, or organization in any matter that is pending before a City agency. However, Section 2-5-65 provides a specific exception for a public servant who is uncompensated member of a city board to act as an agent, attorney or representative for another organization in a matter that is pending before a city agency, other than the board, on which the public servant is a member. In the instant matter, Requestor is an uncompensated member of the [REDACTED], and is therefore otherwise authorized to act on behalf of [REDACTED] in any matter pending before a City agency, other than the [REDACTED].

Sec. 2-5-66. Self-interested regulation and participation prohibited.

Section 2-5-66 prohibits a public servant from knowingly voting on, or knowingly participating in the negotiation of any City contract or any other type of transaction with a business entity in which the public servant or his immediate family member has a financial interest. Per the Board's investigative findings, [REDACTED] has a contractual relationship with the City. In order, to ensure that Requestor does not run afoul of Section 2-5-66, Requestor should recuse himself from any [REDACTED] matter that directly involves either [REDACTED] or [REDACTED].

Sec. 2-5-67. Improper use of official position prohibited.

Section 2-5-67 of the Ethics Ordinance precludes a public servant from using that individual's official position to improperly influence a decision of a City official or a member of any City authority, board, commission, council or group, or city agency. As a member of the [REDACTED], Requestor has the ability to influence [REDACTED] matters as contemplated by Section 2-5-67. To avoid violating Section 2-5-67, Requestor should take special care to recuse himself from any [REDACTED] matter that directly involves either [REDACTED] or [REDACTED].

V. Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-01. The Requestor should advise [REDACTED] to evaluate any conflicts of interest provisions contained in their contract with [REDACTED], to ensure that his prospective employment does not adversely affect the contractual terms of their agreement with the City.

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Dated: March 6, 2023



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Advisory Opinion #2023-02
Issued: April 27, 2023

Advisory Opinion #2023-02: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(a) in response to the Request for Advisory Opinion 2023-02. The Requestor can continue to serve on ██████'s board. However, the Ethics Ordinance prohibits the Requestor from accepting compensation for her service on the board and that the Requestor must otherwise comport their conduct with the applicable Standards of Conduct.

I. Procedural Background

Request for Advisory Opinion 2023-02 (the "Request") was sent to the Board of Ethics (the "Board") by electronic communication and received on January 10, 2023. The Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the "Ordinance"). The Requestor maintains confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code ("Code"), the 91-day period for review of this request will conclude on April 11, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension.

At its meeting on April 27, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(a).

II. Information from the Request

The Requestor is a ██████ in the ██████. The Requestor seeks an advisory opinions regarding the application of Standards of Conduct as to the Requestor's ongoing service as a board member for non-profit organization ██████. The Requestor has been a board member for ██████ since 2019 and has been a

City employee since 2014. The Requestor indicated that she originally joined the [REDACTED] in July 2020 as a [REDACTED] under a federally funded lead grant. In October 2020, the Requestor was promoted to her current position as a [REDACTED] working on the same federally funded projects. The Requestor explained that the grand projects have “service agreements with community organizations that assist with intake and marketing and outreach.”

In October of 2021, [REDACTED] released a Request for Proposal (“RFP”) seeking organizations to assist with intake, marketing, and outreach. [REDACTED] was among the organizations that responded to the RFP. The Requestor claims that, upon notice that [REDACTED] was among the responding organizations to the RFP, she notified “leadership and the assigned buyer at the Office of Contracting and Procurement (OCP) of [her] involvement with [REDACTED] via email on October 27, 2021 . . .” Requestor further claims that it was recommended to her by OCP that she not participate in the interview with [REDACTED]. She notes that she did not participate, nor did she participate in the scoring of [REDACTED]’s interview/response.

Service agreements for the October 2021 RFP were approved by the City Council in February of 2022. Among the organizations receiving service agreements was [REDACTED]. In June of 2022, [REDACTED] began collaborating with [REDACTED] on marketing and outreach services.

[REDACTED] facilitated a Board of Ethics training in August of 2022. In light of this training, Requestor “notified leadership that there may be an existing conflict given the existing service agreement with [REDACTED] and [her] service to [REDACTED] as a board member.” Requestor claims that she was advised to “refrain from participating in the review/processing of any payments for [REDACTED].” Requestor further notes that she confirmed with [REDACTED] that the RFP was discussed in a separate committee and not voted on by the board

III. Applicable Charter Sections

The 2012 Detroit City Charter (“Charter”) provides in Section 2-106.1, *Ethical Standards of Conduct*, that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public’s best interest by prohibiting public servants from participating in matters that affect their personal or financial interests. This Request involves Sections 2-5-62, 2-5-63, 2-5-64, 2-5-65, 2-5-68, and 2-5-70 of the Ethics Ordinance pertaining to disclosure requirements and standards of conduct. The relevant applicable provisions of the Code state as follows:

Standards of Conduct

Sec. 2-5-62. – Improper use or disclosure of confidential information prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use or disclosure to third parties confidential information, which is gained by reason of the public servant’s official duties, concerns the property, government or affairs of the City, or any office, department or agency thereof, and is not available to members of the public.

Sec. 2-5-63. Improper use of City property prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use City property in violation of City policies and procedures.

Sec. 2-5-64. Incompatible employment or rendering services prohibited.

Except as otherwise provided for by applicable law, a public servant shall not

knowingly engage in or accept employment, or knowingly render services, for a private or public interest where such employment or service is in conflict or incompatible with the proper discharge of the public servant's official duties for the City, or where such employment or service is reasonably expected to impair the public servant's independence of judgment or action in the performance of the public servant's official duties for the City.

Sec. 2-5-65. Representation of provide person, business, or organization prohibited; exceptions.

A public servant shall not act as an agent, attorney, or representative for another person, business, or organization in any matter that is pending before a City agency, except that:

- (1) A public servant may represent another person, business, or organization before a City agency where such representation is a required part of the public servant's official duties;
- (2) A public servant who is an uncompensated member of a City board, commission, or other voting body may act as an agent, attorney, or representative for another person, business, or organization in a manner that is pending before a City agency, other than the board, commission, or other voting body on which the public servant is a member; or
- (3) A public servant who is compensated by the City may act as an agent, attorney, or representative for another person, business, or organization in a matter that is pending before a City board, commission or other voting body, other than the board, commission or other voting body on which the public servant serves as an appointee or as an employee, or under a personal services contract, as long as the public servant does so:
 - a. Without compensation; and
 - b. On the public servant's leave time; and
 - c. For appointees, in accordance with Chapter 35, Article III, Division 2, of this Code, Vacation, Sick, Departmental, Funeral, and Jury Leave; or
 - d. For non-union employees, in accordance with Chapter 35, Article III, Division 2, of this Code, Vacation, Sick, Departmental, Funeral, and Jury Leave, and the City's Civil Service Rules; or
 - e. For union employees, in accordance with the employee's respective union contract and the City's Civil Service Rules; or
 - f. For individuals who provide services to the City pursuant to a personal services contract, in accordance with the applicable provisions of the contract.

Sec. 2-5-68. – Solicitation or acceptance of loan or payment prohibited.

A public servant who, in the course of the public servant's duties, exercises significant authority shall not solicit or accept a loan or payment from an individual who, or entity which, is providing service to, or receiving tax abatements, credits, or exemptions from the City.

Section 2-5-62 of the Code generally prohibits public servants from knowingly using confidential information outside the scope of the public servant's official duties or disclosing confidential information to third parties. The Ethics Ordinance provides the following definition for the phrase "confidential information":

[I]nformation that has been obtained by a public servant in the course of acting as a public servant, that is not available to members of the public pursuant to the Michigan Freedom of

Information Act, . . . or pursuant to other law, regulation, policy or procedure recognized by law, and that the public servant is unauthorized to disclose.

Accordingly, any information that the Requestor has obtained in the course of acting as a public servant, that is not available to members of the public pursuant, and that the Requestor has not been authorized to disclose, is confidential information, which the Requestor is prohibited from using for purposes of ██████'s board, or from disclosing to ██████ or its board. If the Requestor believes the use or disclosure of confidential information in relation to the purposes of ██████'s board is warranted, then they must seek approval to use or disclose that information from the appropriate City officials that are permitted to authorize that use or disclosure.

As to Section 2-5-63 of the Code, the public servant is prohibited from "us[ing] City property in violation of City policies and procedures." Accordingly, the Requestor should avoid using any City property to perform activities for ██████'s board. However, if the Requestor believes that the use of City property to perform an activity for ██████'s board is warranted, the Requestor must check the applicable policies and procedures governing the use of that property to ensure that the desired use of City property would not violate those policies or procedures.

Section 2-5-64 of the Code generally prohibits public servants from knowingly rendering service for a non-City entity if the service is "in conflict or incompatible with the proper discharge of the public servant's official duties for the City," or if the services is "reasonably expected to impair the public servant's independence of judgment or action in the performance of the public servant's official duties for the City." This section presents a potential sticking point for the Requestor as ██████ is engaged directly in bidding projects over which Requestor exerts significant authority. It is important that the Requestor work in concert with their supervisors to establish a system for sufficiently screening them away from any matters involving ██████. Service as a member of ██████'s board is not, per se, in conflict or incompatible with the discharge of the Requestor's duties for the City if the Requestor does not accept payment for their service as a board member, and does not engage in any activities for the board, including the attendance of meetings, during times when they are expected to be performing work for the City. The Requestor may use vacation time to attend meetings or engage in other activities for the board during normal business hours for the City.

Furthermore, because the Requestor is prohibited from accepting payment from ██████, their service as a member of ██████'s board would be uncompensated, and thus it would not be reasonably expected to impair the Requestor's independence of judgment or action in the performance of her duties as a ██████ for the City. Therefore, the Requestor serving as an uncompensated member of ██████'s board would not violate Section 2-5-64 of the Code because that service would not be in conflict or incompatible with the discharge of the Requestor's duties to the City, and it would not be reasonably expected to impair the Requestor's independence of judgment or action in the performance of their duties to the City so long as the Requestor is screened away from involvement in matters involving ██████.

In regard to Section 2-5-65, the Requestor would be prohibited from acting as an agent, attorney, or representative of ██████ in any matter that is pending a decision by a City agency unless one of the provided exceptions applies. Because the Requestor is compensated for their work as a ██████, only two of the three exceptions could potentially apply to the Requestor. One of the exceptions would allow the Requestor to represent ██████ in a matter that is pending a decision by a City agency if "such representation is a required part of the public servant's official duties." Although the Requestor has not mentioned whether their job duties involve the representation of

businesses, it seems unlikely that the Requestor's job duties would require that.

The other exception that may apply to the Requestor would allow them to represent █████ in a matter that is pending a decision by a City agency if the matter is pending before a voting body on which the Requestor does not serve, the Requestor is not compensated by either the City or █████ for the representation, and the representation occurs only during the Requestor's vacation or departmental leave time.

Section 2-5-68 provides, in relevant part, that "[a] public servant who, in the course of the public servant's duties, exercises significant authority shall not solicit or accept . . . payment from an . . . entity which[] is . . . receiving tax abatements . . . from the City." The phrase "exercises significant authority" is defined in Section 2-5-3 of the Code as "having the ability to influence the outcome of a decision on behalf of the City government in the course of the performance of a public servant's duties and responsibilities."

As a █████, the Requestor exercises significant authority because their authority over matters pertaining to █████ service agreements provides them the ability to direct actions related to those matters, and also because their experience with █████ allows them to influence decisions made by other City officials regarding matters related to █████ projects by providing recommendations that are based on their experience with those subjects. █████ is providing service to the City through its service agreement with █████.

The Request does not state whether the Requestor is compensated for their service on █████'s board. However, because the Requestor exercises significant authority, and because █████ provides services to the City, the Requestor is prohibited by Section 2-5-68 of the Code from accepting or soliciting payment from █████, including as compensation for service on █████'s board.

Section 2-5-70 of the Code generally prohibits public servants from accepting any gifts, or anything of value that is provided without requital, from an entity that is "doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code." The Request specifically notes that █████ has a service agreement with the City and, is therefore, doing business with the City.

However, Section 2-5-70 of the Code does provide several exceptions to the prohibition. Two exceptions to the prohibition could be potentially implicated by the Requestor serving as a member of █████'s board. One of those exceptions would allow the Requestor to accept "complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials" from █████. The other exception would allow the Requestor to accept "an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to" the Requestor if any of those items are provided in connection with the Requestor's "provision of assistance" to █████, but only if "the City does not compensate [the Requestor] for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity."

Therefore, in accordance with Section 2-5-70 of the Code, the only things of value that the Requestor may accept from █████ without being required to provide remuneration are complimentary copies of information materials, and the Requestor may accept an admission or registration fee, travel expenses, entertainment, meals, or refreshments from █████ in connection with her service as a board member, but not if the City compensates the Requestor for any of those items in relation to

the same activity. Furthermore, because the Requestor is prohibited from accepting payment from [REDACTED] pursuant to Section 2-5-68 of the Code, any of those items that the Requestor is permitted to accept from [REDACTED] must not be provided in the form of payment. So, for example, if [REDACTED] offers to cover travel expenses for the Requestor to attend one of the board's meetings, [REDACTED] may only provide for the travel expenses in a form other than a monetary payment, such as plane tickets.

Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-02. As set forth above, the Requestor can continue to serve on [REDACTED]'s board. However, the Ethics Ordinance prohibits the Requestor from accepting compensation for her service on the board and that the Requestor must otherwise comport their conduct with the applicable Standards of Conduct.

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Dated: May 24, 2023



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Advisory Opinion #2023-03
Issued: April 27, 2023

Advisory Opinion #2023-03: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to the Request for Advisory Opinion 2023-03. The Requestor is advised that the Ethics Ordinance prohibits them from accepting donations from the named prospective sponsors. The Requestor may accept donations from sponsors not presently or prospectively doing business with the City of Detroit.

I. Procedural Background

Request for Advisory Opinion 2023-03 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on January 13, 2023. The Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the “Ordinance”). The Requestor has waived confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on April 14, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension.

At its meeting on April 27, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor is a Deputy Director of the General Services Department (“GSD”). The Requestor indicates that, on March 3, 2023, it is their goal and intention to host an Employee Engagement Night to celebrate National Employee Appreciation Day and “engage [their] employees, boost morale, and show [their] employees how much [they] appreciate them.” The Request further

indicates that, due to the large number of employees and the high cost associated with accommodating such a crowd, the GSD management team are prospectively seeking donations from third party sponsors. Potential sponsors specifically named in the Request include Priority Health, Huntington Bank, and the Detroit Pistons.

III. Applicable Charter Sections

The 2012 Detroit City Charter (“Charter”) provides in Section 2-106.1, *Ethical Standards of Conduct*, that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public’s best interest by prohibiting public servants from participating in matters that affect their personal or financial interests.

This is an issue that has been raised to, and opined on by, the Board of Ethics on multiple occasions in the past. In the last few years this specific issue has been addressed by Advisory Opinions 2018-07, 2018-12, 2019-25, 2019-32, and 2020-12. At the crux of these opinions, and our instant analysis, is Section 2-5-70 of the 2019 Detroit City Code of Ordinances, which states:

- (a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant’s official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.
- (b) The prohibition in Subsection (a) of this section shall not apply:
 - (4) To an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:
 - a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or
 - b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

The central questions of any RAO invoking Section 2-5-70 are: 1) What is the relationship between the entity providing the thing of value to the public servant and the City of Detroit (“the City”)? And 2) Does the entity have interests that could be substantially affected by the performance of the public servant’s official duties? If there is no business relationship between the entity and the City, and the entity has no interests that could be substantially affected by the performance of the public servant’s official duties, then the transaction likely does not run afoul of Section 2-5-70. However, where the entity involved is also doing business with the City, Section 2-5-70 likely prohibits the entity from providing a thing of value to the public servant unless the transaction is covered by one or more of the exceptions enumerated in Section 2-5-70(b).

Although the Ethics Ordinance does not define “doing business,” the phrase is defined in the Codes’ chapter on taxation as “the conduct of any activity with the object of gain or benefit.” Importantly, the wording of Section 2-5-70 is in the present tense, meaning that its prohibition on gifts and gratuities applies only to entities that currently have business relationships with the City or are presently seeking a future business relationship.

The Request specifically names three prospective sponsors of the Event. Those potential sponsors

are the Detroit Pistons, Priority Health, and Huntington Bank. The Requestor claims that, to their knowledge, there are no contractual relationships between GSD and the named potential sponsors. In order to confirm this, the Board's Investigator conducted a preliminary fact-finding inquiry as to any business relationships between the named potential sponsors and the City. The Investigator found that Priority Health is listed an "Active" "Supplier" in City records. The Detroit Pistons are in the final year of a Community Benefits Ordinance (CBO) Plan administered by the Civil Rights, Inclusion, and Opportunity Department that includes multiple projects partnered with the City. Many of the Pistons CBO projects involve the Parks and Recreation Department, which is overseen by the GSD. Lastly the Board opined in Advisory Opinion 2022-06 that Huntington Bank was doing business with the City to the extent that it should fall within the prohibitions of Section 2-5-70.

Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-03. The Requestor is advised that the Ethics Ordinance prohibits them from accepting donations from the named prospective sponsors. The Requestor may accept donations from sponsors not presently or prospectively doing business with the City of Detroit.

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Dated: May 25, 2023



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Advisory Opinion #2023-04
Issued: April 27, 2023

Advisory Opinion #2023-04: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to the Request for Advisory Opinion 2023-04. The Request seeks an advisory opinion regarding the application of Disclosure requirements as to the Requestor's ongoing service as a board member for non-profit organization [REDACTED]. The Requestor can continue to serve on [REDACTED]'s board provided that they comport their conduct with the applicable Standards of Conduct and Disclosure requirements.

I. Procedural Background

Request for Advisory Opinion 2023-04 (the "Request") was sent to the Board of Ethics (the "Board") by electronic communication and received on January 13, 2023. The Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the "Ordinance"). The Requestor has maintained confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code ("Code"), the 91-day period for review of this request will conclude on April 14, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension.

At its meeting on April 27, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor is [REDACTED] in the [REDACTED]. The Requestor is also a board member for [REDACTED]. The Requestor indicates that they originally joined the

City as an [REDACTED] and [REDACTED] for federally funded [REDACTED] projects. The Requestor currently serves as a [REDACTED] for [REDACTED]. According to the Requestor, their job duties include: developing policy and procedures; ensuring guidelines and regulations are followed for projects chosen; project management; selection and approvals for applicants of the program; approving contractor payments; tracking and reporting to funders and grants departments; and preparing and responding to audits.

[REDACTED] is a non-profit organization located in the City of Detroit. [REDACTED]'s website states that its mission is to "[REDACTED]
[REDACTED]
[REDACTED]"

Pursuant to the Board's preliminary report ("the Report"), the Requestor explained their ascension to [REDACTED]'s board, as follows:

The prior City's [REDACTED] sat on the board and when I was promoted, I was introduced to the organization seeking to fill the empty slot. I was selected to be part of the task force committee that later evolved into selection as a board member.

The Report further indicates that Requestor is an uncompensated member of [REDACTED]'s board. Although [REDACTED] has done business with the City in the past, the Requestor indicates that [REDACTED] does not have any current matters pending with the City. The Requestor further indicates that they always recuse themselves from any board matters related to direct City involvement and that they are never involved in reviewing any applications and/or proposals that [REDACTED] submits to the City.

Per the Request, the Requestor informed their supervisor of their role with [REDACTED] and was directed to seek an ethics department decision.

III. Applicable Charter Sections

The 2012 Detroit City Charter ("Charter") provides in Section 2-106.1, *Ethical Standards of Conduct*, that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests.

The question presented by this Request is whether, the Requestor can serve in both of their roles, as a [REDACTED] for [REDACTED] and as a board member for [REDACTED], while maintaining compliance with the Ethics Ordinance. According to Sec. 2-5-1 of the Ethics Ordinance, the standards of conduct and disclosure requirements apply to public servants, such as the Requestor, "to ensure that government decisions are made in the public's best interests by prohibiting servants from participating in matters that affect their personal or financial interests."

As a public servant, the Requestor is subject to the Standards of Conduct enumerated in the Ethics Ordinance. Among the Standards of Conduct, the following sections may be relevant:

Section 2-5-31. Disclosure of interests by public servants.

- (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:
 - (1) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before City Council;

- (2) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before or within any office, department, or agency of the City; and
 - (3) Any interest that the public servant, or an immediate family member has in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement.
- (b) All disclosures that are required under Subsection (a) of this section shall be made, in writing, on a form that is created by the Law Department and sworn to in the presence of a notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

Sec. 2-6-62. Improper use or disclosure of confidential information prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use or disclose to third parties confidential information which is gained by reason of his or her official duties, concerns the property, government or affairs of the city, or any office, department or agency thereof, and is not available to members of the public

Sec. 2-5-63. Improper use of City property prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use City property in violation of City policies and procedures.

Sec. 2-5-64. Incompatible employment or rendering services prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly engage in or accept employment, or knowingly render services, for a private or public interest where such employment or service is in conflict or incompatible with the proper discharge of the public servant's official duties for the city, or where such employment or service is reasonably expected to impair the public servant's independence of judgment or action in the performance of his or her official duties for the City.

Sec. 2-5-65. Representation of private person, business or organization prohibited; exception.

A public servant shall not act as an agent, attorney, or representative for another person, business or organization in any matter that is pending before a city agency, except that:

1. A public servant may represent another person, business, or organization before a city agency where such representation is a required part of the public servant's official duties; or
2. A public servant who is an uncompensated member of a city board, commission or other voting body may act as an agent, attorney, or representative for another person, business or organization in a matter that is pending before a city agency, other than the board, commission, or other voting body on which he or she is a member; or
3. A public servant who is compensated by the city may act as an agent, attorney or representative for another person, business or organization in a matter that is pending before a city board, commission or other voting body, other than the board, commission or other voting body on which he or she serves as an appointee or as an employee, under a personal services contract, as long as the public servant does so:
 - a. Without compensation;
 - b. On the public servant's leave time;
 - c. For appointees, in accordance with Chapter 35, Article III, Division 2. Of this Code, Vacation, Sick, Departmental, Funeral, and Jury Leave;

- d. For non-union employees, in accordance with Chapter 35, Article III, Division 2, of this Code, Vacation, Sick, Departmental, Funeral, and Jury Leave, and the City's Civil Service Rules;
- e. For union employees, in accordance with the employee's respective union contract and the City's Civil Service Rules; or
- f. For individuals who provide services to the City pursuant to a personal services contract, in accordance with the applicable provisions of the contract.

Section 2-5-70. Prohibition on gifts and gratuities; exceptions.

- (a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.
- (b) The prohibition in Subsection (a) of this section shall not apply:
 - (4) To an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:
 - a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or
 - b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

Section 2-5-31 requires a public servant who exercises significant authority over a pending matter to disclose any financial interest, direct or indirect, that the public servant or an immediate family member has in any city contract or matter pending before within any office, department, or agency of the City. The Ethics Ordinance defines the term "exercises significant authority" as "having the ability to influence of a decision on behalf of the City government in the course of the performance of a public servant's duties and responsibilities. Per the Report, the Requestor exercises significant authority over [REDACTED] matters in [REDACTED].

Although the Requestor is an uncompensated member of [REDACTED]'s board, an indirect financial interest could be implied by virtue of their role as a fiduciary of an organization that has had former business dealings with the City. Therefore, the Requestor should file a disclosure of interest form, in compliance with Section 2-5-31. Furthermore, the Requestor should recuse themselves in all matters coming before the City that involve [REDACTED].

Section 2-5-62 of the Code generally prohibits public servants from knowingly using confidential information outside the scope of the public servant's official duties or disclosing confidential information to third parties. Any information that the Requestor has obtained in the course of acting as a public servant, that is not available to members of the public, and that the Requestor has not been authorized to disclose, is confidential information, which the Requestor is prohibited from using for purposes of [REDACTED]'s board, or from disclosing to [REDACTED] or its board. If the Requestor believes the use or disclosure of confidential information in relation to the purposes of [REDACTED]'s board is warranted, then they must seek approval to use or disclose that information from the appropriate City officials that are permitted to authorize that use or disclosure.

Section 2-5-63 of the Code, prohibits public servants from “us[ing] City property in violation of City policies and procedures.” Accordingly, the Requestor should avoid using any City property to perform activities for ██████’s board. However, if the Requestor believes that the use of City property to perform an activity for ██████’s board is warranted, the Requestor must check the applicable policies and procedures governing the use of that property to ensure that the desired use of City property would not violate those polices or procedures.

Section 2-5-64 of the Code generally prohibits public servants from knowingly rendering service for a non-City entity if the service is “in conflict or incompatible with the proper discharge of the public servant’s official duties for the City,” or if the services are “reasonably expected to impair the public servant’s independence of judgment or action in the performance of the public servant’s official duties for the City.” The Requestor’s service as a member of ██████’s board is not, per se, in conflict or incompatible with the discharge of the Requestor’s duties for the City if the Requestor does not accept payment for their service as a board member, and does not engage in any activities for the board, including the attendance of meetings, during times when they are expected to be performing work for the City. This section presents a potential conflict for the Requestor as ██████ has provided services to the City for projects initiated under ██████. In the event that ██████ contracts with the City to provide such services in the future, the Requestor should work in concert with their supervisor to establish a system to sufficiently screen them away from any matters involving ██████. Service as a member of ██████’s board is not, per se, in conflict or compatible with the discharge of the Requestor’s duties as a ██████ for ██████ if the Requestor does not accept payment for their service as a board member, and does not engage in any activities for the board, including the attendance of meetings, during times when they are expected to be performing work for the City. The Requestor may use vacation time to attend meetings or engage in other activities for the board during normal business hours for the City.

Since the Requestor is not receiving compensation from ██████, their service as a member of ██████’s board would not violate Section 2-5-64 of the Code because that service would not be in conflict or incompatible with the discharge of the Requestor’s duties to the City, and it would not be reasonably expected to impair the Requestor’s independence of judgment or action in the performance of their duties to the City so long as they screen themselves from involvement in matters with ██████ and uses vacation time to attend meetings or engage in other activities for the board during normal business hours for the City.

Under Section 2-5-65 of the Code, the Requestor would be prohibited from acting as an agent, attorney, or representative of ██████ in any matter that is pending a decision by a City agency. However, Section 2-5-65(3) provides a specific exception for a public servant to act as an agent, attorney or representative for another person, business or organization in matter that is pending before a City board, commission, or other voting body other than the board, commission, or other voting body on which the public servant serves as an appointee or employee.

This exception would allow the Requestor to represent ██████ in a matter that is pending a decision by a City agency if the matter is pending before a voting body on which the Requestor does not serve, the Requestor is not compensated by either the City or ██████ for the representation, and the representation occurs only during the Requestor’s vacation or departmental leave time. In the event that Requestor meets these requirements, their ongoing service as a board member of ██████ would not violate the provisions of Section 2-5-65.

Section 2-5-70 of the Code generally prohibits public servants from accepting any gifts, or anything

of value that is provided without requital, from an entity that is “doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant’s official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.” The Request specifically notes that █████ “applies for funding from the City when appropriate,” and, is therefore, seeking to do business with the City and/or seeking official action [funding] from the City.

However, Section 2-5-70 of the Code does provide several exceptions to the prohibition. Two exceptions to the prohibition could be potentially implicated by the Requestor serving as a member of the █████’s board. One of those exceptions would allow the Requestor to accept “complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials” from █████. The other exception would allow the Requestor to accept “an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to” the Requestor if any of those items are provided in connection with the Requestor’s service to █████, but only if “the City does not compensate [Requestor] for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.”

In other words, the only things of value that the Requestor may accept from █████ without being required to provide remuneration are complimentary copies of information materials, and the Requestor may accept an admission or registration fee, travel expenses, entertainment, meals, or refreshments from █████ in connection with their service as a board member, but not if the City compensates the Requestor for any of those items in relation to the same activity.

Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-04. The Requestor can continue to serve on █████’s board provided that they comport their conduct with the applicable Standards of Conduct and Disclosure requirements.

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Dated: May 30, 2023



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Advisory Opinion #2023-05
Issued: April 27, 2023

Advisory Opinion #2023-05: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to the Request for Advisory Opinion 2023-05. The Request seeks an advisory opinion regarding the application of the Standards of Conduct as to whether the Requestor may accept paid consulting opportunities with independent research/consulting firms that routinely solicit the Requestor for their services. The Requestor is advised that any prospective research/consulting firm that does business or intends to do business with the City, would likely trigger the prohibitions set forth in Sections 2-5-65, 2-5-66, and 2-5-70, and likely be impermissible.

I. Procedural Background

Request for Advisory Opinion 2023-05 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on January 31, 2023. The Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the “Ordinance”). The Requestor has maintained confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on May 2, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension.

At its meeting on April 27, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor is the [REDACTED] of the City's [REDACTED]. As the [REDACTED] of [REDACTED], Requestor is responsible for [REDACTED] in City government. The Request seeks an advisory opinion regarding the Requestor's ability to accept paid consulting opportunities with independent research/consulting firms in the [REDACTED] industry. The Requestor states that they often receive messages from such firms with an offer to be compensated for a 60-minute phone call to speak about the Requestor's expertise. According to the Request, these solicitations also take the form of receiving a prize, such as a backpack or a mug, for completing a survey. The Request further provides that "these companies do not have relationships with the City of Detroit, and appear to be research firms gathering industry data from professionals across organizations."

III. Applicable Charter Sections

The 2012 Detroit City Charter ("Charter") provides in Section 2-106.1, *Ethical Standards of Conduct*, that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests.

The question presented to the Board is whether Requestor can participate in paid consulting opportunities with independent research/consulting firms without violating the 2012 Detroit City Charter or the 2019 Detroit City Code. As a public servant, the Requestor is subject to the Standards of Conduct enumerated in the Ethics Ordinance. Among the Standards of Conduct, the following sections may be relevant:

Sec. 2-5-62. Improper use or disclosure of confidential information prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use or disclose to third parties confidential information which is gained by reason of his or her official duties, concerns the property, government or affairs of the city, or any office, department or agency thereof, and is not available to members of the public.

Sec. 2-5-63. Improper use of City property prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use City property in violation of City policies and procedures.

Sec. 2-5-64. Incompatible employment or rendering services prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly engage in or accept employment, or knowingly render services, for a private or public interest where such employment or service is in conflict or incompatible with the proper discharge of the public servant's official duties for the city, or where such employment or service is reasonably expected to impair the public servant's independence of judgment or action in the performance of his or her official duties for the City.

Section 2-5-62 of the Code generally prohibits public servants from knowingly using confidential information outside the scope of the public servant's official duties or disclosing confidential information to third parties. Accordingly, any information that the Requestor has obtained in the course of acting as a public servant, that is not available to members of the public, and that the Requestor has not been authorized to disclose, is confidential information, which the Requestor is prohibited from using or from disclosing to a prospective research/consulting firm. Therefore, to avoid violating the Ethics Ordinance, the Requestor should take special care to avoid divulging confidential information gained while performing official City duties to benefit a prospective

research/consulting firm or any third party.

Section 2-5-63 of the Code, prohibits public servants from “us[ing] City property in violation of City policies and procedures.” To ensure that the Requestor does not run afoul of Section 2-5- 63, the Requestor should refrain from using City property while participating in consulting services. However, if the Requestor believes that the use of City property to perform the consulting services is warranted, the Requestor must check the applicable policies and procedures governing the use of that property to ensure that the desired use of City property would not violate those polices or procedures.

Section 2-5-64 of the Code generally prohibits public servants from knowingly rendering services for a non-City entity if the service is “in conflict or incompatible with the proper discharge of the public servant’s official duties for the City,” or if the services are “reasonably expected to impair the public servant’s independence of judgment or action in the performance of the public servant’s official duties for the City.” The Requestor’s service as a paid consultant with outside firms that are not affiliated with the City is not per se, in conflict or incompatible with the discharge of the Requestor’s duties for the City if the consulting services are not performed during times when he is expected to be performing for the City. Since the proposed research/consulting firms are not affiliated with the City, the Requestor’s service as a paid consultant would not violate Section 2-5-64 of the Code because that service would not be in conflict or incompatible with the discharge of the Requestor’s duties to the City, and it would not be reasonably expected to impair the Requestor’s independence of judgment or action in the performance of their duties.

Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-05. The Board notes that its recommendation is based on the condition that the prospective research/consulting firms the Requestor seeks to provide services for have no relationship with the City. The Requestor is advised that any prospective research/consulting firm that does business or intends to do business with the City, would likely trigger the prohibitions set forth in Sections 2-5-65, 2-5-66, and 2-5-70, and likely be impermissible.

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Dated: May 31, 2023



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Advisory Opinion #2023-08
Issued: April 27, 2023

Advisory Opinion #2023-08: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to the Request for Advisory Opinion 2023-08. The Request seeks an advisory opinion regarding the application of the Standards of Conduct as to the Requestor’s prospective dissemination of both information and materials regarding two events to be hosted by the American Society for Public Administration (ASPA) in the near future. The Requestor is advised they may circulate information relating to ASPA events so long as, in doing so, the Requestor comports their conduct in compliance with the Ethics Ordinance.

I. Procedural Background

Request for Advisory Opinion 2023-08 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on March 17, 2023. The Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the “Ordinance”). The Requestor has waived confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on June 16, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension.

At its meeting on April 27, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor is an Office Assistant III in the City Clerk’s Office. The Requestor’s job duties are

predominantly clerical, as they noted answering phones and reviewing paperwork as their primary responsibilities.

The Request states that the Requestor is an active member of ASPA, which Requestor describes as a non-partisan organization. The Requestor further notes that ASPA hosts events on a regular basis throughout the year, with the next scheduled event to be a general meeting/luncheon held on June 15th, 2023. In a subsequent conversation with the Board's Investigator, the Requestor clarified that the luncheon is available to the public at no cost. The Requestor seeks guidance as to whether they can circulate flyers with information about these events and, presumably, ASPA itself to their co-workers who may be interested in attending or joining. The Requestor explained that they would be circulating the information by word of mouth and, if requested, by forwarding digital flyers to interested parties' personal emails. The Request does not provide much information, but ASPA's website lists its goals as follows:

- Promote the value of joining and elevating the public service profession.
- Build bridges among all who pursue public purposes at home and internationally.
- Provide networking and professional development opportunities to those committed to public service values.
- Achieve innovative solutions to the challenges of governance.¹

III. Applicable Charter Sections

The 2012 Detroit City Charter ("Charter") provides in Section 2-106.1, *Ethical Standards of Conduct*, that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests.

The question presented to the Board is whether a public servant may disseminate information about an event to be hosted by a third party to the public servant's co-workers who may be interested in attending. As a public servant, the Requestor is subject to the Standards of Conduct enumerated in the Ethics Ordinance. Among the Standards of Conduct, the following sections may be relevant:

Sec. 2-5-70. Prohibition on gifts and gratuities; exceptions.

- (a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.
- (b) The prohibition in Subsection (a) of this section shall not apply:
 1. To an award publicly presented to a public servant by an individual, governmental body, or nongovernmental entity or organization in recognition of public service;
 2. To complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials;
 3. To a gift received from a public servant's immediate family member or relative, provided, that the immediate family member or relative is not acting as a third party's intermediary or an agent in an attempt to circumvent this prohibition;
 4. To an admission or registration fee, travel expenses, entertainment, meals or

¹<https://www.aspanet.org/ASPA/ASPA/About-ASPA/About-ASPA.aspx?hkey=ca893802-9bb7-4541-a68e-6d24c185ad77>

refreshments that are furnished to the public servant:

- a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or
- b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

Sec. 2-5-72. Prohibition on campaign activities by using City personnel or property, or during working hours.

- (a) Elective officers, as defined in Section 2-5-3 of this Code, are prohibited from soliciting appointive officers, appointees, and employees to work on political campaign activities using City property or during working hours.
- (b) Appointive officers, appointees, and employees are prohibited from engaging in campaign activities by using City property or engaging in such activity during working hours.

Section 2-5-70(a) of the Code generally prohibits public servants from accepting any gifts, or anything of value that is provided without remuneration, from an entity that is “doing business or seeking to do business with the City.” Section 2-5-70(b) of the Code provides several exceptions to the prohibition, but none of them are implicated by the facts described in the Request.

The Requestor highlighted that the next scheduled ASPA event would be a luncheon. Such a luncheon could implicate Sec. 2-5-70 if ASPA has any business interests with the City. As there is presently no information to suggest that such a relationship exists between the City and ASPA, the luncheon likely does not satisfy that threshold matter. Further, Requestor noted in the Request that they are a member of ASPA. Membership in ASPA requires the remuneration of a membership fee, the cheapest of which is \$70 per year. The Requestor also explained that the luncheon is open to the public and free of charge. The Requestor’s attendance at the ASPA luncheon would not constitute a violation of Section 2-5-70 of the Code because 1) there is no known business relationship between ASPA and the City, 2) because the Requestor is a paying member of ASPA, which would classify things of value provided by ASPA as membership benefits and not gifts, and 3) because the luncheon is open to the public and free of charge, meaning the Requestor would not be receiving anything special due to their status as a public servant.

Section 2-5-72 prohibits the use of City property or working hours for campaign activities. As previously noted, ASPA is not a registered lobbyist and there is no information to suggest that ASPA actively campaigns at the local, state, or federal level. As such, this section is likely not implicated. However, the Requestor should be mindful to avoid activities that could constitute campaigning.

Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2023-08. The Requestor is advised that they may circulate information relating to ASPA events so long as, in doing so, the Requestor comports their conduct with the Ethics Ordinance as directed in the analysis above.

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Dated: May 26, 2023



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Advisory Opinion #2023-11 **Issued: July 19, 2023**

Advisory Opinion #2023-11: In response to Request for Advisory Opinion 2023-11, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) of the Code. Based on the information provided, the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as co-campaign manager to her colleague's Ferndale City Council campaign so long as the Requestor comports with the Standards of Conduct as outlined in this opinion.

I. Procedural Background

The Board of Ethics (“the Board”) received Request for Advisory Opinion 2023-11 (“the Request”), on April 25, 2023, via email communication. In accordance with the Detroit Ethics Ordinance (“the Ordinance”), as codified at Section 2-5-121(a) of the 2019 Detroit City Code (“the Code”), the Request was submitted by a public servant. The Requestor has waived confidentiality.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on July 25, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on October 24, 2023.

At its July 19, 2023 meeting, the Board determined that the Request met the basic requirements of a Request for Advisory Opinion under Section 2-5-121 of the Ethics Ordinance. The Board heard a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, pursuant to Section 2-5-124(b)(4) of the Ethics Ordinance, the Board voted to issue this Advisory Opinion.

II. Information from the Request

The Requestor is a resident of Ferndale and serves as an attorney in the Office of the Inspector General. The Request asks for an advisory opinion regarding the Requestor prospectively serving as the co-campaign manager for the campaign of another City employee seeking election to the Ferndale City Council.

The Requestor attached to the Request permission from their agency head to pursue this opportunity. Noted in the Requestor's attached letter of approval is that this is a volunteer position. Also contained within the letter is the Requestor's plan for avoiding conflicts of interest in the fulfillment of both roles:

- The Requestor will not work on any campaign related matters during City of Detroit work hours.
- The Requestor will be walled off from or not participate in any investigations involving the Office of the Chief Financial Officer as well as the Budget Department at the discretion of the Inspector General.¹
- The Requestor will not participate in any type of campaign meetings or events that involve the City of Detroit.

Advisory Opinion #2013-02 posits that there is no inherent conflict of interest where a public servant seeks elective office so long as the public servant comports with all relevant Standards of Conduct and Disclosure Requirements as set forth by the Ethics Ordinance.² The same principles would, therefore, apply to a public servant aiding another's pursuit of elective office. Therefore, the reasoning of Advisory Opinion #2013-02 can be applied to this Request in so far as determining the Requestor's ability to manage the campaign of another pursuing elective office. There is not a per se conflict of interest, and, so long as the Requestor comports their conduct with the governing sections of the Ethics Ordinance, the Requestor can serve as co-campaign manager while maintaining their employment as a public servant with the City of Detroit.

III. Applicable Charter and Ordinance Sections

The Request implicates the following sections of the Ethics Ordinance, particularly with respect to the Standards of Conduct, and will be briefly discussed to further aid the Requestor in comporting their conduct within the strictures of the Ethics Ordinance.

Section 2-5-62 of the 2019 Code addresses the improper use or disclosure of confidential information. Based on the job description provided by the Requestor, it is highly likely that they have access to, or direct knowledge of, confidential information regarding the property, government, or affairs of the City that is not available to the public. Any use or disclosure of such information by the Requestor in their campaign management position would be a violation of the Ethics Ordinance.

Section 2-5-63 bars the use of City property in violation of City policies and procedures. The Requestor acknowledged as much in the Request and should continue to refrain from using city property in any relation to campaign activities.

Section 2-5-64 prohibits a public servant from engaging in employment or the rendering of services that would conflict or be incompatible with the proper discharge of their official duties. This section also bars employment or service that is reasonably expected to impair the public

¹ Candidate for whom the Requestor would be managing the campaign is an employee of the Office of the Chief Financial Officer.

² See Documents Advisory Opinion #2013-12 https://detroitmi.gov/sites/detroitmi.localhost/files/2018-02/ADVISORY_20OPINION_202013-02_20ISSUED_20APRIL_2012.2013_1_.pdf

servant's independence of judgment or action in the performance of their duties. The information presented by the Requestor indicates that the duties of the prospective position would be performed outside of work hours and, based on their attached plan for compliance, would not conflict with their duties for the City of Detroit.

Section 2-5-65 bars, generally, public servants from representing persons, businesses, or organizations in any matter that is pending before a City agency. The Requestor will not run afoul of this section so long as they refrain from representing the interests of the candidate before any body of, or in any matter before, the City of Detroit. In relevant part, Section 2-5-70, *Prohibition on gifts and gratuities; exceptions*, provides that:

- (a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.
- (b) The prohibition in Subsection (a) of this section shall not apply:
 - (4) To an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:
 - a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or
 - b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

As set forth above, a public servant is prohibited from accepting gifts, gratuities, honoraria, or other things of value from any person or entity doing business or seeking to do business with the City. Here, the Requestor suggests that the co-campaign manager is a volunteer position. Although the Ethics Ordinance does not define "doing business," the phrase is defined in the Codes' chapter on taxation as "the conduct of any activity with the object of gain or benefit." This definition can be applied here according to the "whole act rule" of statutory interpretation that "calls for courts to interpret a statutory term by assuming that a term used in a statute means the same thing wherever it appears, and that different words mean different things." According to the Request, the campaign that the Requestor seeks to manage is that of another City employee. As such, the Candidate would be considered to be "doing business" with the City through their regular employment. Accordingly, the Requestor would be prohibited from accepting anything of value in their service to the campaign.

While the Request seeks an advisory opinion regarding the application of Standards of Conduct, the facts of this Request implicate the Disclosure Requirements set forth in the Ethics Ordinance.

More specifically, Section 2-5-31 of the Ethics Ordinance is implicated, in that the Requestor is a public servant who exercises significant authority over pending matters. Therefore, an analysis of Section 2-5-33 of the Ethics Ordinance, as it is applied to the facts in the Request, is provided below.

Because the Requestor's self-enumerated job duties seem to indicate that they exercise significant authority in their capacity as a public servant, the Requestor would need to comport with the disclosure requirements of Section 2-5-33 for campaign contributions and expenditures. Section 2-5-33 dictates in relevant part:

- (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority shall disclose campaign contributions and expenditures in accordance with applicable laws.

V. Conclusion

In response to Request for Advisory Opinion 2023-11, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-154(b)(4) of the Code. In line with the foregoing analysis, the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as co-campaign manager to their colleague's Ferndale City Council campaign so long as the Requestor comports with the Standards of Conduct as outlined in this opinion.

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Dated: July 25, 2023



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Advisory Opinion #2023-13
Issued: September 20, 2023

Advisory Opinion #2023-13: In response to Request for Advisory Opinion 2023-13, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) of the Code. Based on the information provided, if the Requestor is to be employed pursuant to a personal services contract, the prohibitions set forth in Section 2-5-71 of the Detroit Ethics Ordinance are inapplicable as personal services contracts are specifically exempted from the one year post-employment prohibition even though personal service contracts are included in the definition of a public servant.

I. Procedural Background

The Board of Ethics (“the Board”) received Request for Advisory Opinion 2023-13 (“the Request”), on August 28, 2023, via email communication. In accordance with the Detroit Ethics Ordinance (“the Ordinance”), as codified at Section 2-5-121(a) of the 2019 Detroit City Code (“the Code”), the Request was submitted by a public servant. The Requestor has not waived confidentiality.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on November 27, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on February 26, 2024.

At its September 20, 2023 meeting, the Board determined that the Request met the basic requirements of a Request for Advisory Opinion under Section 2-5-121 of the Ethics Ordinance. The Board heard a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, pursuant to Section 2-5-124(b)(4) of the Ethics Ordinance, the Board voted to issue this Advisory Opinion.

II. Information from the Request

The Requestor serves as the [REDACTED] to the [REDACTED]. According to the Request, the Requestor is currently employed in a salaried TASS capacity but will soon have their employment dynamic changed to that of an hourly professional

services contractor. The Requestor notes that their job duties will remain the same and that the only change is the structure of their compensation. The question presented by this Request is whether the Requestor may continue to perform their duties as [REDACTED] for the [REDACTED] in light of the changing classification of their employment and compensation structure to that of a professional services contractor.

III. Applicable Charter and Ordinance Sections

As a public servant, the Requestor is subjected to Section 2-106.5 of the Charter and Section 2-5-71 of the Ordinance and Detroit City Code:

Sec. 2-5-71. One year post-employment prohibition.

- (a) Subject to state law, for one year after employment with the City, a public servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body, or receive compensation for any services in connection with any matter in which the public servant was directly concerned, personally participated, actively considered or acquired knowledge while working for the City.
- (b) Subject to state law, for one year after employment with the City, a public servant shall not accept employment with any person who, or entity which, did business with the City during the former public servant's tenure where the public servant was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.

If the Requestor is to be engaged in their duties for the [REDACTED] under a personal services contract as described in the Request, the prohibitions set forth in Section 2-106.5 of the Charter and Section 2-5-71 of the Ordinance and Detroit City Code are inapplicable as they are specifically exempted in the one year post-employment prohibitions even though personal service contracts are included in the definition of public servant.

Further, the purpose of the one year post-employment prohibition is to prevent the use of confidential information acquired through a public servant's employment with the City as a tool to provide that public servant and their new employer with an unfair advantage in doing business with the City. In the Requestor's case, they are remaining with the [REDACTED] and merely changing the nature of their employment agreement therewith. As such, there is no risk of improper use of confidential information.

V. Conclusion

In response to Request for Advisory Opinion 2023-13, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-154(b)(4) of the Code. In line with the foregoing analysis, if the Requestor is to be employed pursuant to a personal services contract, the prohibitions set forth in Section 2-5-71 of the Ordinance are inapplicable as personal services contracts are specifically exempted from the 1-year post-employment prohibitions even though personal service contracts are included in the definition of a public servant.

Detroit Board of Ethics
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Dated: September 25, 2023



BOARD OF ETHICS
DETROIT

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Kristin Lusn, Esq., Chairperson
Carron Pinkins, Esq., Vice Chairperson
David Jones, Esq.
Dr. Yvette McElroy Anderson
Robert Watt

Advisory Opinion #2023-15
Issued: November 29, 2023

Advisory Opinion #2023-15: In response to Request for Advisory Opinion 2023-15, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) of the Code. Based on the information provided, the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as an [REDACTED] so long as the Requestor comports with the Standards of Conduct and Disclosure Requirements as outlined in this opinion.

I. Procedural Background

The Board of Ethics (“the Board”) received Request for Advisory Opinion 2023-15 (“the Request”), on September 20, 2023, via email communication. In accordance with the Detroit Ethics Ordinance (“the Ordinance”), as codified at Section 2-5-121(a) of the 2019 Detroit City Code (“the Code”), the Request was submitted by a public servant. The Requestor has not waived confidentiality.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (“Code”), the 91-day period for review of this request will conclude on December 20, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on March 20, 2024.

At its November 15, 2023 meeting, the Board determined that the Request met the basic requirements of a Request for Advisory Opinion under Section 2-5-121 of the Ethics Ordinance. The Board heard a Preliminary Analysis from legal counsel on the same day. After consideration and discussion of the issues presented, pursuant to Section 2-5-124(b)(4) of the Ethics Ordinance, the Board voted to issue this Advisory Opinion.

II. Information from the Request

The Requestor is a [REDACTED] in the [REDACTED]. The question presented by this Request is whether the Requestor can, as the [REDACTED] of the [REDACTED]

██████████, prospectively bid on ██████████ contracts to be awarded by the City. The Request notes that “said contracts will not occur during working hours.” Bids for City contracts, and the subsequent review and award thereof, are administered by the Office of Contracting and Procurement, which is a division of the OCFO.

III. Applicable Charter and Ordinance Sections

The Requestor is considered a public servant as defined in Section 2-105 of the 2012 Detroit City Charter and Section 2-5-3 of the Ethics Ordinance. The Requestor seeks an advisory opinion regarding the application of the Standards of Conduct as to the Requestor prospectively bidding on City contracts as the ██████████ of another entity. According to Section 2-5-1 of the Ethics Ordinance, the standards of conduct and disclosure requirements apply to public servants, such as the Requestor, “to ensure that governmental decisions are made in the public’s best interest by prohibiting public servants from participating in matters that affect their personal or financial interests.”

If the Requestor were to deliberately fail to appropriately dispose of such bids, they would be in violation of Section 2-5-61 which prohibits the willful neglect of a public servant’s duties. In the presented set of circumstances, it is foreseeable that the Requestor, as an experienced level ██████████ in the ██████████, may be in a position to receive, file, or otherwise interact with the bids of entities competing for the same contracts that the Requestor is on behalf of ██████████.

Based on the job description published by the ██████████, it is highly likely that the Requestor has access to, or direct knowledge of, confidential information regarding the City’s contract bid and award practices. Any use or disclosure of such information by the Requestor in their ██████████ position would be a violation of the Ethics Ordinance, Section 2-5-62, which addresses the improper use or disclosure of confidential information.

Section 2-5-63 bars the use of City property in violation of City policies and procedures. The Requestor acknowledged that “said contracts will not occur during work hours.” The Requestor should continue to refrain from using city property in any relation to their outside employment activities.

Section 2-5-64 prohibits a public servant from engaging in employment or the rendering of services that would conflict or be incompatible with the proper discharge of their official duties. This section also bars employment or service that is reasonably expected to impair the public servant’s independence of judgment or action in the performance of their duties. The information presented by the Requestor indicates that the duties of their outside position would be performed outside of work hours. Similarly, to the analysis provided in relation to Section 2-4-61, the Requestor would need to ensure that their interest in the outcome of contracts administered by a division of the ██████████ does not impact their performance of their duties as a ██████████. If the Requestor is able to do that, then their ██████████ employment would likely not conflict with their duties for the City of Detroit. Section 2-5-65 bars, generally, public servants from representing persons, businesses, or organizations in any matter that is pending before a City agency. This Code section has a number of exceptions.

Because none of the exceptions apply to the Requestor, they will need to screen themselves off from the application process for ██████████ and have some other agent represent them in

their place if necessary. If the Requestor serves as the representative of the entity as the matter is pending before the City, they will run afoul of this section and be in violation of the Ethics Ordinance

As set forth in Section 2-5-70, Prohibition on gifts and gratuities, exceptions, a public servant is prohibited from accepting gifts, gratuities, honoraria, or other things of value from any person or entity doing business or seeking to do business with the City. Here, the Requestor seeks to bid on contracts with the City on behalf of their outside employer. Such conduct is plainly “doing business” and would bar the Requestor from accepting anything of value from [REDACTED] other than in the circumstances enumerated as exceptions. While the Request seeks an advisory opinion regarding the application of Standards of Conduct, the facts of this Request implicate the Disclosure Requirements set forth in the Ethics Ordinance. More specifically, Section 2-5-34 of the Ethics Ordinance is implicated in that the Requestor is both a public servant and a prospective City contractor.

Because the Requestor’s job duties seem to indicate that they do not exercise significant authority in their capacity as a public servant, the Requestor would need to comport with the disclosure requirements of Section 2-5-34 for Disclosure of Interests by Contractors and Vendors as relates to their work with [REDACTED] as a potential contractor.

V. Conclusion

In response to Request for Advisory Opinion 2023-15, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-154(b)(4) of the Code. In line with the foregoing analysis, the Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as [REDACTED] for [REDACTED] so long as the Requestor comports with the Standards of Conduct and Disclosure Requirements as outlined in this opinion.

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Dated: November 15, 2023



BOARD OF ETHICS
DETROIT

Kristin A. Lusn, Esq., Chairperson
Michael S. Rafferty, Vice Chairperson
David W. Jones, Esq.
Mario Morrow, Sr.
Robert Watt

Advisory Opinion #2022-16
Issued: February 23, 2023

Advisory Opinion #2022-16: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2022-16. The Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as a city council member for the City of [REDACTED]. Requestor can seek elective office without violating the Ethics Ordinance so long as he comports with the Standards of Conduct as outlined in this opinion. However, with respect to the first question posed in the Request, Requestor would not be able to accept the salary for the position and would need to donate it pursuant to [REDACTED]'s purported MOU in order to comply with Section 2-5-70.

I. Procedural Background

Request for Advisory Opinion 2022-16 (the "Request") was received by the Board of Ethics (the "Board") on December 9, 2022. In accordance with Sec. 2-6.101, the Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the "Ordinance"). The Public Servant maintains confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (Code), the 91-day period for review of this request will conclude on March 10, 2023. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on June 9, 2023.

At its meeting on February 23, 2023, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board heard a privileged and confidential Preliminary Analysis from legal counsel on the same day, and after consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor is a resident of [REDACTED] and serves as a [REDACTED] with the working title of [REDACTED] for the City of Detroit in the Office of [REDACTED] under the Office of the [REDACTED]. The Request asks for an advisory opinion

regarding Requestor prospectively seeking election to the [REDACTED] City Council. The Requestor invokes Advisory Opinion 2013-02¹ in support of the permissibility of his prospective pursuit of elective office and, generally, seeks clarification as to whether the Board sees any reason to distinguish his situation from that presented in 2013.²

The Council position comes with, what Requestor describes as, a stipend of \$5,000 to “compensate council members for purchasing materials related to their work and for gas and maintenance on personal vehicles used in the course of council-related activities . . .” The [REDACTED] City Council consists of four members elected to overlapping 4-year terms, with elections taking place every other odd year.

Requestor claims that, unlike Detroit, the [REDACTED] City Council operates on a part-time basis. Accordingly, Requestor posits that council members maintain day jobs and that council events typically occur in the evenings and on weekends. According to the City of [REDACTED] website, City Council meetings are held on the second and fourth Monday of each month at 7:00 p.m.³

The Request further indicates that Requestor is unaware of any contractual relationships between the City of [REDACTED] and the City of Detroit beyond joint “participation in various regional bodies and working groups related to infrastructure.” Requestor contends that he does not exercise “significant authority” within the meaning of Section 2-5-3 of the Ethics Ordinance.⁴

Requestor provided a detailed list of the duties of his position with the City of Detroit that reads as follows:

1. Manage the Office of [REDACTED] [REDACTED] team, as well as the [REDACTED] team, responsible for an assigned portfolio of departments, authorities, and component units.
2. Supervise four [REDACTED] direct report
3. Partner with City departments to oversee the development of multiyear operating, capital, and blight remediation plans.
4. Prepare the City four-year financial plan and budget in conjunction with City agencies/departments and the Office of [REDACTED].
5. Liaise with multiple components of the Office of the Mayor to ensure budgetary coordination with Administration priorities.

¹ https://detroitmi.gov/sites/detroitmi.localhost/files/2018-02/ADVISORY_20OPINION_202013-02_20ISSUED_20APRIL_2012.2013_1_.pdf

² The reasoning of Advisory Opinion 2013-02 can be applied to the Request in so far as determining Requestor’s ability to pursue elective office. There is not a per se conflict of interest and, so long as Requestor comports his conduct with the governing sections of the Ethics Ordinance, Requestor can pursue elective office while maintaining his employment as a public servant with the City of Detroit.

⁴ Exercises significant authority means having the ability to influence the outcome of a decision on behalf of the City government in the course of the performance of a public servant’s duties and responsibilities.

6. Provide analysis and evaluation of capital resource allocation and operational issues and produce financial and operational data for both internal and external use.
7. Serve as final signoff for grant applications and grant acceptance letters for departments in portfolio prior to submission to City Council.
8. Prepare the Charter-mandated five-year Capital Agenda in collaboration with City departments, authorities, and component units.
9. Develop and explain directives, regulations, guidelines, and procedures to implement City Council legislation and Mayoral budget and program policies, particularly regarding capital and blight remediation initiatives and any policies affecting the departments in my portfolio.
10. Review program and project budget estimates for completeness, accuracy, and conformance with procedures and regulations.
11. Perform cost-benefit analyses to compare operating programs, review financial requests, and explore alternative funding methods.
12. Prepare monthly, quarterly, annual, and ad-hoc analyses and reports to maintain expenditure control.
13. Provide information to the Office of [REDACTED], and other City Executives as requested.
14. Coordinate with departments and Office of [REDACTED] to receive and process all supplemental capital and blight budget requests.
15. Manage emergency response and pandemic response budgets as need arises.

Requestor further noted that he serves as the final Office of [REDACTED] signoff for grant applications and grant acceptances.

III. Applicable Sections of the Ethics Ordinance Applied to the Information Presented

This Request involves Sections of the Ethics Ordinance pertaining to disclosure requirements and standards of conduct. The relevant applicable sections are as follows:

Disclosure Requirements

Sec. 2-5-31. – Disclosure of interests by public servants.

- (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:

- (1) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before City Council;
- (2) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before or within any office, department, or agency of the City; and
- (3) Any interest that the public servant, or an immediate family member, has in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement.

(b) All disclosures that are required under Subsection (a) of this section shall be made, in writing, on a form that is created by the Law Department and sworn to in the presence of a notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

The aforementioned disclosure requirement is, in part, predicated on the Requestor or an immediate family member having a financial interest in a contract or matter that is pending before City Council or an agency of the City. This Request, however, pertains to Requestor potentially serving on the ██████████ City Council. Based on the facts provided, there is no financial interest or pending contract present. A preliminary investigation into this matter found that the City of Detroit does contract with at least one business presently operating in the City of ██████████. However, neither such investigation nor this Request presents any information that would suggest a pecuniary interest by Requestor or an immediate family member in such contracts either in his current role or in his prospective elected position. This Request also does not provide any facts indicating that Requestor or an immediate family member has an interest in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement. Accordingly, there is likely no violation of the Ethics Ordinance disclosure requirements.

Because Requestor's self-enumerated job duties seem to indicate that he does exercise significant authority in his capacity as a public servant, Requestor would need to comport with the disclosure requirements of Section 2-5-33 for campaign contributions and expenditures.

Section 2-5-33 dictates in relevant part: (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority shall disclose campaign contributions and expenditures in accordance with applicable laws.

Standards of Conduct

Sec. 2-5-62 – Improper use or disclosure of confidential information prohibited.

Based on the job description provided by Requestor, it is highly likely that he has access to, or direct knowledge of, confidential information regarding the City's property, government, or affairs

that is not available to the public. Any use or disclosure of such information by Requestor in his prospective elected position would be a violation of the Ethics Ordinance.

Sec. 2-5-63. – Improper use of City property prohibited.

Section 2-5-63 bars the use of City property in violation of City policies and procedures. Requestor acknowledged as much in the Request and, in order to remain in compliance with, should continue to refrain from using city property in any relation to campaign activities.

Sec. 2-5-64. – Incompatible employment or rendering services prohibited.

Section 2-5-64 prohibits a public servant from engaging in employment or the rendering of services that would conflict or be incompatible with the proper discharge of their official duties. This section also bars employment or service that is reasonably expected to impair the public servant's independence of judgment or action in the performance of their duties. The information presented by Requestor, and that acquired by our preliminary investigation, indicates that the duties of Requestor's prospective elected position would be performed outside of work hours and would not conflict with his duties for the City of Detroit.

Sec. 2-5-65. – Representation of private person, business, or organization prohibited; exceptions

Section 2-5-65 bars, generally, public servants from representing persons, businesses, or organizations in any matter that is pending before a City agency. Requestor will not run afoul of this section so long as he refrains from representing the interests of the City of [REDACTED] or the [REDACTED] City Council before any body of, or in any matter before, the City of Detroit.

Sec. 2-5-70. – Prohibition on gifts and gratuities; exceptions.

In relevant part, Section 2-5-70, Prohibition on gifts and gratuities; exceptions, provides that:

- (a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.
- (b) The prohibition in Subsection (a) of this section shall not apply:
 - (4) To an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:
 - a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or
 - b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant

for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

As set forth above, a public servant is prohibited from accepting gifts, gratuities, honoraria, or other things of value from any person or entity doing business or seeking to do business with the City. Here, Requestor is receiving what he describes as a stipend to “compensate council members for purchasing materials related to their work and for gas and maintenance on personal vehicles used in the course of council-related activities . . .”, a thing of value, from the City of ██████████, an entity that is doing business with the City.

Although the Ethics Ordinance does not define “doing business,” the phrase is defined the Codes’ chapter on taxation as “the conduct of any activity with the object of gain or benefit.”¹³ This definition can be applied here according to the “whole act rule” of statutory interpretation that “calls for courts to interpret a statutory term by assuming that a term used in a statute means the same thing wherever it appears, and that different words mean different things.”⁵

██████████ is a party to several memorandums of understanding with the City of Detroit regarding police, fire, and street maintenance. Although there are no direct contractual dealings between the two cities, their collaboration through the MOUs would likely be considered “doing business.” As such, Requestor would be prohibited from accepting the pay that comes with the position under Section 2-5-70.

The prohibition on gifts and gratuities is not applicable in cases where the thing of value is intended to cover travel expenses in connection with the public servant’s provision of assistance to another government entity as long as the City does not compensate the public servant for such expenses. According to the Request, the stipend provided to ██████████ City Council members is predominantly aimed at offsetting the cost of travel expenses and vehicle maintenance incurred to attend council meetings and events. Further, nothing suggests that the City of Detroit compensates Requestor for travel expenses. However, the ██████████ City Manager clarified for us that the pay of city council members is directed by the ██████████ City Charter and that council members receive a W2 for their pay as it is considered a salary. The City Manager further noted that, under another memorandum of understanding, council members can donate their salary. In order to comply with Section 2-5-70, Requestor would need to take advantage of the MOU allowing for the donation of his salary as it does not qualify for any of the exceptions.

IV. Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2022-16. The Requestor would not be in violation of the Ethics Ordinance in simultaneously serving as both a public servant for the City of Detroit and as a city council member for the City of ██████████. Requestor can seek elective office

⁵ Nina A. Mendelson, Change, Creation, and Unpredictability in Statutory Interpretation: Interpretive Canon Use in the Roberts Court’s First Decade, 117 Mich. L. Rev. 71, 81 (2018)

without violating the Ethics Ordinance so long as he comports with the Standards of Conduct as outlined in this opinion. However, with respect to the first question posed in the Request, Requestor would not be able to accept the salary for the position and would need to donate it pursuant to ██████'s purported MOU in order to comply with Section 2-5-70.

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Dated: February 27, 2023

APPENDIX B

2023 OPEN SESSION

MEETING MINUTES

Board Members:

Kristin A. Lusn, Chairperson	P
David W. Jones, Vice-Chairperson	P
Mario L. Morrow, Sr.	P
Michael Rafferty	P
Robert Watt	E
Vacant	
Vacant	

Chairperson Lusn called the Special meeting to order at 1:10 p.m. A Quorum was established.

II. Roll Call.

III. Approval of the Agenda.

Chairperson Lusn motioned to move Section X. New Business moved up to Section VI. Vice-Chair Jones seconded. Motion Carried.

Member Morrow motioned to approve the February 23, 2023, Special Meeting agenda with the noted change. Member Rafferty seconded. Motion Carried.

IV. Period for Public Comment.

V. Reading and Approval of the Minutes.

A. Approval of the November 16, 2022, Special Meeting Session.

Vice-Chair Jones motioned to approve the November 16, 2022, Special Meeting Minutes. Member Rafferty seconded. Motion Carried.

B. Approval of the November 16, 2022, Special Meeting Closed Session Minutes.

Member Morrow motioned to approve the November 16, 2022, Special Closed Meeting Minutes. Vice Chair Jones seconded. Motion Carried.

VI. New Business.

A. Nominations and Vote for Officers for 2023.

Vice-Chair Jones nominated Chairperson Lusn for continuation of Board Chair. Member Rafferty seconded. Chairperson Lusn accepted the nomination. Motion Carried.

Chairperson Lusn nominated Member Rafferty for Vice-Chair. Vice-Chair Jones seconded. Member Rafferty accepted the nomination. Motion Carried.

B. Affirm Meeting Dates for the 2023 Calendar Year.

Chairperson Lusn motioned to approve the 2023 proposed meeting schedule for the continuation of the Board of Ethics meetings to be held on the 3rd Wednesday monthly at 2:00 p.m. Member Morrow seconded. Motion Carried.

C. Annual Report. Discussed.

VII. Reports: Complaints, Request, and Investigations.

A. RAO 2023-05. May 2, 2023. No Update.

B. RAO 2023-06. May 19, 2023. No Update.

VIII. Closed Session.

Vice Chair Jones motioned to enter Closed Session for a confidential discussion of agenda matter A. thru I. Member Rafferty seconded. Roll call vote: Member Morrow (Yes), Chairperson Lusn (Yes), Vice-Chair Jones (Yes), Member Rafferty (Yes). Motion Carried.

****CLOSED SESSION BEGAN AT 1:14 PM****

A. RAO 2022-16. PA. March 18, 2023.

Member Morrow motioned to accept the Preliminary Analysis that no violation would be made and issue an opinion on RAO 2022-16. Member Rafferty seconded. Vice-Chair Jones opposed. Motion Carried.

B. Investigation 2022-02. PA. December 9, 2022/March 9, 2023.

Vice-Chair Jones motioned to dismiss Investigation 2022-02 due to a lack of jurisdiction in accordance with Sec. 2-5-162(1)(a). Member Morrow seconded. Motion Carried.

C. Investigation 2022-03. PA. January 5, 2023/April 6, 2023.

Member Rafferty motioned to schedule a hearing based upon an ethical violation admission on Investigation 2022-03 in accordance with Sec. 2-5-166(4). Member Morrow seconded. Motion Carried.

D. Complaint 2023-01. PA. April 5, 2023.

Vice-Chair Jones motioned to dismiss Complaint 2023-01 for lack of jurisdiction in accordance with Sec. 2-5-145-(b)(1)(a). Member Rafferty seconded. Motion Carried.

E. RAO 2023-01. April 6, 2023. PA.

Vice-Chair Jones motioned to issue an opinion on RAO 2023-01 based on the Preliminary Analysis and recommend the filing of a disclosure form in accordance with Sec. 2-5-124-(b)(4). Member Morrow seconded. Motion Carried.

F. RAO 2023-02. April 11, 2023. PA.

Member Morrow motioned to a extend RAO 2023-02 for 91 days. Chairperson Lusn seconded. Motion Carried.

G. RAO 2023-03. April 14, 2023. PA.

Member Morrow motioned to a extend RAO 2023-03 for 91 days. Chairperson Lusn seconded. Motion Carried.

H. RAO 2023-04. April 14, 2023. PA.
Member Morrow motioned to a extend RAO 2023-04 for 91 days. Chairperson Lusn seconded. Motion Carried.

I. Complaint 2023-02. April 5, 2023.
Vice-Chair Jones motioned to dismiss Complaint 2023-01 f for lack of jurisdiction in accordance with Sec. 2-5-145-(b)(1)(a). Chairperson Lusn seconded. Motion Carried

****CLOSED SESSION ENDED AT 1:56 PM****

IX. Executive Director's Report.

- A. Budget. Discussed.
- B. Ordinance Revision Working Group. Discussed.
- C. Board of Ethics Vacancies. Discussed.
- D. Green Belt Training / Lean Six Sigma. Discussed.
- E. Learning, Training, Website, and Marketing. Discussed.
- F. Facilities. Discussed.

X. Unfinished Business.

- A. Digital Detroit Media. Discussed.
- B. Complaint Letter. Discussed.

XI. Announcements.

- A. The next General Meeting of the Board of Ethics is Wednesday, March 15, 2023, at 2:00 PM. At the Butzel Family Center, 7737 Kercheval, Detroit, MI 48214.

Chairperson Lusn motioned to adjourn. Member Rafferty seconded. Motion Carried.

Meeting Adjourned at 2:11 PM.

Board Members:

Kristin A. Lusn, Chairperson	P	
David W. Jones, Vice-Chairperson	P	
Mario L. Morrow, Sr.	E	
Carron Pinkins	P	
Michael Rafferty	E	
Robert Watt	A	
Urrond Williams	P	

Chairperson Lusn called the special meeting to order at 12:13 PM. A quorum was established.

II. Roll Call.

III. Approval of the Agenda.

Chairperson Lusn called for a motion to approve the April 27, 2023, Special Meeting agenda. Member Urrond Williams supported. Motion Carried.

IV. Period for Public Comment.

No one from the public raised a hand to make a comment.

V. Reading and Approval of the Minutes.

A. Approval of the February 23, 2023, Special Meeting Session.

Vice Chairperson Jones stated that the meeting minutes could not be approved because the two new members were not at the February 23, 2023 special meeting. Chairperson Lusn called for a motion to move the February 23, 2023 minutes to the end of the agenda for approval. Vice Chairperson Jones supported. Motion Carried.

The approval of the February 23, 2023 Special Meeting Minutes was not made at the end of the meeting and need to be approved at the next scheduled meeting.

B. Approval of the February 23, 2023, Special Meeting Closed Session Minutes.

Chairperson Lusn called for a motion to move the February 23, 2023 minutes to the end of the agenda for approval. Vice Chairperson Jones supported. Motion Carried.

The approval of the February 23, 2023 Special Meeting Closed Session Minutes was not made at the end of the meeting and need to be approved at the next scheduled meeting.

VI. Reports: Complaints, Request, and Investigations.

A. RAO 2023-09. July 7, 2023.

Viollca Serifovski, Law Department, anticipated filing answers to RAO 2023-09 by May 12, 2023.

B. Complaint 2023-03. July 12, 2023.

Viollca Serifovski, Law Department, anticipated filing answers to RAO 2023-10 by May 12, 2023.

VII. Closed Session.

Chairperson Lusn called for a motion to enter Closed Session for a confidential discussion of items A through I on the agenda. Roll call vote: David Jones (Yes), Urrond Williams (Yes), Carron Pinkins (Yes). Motion Carried.

****CLOSED SESSION BEGAN AT 12:18 PM****

****CLOSED SESSION ENDED AT 2:12 PM****

VIII. Administrative Report.

A. Budget.

Executive Director Phillips reported that the Board of Ethics will receive an additional \$150,000 in funding for Fiscal Year 2023-2024 to build a Learning Management System. The Board of Ethics was also approved for a \$55,000 contract to obtain WingSwept for Fiscal Year 2022-2023.

B. Ordinance Revision Working Group.

The Ordinance Revision Working Group was established in November 2022 and have been meeting monthly to revise the Ethics Ordinance and the Administrative Rules. Additional meetings will be held in the Summer to complete revisions for the Administrative Rules.

C. Board of Ethics Vacancies.

Executive Director Phillips welcomed two new Board members, Carron Pinkins and Urrond Williams. Member Mario Morrow will step down at the end of May, creating an additional vacancy to fill.

D. Creation of Internal Operating Procedures.

Executive Director Phillips moved to have this topic discussed at a future Board meeting.

E. Green Belt Training / Lean Six Sigma.

Investigator Dawn Widman reported that she is two-thirds through the program working to improve case file management.

F. Facilities.

Executive Director Phillips reported that the elevator at Butzel Family Center has been fixed.

IX. New Business.

A. Annual Report.

The Annual Report was released on April 1, 2023 and is available on the Board of Ethics website.

B. BOE Communications.

Executive Director Phillips brought up the Detroit Free Press article on elected officials hiring their family members, highlighting why the Ethics Ordinance needs to be revised, and why the ordinance revision working group was established.

C. Evaluation Process of Executive Director

Member Mario Morrow requested in the last meeting that this item be added to the agenda because the Board should evaluate the Executive Director, not the staff. Executive Director Phillips agreed that standards should be established. Chairperson Lusn recommended that a subcommittee may be created, and discussion held with Human Resources on how the Board can evaluate the Executive Director without accessing UKG.

D. Board Information
No Discussion.

X. Announcements.

- A. The next General Meeting of the Board of Ethics is Wednesday, May 17, 2023, at 2:00 PM. The location is the Butzel Family Center, 7737 Kercheval, Detroit, MI 48214.

Vice Chair Jones motioned to adjourn. Carron Pinkins seconded. Motion Carried.

Meeting Adjourned at 2:24 PM.

Board Members:

Kristin A. Lusn, Chairperson	P
David W. Jones	P
Carron Pinkins	P
Robert Watt	P
Vacant	
Vacant	
Vacant	

Chairperson Kristin Lusn called the General meeting to order at 2:31 PM. A Quorum was established.

II. Roll Call.

III. Approval of the Agenda.

Chairperson Lusn called for a motion to move VI. A. Hearing: Investigation 2022-03 to a closed session at the request of the Respondent and move VII. M. Memo: Request to Open Investigation to Open Session under VI. Reports: Complaints, Requests, and Investigations. Carron Pinkins supported. David Jones seconded. Motion Carried.

IV. Period for Public Comment.

No one from the public raised a hand to make a comment.

V. Reading and Approval of the Minutes.

A. Approval of the February 23, 2023. Special Meeting Session Minutes.

Chairperson Lusn called for a motion to approve. So moved by David Jones. Carron Pinkins seconded. Motion Carried.

B. Approval of the February 23, 2023. Special Meeting Closed Meeting Session Minutes.

Chairperson Lusn called for a motion to approve. Carron Pinkins motioned to approve. David Jones supported. Motion Carried.

C. Approval of the Meeting Minutes from April 27, 2023. General Meeting Session Minutes.

Chairperson Lusn called for a motion to approve. So moved by David Jones. Carron Pinkins seconded.

D. Approval of the Meeting Minutes from April 27, 2023. Closed Meeting Session Minutes.

Chairperson Lusn called for a motion to approve. So moved by Carron Pinkins. Robert Watt seconded.

VI. Reports: Complaints, Request, and Investigations. Extension Needed.

A. Memo: Request to Open Investigation

Executive Director Christal Phillips requested that the Board open an investigation into Councilmember Angela Whitfield Calloway. Chairperson Lusn called for a motion to open an investigation into Councilmember Angela Whitfield Calloway. David Jones motioned to take Executive Director Phillips' recommendation to open an investigation as it relates to the employment of potential immediate family members. Robert Watts seconded. Motion Carried.

VII. Closed Session. Hearing I-2022-03.

Chairperson Lusn called for a motion to enter into a Closed Session for the purposes of conducting a Hearing on I-2022-03, as requested by the Respondent. Carron Pinkins motioned to enter into a Closed Session. Robert Watt seconded.

Roll call vote: David Jones (Yes), Carron Pinkins (Yes), Robert Watt (Yes), Kristin Lusn (Yes). Motion Carried.

****CLOSED SESSION. HEARING I-2022-03. BEGAN AT 2:50 PM****

****CLOSED SESSION. HEARING I-2022-03. ENDED AT 3:33 PM****

Kristin Lusn motioned to return to Open Session. Robert Watt seconded. Motion Carried. No members of the public were present.

David Jones called for a motion that the Board find a violation of Ethics Ordinance, Section 2-5-72. Prohibition on campaign activities by using City personnel or property, or during working hours., had occurred and to dispose of I-2022-03 with no further action taken.

Roll call vote: Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes), Carron Pinkins (Abstained). Motion Carried.

VIII. Closed Session.

Chairperson Lusn called for a motion to enter into Closed Session for the purposes of discussing privileged and confidential matters. So moved by Robert Watt. Seconded by David Jones.

Roll call vote: Carron Pinkins (No), Kristin Lusn (Yes), Motion Carried.

****CLOSED SESSION. BEGAN AT 3:41 PM****

****CLOSED SESSION. ENDED AT 5:12 PM****

Chairperson Lusn called for a motion on items A through C on the agenda, which were Complaint 2023-03, Complaint 2023-04, and Complaint 2023-05. Carron Pinkins motioned for the Board to hire outside counsel to discuss statute of limitations and the issue of a lack of a quorum in deciding the aforementioned matters. Robert Watt seconded. Motion Carried.

Chairperson Lusn called for a motion to dismiss C-2023-06 pursuant to 2-5-145(b)(1)(e). So moved by David Jones. Seconded by Robert Watt. Motion Carried.

Chairperson Lusn called for a motion to dismiss items E and F on the agenda, which were C-2023-07 and C-2023-08, pursuant to 2-5-145(b)(1)(b). So moved by David Jones. Seconded by Robert Watt. Motion Carried.

Chairperson Lusn called for a motion to decline to issue an opinion for RAO 2023-06 based upon 2-5-124(b)(2). So moved by David Jones. Carron Pinkins seconded. Motion Carried.

Chairperson Lusn called for a motion to decline to issue an opinion on items H and I, which were RAO-2023-09 and RAO-2023-10, pursuant 2-5-142(b)(2) but to adopt the recommendation of the Board's counsel and issue a correspondence to the Requestors. So moved by David Jones. Seconded by Robert Watt. Motion Carried.

Chairperson Lusn called for a motion to issue an opinion on RAO 2023-11, based upon the recommendation of the Board's counsel and 2-5-124(b)(4). So moved by David Jones. Seconded by Robert Watt. Motion Carried.

Chairperson Lusn called for a motion to hire outside counsel to make a determination on RAO 2022-11. So moved by David Jones. Seconded by Robert Watt. Motion Carried.

Chairperson Lusn called for a motion to table until the next meeting Legal Memo: Establishing Quorum with three vacancies. So moved by David Jones. Seconded by Carron Pinkins. Motion Carried.

- IX. New Business
 - A. Nominations and Vote for Vice Chair for 2023.

Chairperson Lusn called for a motion to table items VIII. Executive Director's Report., and IX. Unfinished Business., on the agenda to address the more important business of nominating a Vice Chair. David Jones moved to take out of order VIII. Executive Director's Report., and IX. Unfinished Business., and jump to nominations for Vice Chair. Seconded by Robert Watt. Motion Carried.

Chairperson Lusn called for a motion to nominate Carron Pinkins for Vice Chair of the Board of Ethics. David Jones nominated Carron Pinkins as Vice Chair. Robert Watt supported. Motion Carried.

- X. Executive Director's Report
 - A. GDYT Summer Interns.

Executive Director Phillips formally introduced Dajanae Mason and Dezire Robinson as the GDYT interns at the Board of Ethics for this summer.

- B. Board of Ethics Vacancies.

Executive Director Phillips reported that interviews have been scheduled for the following Wednesday to fill the Administrative Assistant position. For the three Board vacancies, Executive Director Phillips is waiting for the Mayor's Office and City Council to appoint members to fill those vacancies.

- XI. Unfinished Business.
 - A. Evaluation Process of Executive Director.

Executive Director Phillips recommended that the Chair and Vice Chair use a similar evaluation system found in the UKG system to evaluate the Executive Director and submit to HR, but it is up to the Board on how to proceed.

- B. Green Belt Training / Lean Six Sigma.

Investigator Dawn Widman reported that she is close to finishing the Green Belt project. She will do a report for the Mayor and she is finishing the procedures for the Case Management System. Ms. Widman also received Best Presenter.

XII. Announcements

- A. The next General Meeting of the Board of Ethics is Wednesday, August 16, 2023, at 2:00 PM. The location is the Butzel Family Center, 7737 Kercheval, Detroit, MI 48214.

Chairperson Lusn called for a motion to adjourn. So moved by David Jones. Carron Pinkins seconded. Motion Carried.

Meeting Adjourned at 5:19 PM.

Board Members:

Kristin A. Lusn, Chairperson	P
Carron Pinkins, Vice Chairperson	P
David W. Jones	P
Robert Watt	P
Vacant	
Vacant	
Vacant	

Chairperson Kristin Lusn called the Special Meeting to order at 1:19 PM. A Quorum was established.

II. Roll Call.

III. Approval of the Agenda.

Chairperson Lusn called for a motion to add item H. RAO 2023-12 to VII. Closed Session. So moved by Robert Watt. Carron Pinkins seconded. Motion carried.

IV. Period for Public Comment.

No one from the public raised a hand to make a comment.

V. Review and Approval of the Minutes

A. Approval of the Meeting Minutes from July 19, 2023. General Meeting Session.

Chairperson Lusn called for a motion to approve. So moved by Carron Pinkins. Robert Watt seconded. Motion Carried.

B. Approval of the Meeting Minutes from July 19, 2023. Closed Meeting Session.

Chairperson Lusn called for a motion to approve. So moved by Robert Watt. Carron Pinkins seconded. Motion Carried.

C. Approval of the Meeting Minutes from July 19, 2023. Hearing I-2022-03. Closed Session.

Chairperson Lusn called for a motion to approve. So moved by Carron Pinkins. David Jones seconded. Motion Carried.

VI. Reports: Complaints, Requests, and Investigations

A. Board of Ethics' Request to Retain Outside Counsel.

Executive Director Christal Phillips summarized her memo to Conrad Mallett requesting outside counsel. Mr. Mallett responded that the Board of Ethics is not authorized to retain outside counsel, and there was no legitimate basis, in his opinion, warranting the need for an independent review of the matters for which the Board requested independent counsel.

Carron Pinkins and David Jones disagreed with Mr. Mallett's memo and stated why the City Charter, Section 2-106.9, expressly allows the Board of Ethics to move forward with independent counsel.

Chairperson Lusn called for a motion. Carron Pinkins made a motion for the Executive Director to respond to Corporation Counsel's denial of the Board of Ethics' right to appoint independent counsel regarding the matter of conflict of interest that has arisen. Robert Watt seconded. Motion carried.

VII. Closed Session.

Chairperson Lusn called for a motion to enter into Closed Session for the purposes of discussing privileged and confidential memorandums by the Law Department. So moved by Robert Watt. Seconded by Carron Pinkins.

Roll call vote: Carron Pinkins (Yes), David Jones (Yes), Robert Watt (Yes), Kristin Lusn (Yes).
Motion Carried.

****CLOSED SESSION. BEGAN AT 1:35 PM****

****CLOSED SESSION. ENDED AT 2:56 PM****

A. Investigation 2023-01. October 18, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion. David Jones moved to extend Investigation 2023-01 due to the extenuating circumstances as it relates to dialogue between the Board's Executive Director and the person being investigated. Robert Watt seconded. Motion carried.

B. Complaint 2023-09. October 26, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to dismiss Complaint 2023-09 pursuant to 2-5-145(b)(1)(e). So moved by Robert Watt. Carron Pinkins seconded. Motion carried.

C. Complaint 2023-03. July 12, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to dismiss Complaint 2023-03 pursuant to 2-5-145(b)(1)(d) because it was not filed within the Ordinance timeline. So moved by Robert Watt. Seconded by Carron Pinkins. Motion carried.

D. Complaint 2023-04. July 12, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to dismiss Complaint 2023-03 pursuant to 2-5-145(b)(1)(e) based upon other matters actively pending. So moved by Robert Watt. Seconded by Carron Pinkins. Motion carried.

E. Complaint 2023-05. July 18, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to dismiss Complaint 2023-05 pursuant to 2-5-145(b)(1)(e) based upon other matters actively pending. So moved by Robert Watt. Seconded by Carron Pinkins. Motion carried.

F. RAO 2022-11. July 13, 2022/October 12, 2022. Supplemental Preliminary Analysis.

Chairperson Lusn called for a motion. David Jones moved to have the Executive Director respond to Corporation Counsel, citing Section 2-106.9 of the City Charter, which empowers the Board to appoint outside counsel in matters of conflict of interest and take steps to follow up on that matter. Robert Watt seconded. Motion carried.

G. Legal Memo: Establishing Quorum with three vacancies.

The Board acknowledged that it received the memo and filed it accordingly.

H. RAO 2023-12. Preliminary Analysis.

Chairperson Lusn called for a motion to decline to issue an opinion pursuant to 2-5-124(b)(2) and advise the Requestor to seek guidance from their employer on standards of conduct and ethics issues. So moved by Robert Watt. Seconded by David Jones. Motion carried.

VIII. Executive Director's Report.
a. Budget.

Executive Director Phillips reported that the new budget year has started, and the office has submitted its Goals, Services, and Metrics Workbook as requested by OCFO.

The Executive Director reported that the office has received \$545,278 for this fiscal year, a decrease of \$64,723 from last fiscal year's budget of \$610,001. The office believed that an additional \$150,000 would be allocated for the development of a Learning Management System (LMS). It was stated in City Council's 2023-2024 Closing Resolution on Financial and Budgetary Priorities that City Council encouraged the allocation of \$150,000 ARPA dollars for the development of the LMS. However, when Executive Director Phillips asked OCFO why the \$150,000 was not reflected in the office's budget, OCFO told her that the language in the Closing Resolution did not ensure funding for the Board of Ethics, and all of the City's ARPA funds were already appropriated for other purposes, and there is not a spare \$150,000 available for the LMS. Executive Director Phillips was also requested to meet with the heads of OCFO, Jay Rising and Tanya Stoudemire.

Executive Director Phillips and Training Specialist Michael O'Connell plan to meet with OCFO to further discuss the issue.

b. Board of Ethics Vacancies.

Executive Director Phillips reported that there are still three vacancies on the Board. The last update from the Mayor's Office was that its two vacancies will need to wait until City Council returns from recess.

Interviews were conducted for the Administrative Assistant vacancy, and the office plans to repost the job posting.

c. Staff Salaries.

Executive Director Phillips requested and received approval from the Board for salary increases of 5% for herself and Training Specialist Michael O'Connell.

Executive Director Phillips requested HR to reclassify Investigator Dawn Widman to a Senior Investigator and expects that the salary range proposed by HR will allow an increase of at least 5% or higher from Ms. Widman's current salary.

Additionally, Executive Director Phillips received the Board's approval to adopt HR's proposed new salary range for the Executive Director position. The current salary range is \$72,288 - \$118,669. The Board has approved to adopt HR's proposed new salary range of \$98,000 - \$127,500.

d. COGEL Conference

The COGEL Conference will be held December 3 – 6. Executive Director Phillips asked Board members to confirm their attendance by the end of August with the days they plan to depart from Detroit and Kansas City. Mr. O'Connell will explain how to fill out the forms to reserve flights and hotel.

IX. Unfinished Business

- a. Evaluation Process of Executive Director.

Executive Director Phillips contacted HR for assistance or a template evaluation form for the Board to evaluate the Executive Director but did not receive guidance. Executive Director Phillips created a draft evaluation form that the Board can improve upon. The Board will use the evaluation form to set goals for the new evaluation year. For Executive Director Phillips' first year, the Board will submit statements to HR.

- b. Green Belt Training / Lean Six Sigma

Ms. Widman is near the end of the program. WingSwept was implemented and went live on August 7th. Ms. Widman is fine-tuning her presentation to give to the Mayor scheduled on September 6th. At the end of the program Ms. Widman will receive her Green Belt certification and will take her Project Management Planning certification test.

- c. Learning, Training, Website, and Marketing.

Due to technical difficulties, Learning, Training, Website, and Marketing was tabled for the next meeting.

X. Announcements.

- a. The next General Meeting of the Board of Ethics is Wednesday, September 20, 2023, at 2:00 pm. The location is the Butzel Family Center, 7737 Kercheval, Detroit, MI 48214.

Chairperson Lusn called for a motion to adjourn. So moved by Carron Pinkins. Robert Watt seconded. Motion Carried.

Meeting Adjourned at 3:14 PM.

Board Members:

Kristin A. Lusn, Chairperson	P
Carron Pinkins, Vice-Chairperson	P
David Jones	P
Robert Watt	P
Vacant	
Vacant	
Vacant	

Chairperson Kristin Lusn called the General Meeting to order at 2:06 PM. A Quorum was established.

II. Roll Call.

III. Approval of the Agenda.

Chairperson Lusn called for a motion to approve the agenda. So moved by David Jones. Robert Watt seconded. Motion Carried.

IV. Period for Public Comment.

No members of the public were present.

V. Reading and Approval of the Minutes.

A. Approval of the Meeting Minutes from August 24, 2023. Special Meeting Session.

Chairperson Lusn called for a motion to approve the meeting minutes from August 24, 2023. So moved by Carron Pinkins. David Jones seconded. Motion Carried.

VI. Reports: Complaints, Request, and Investigations.

There was nothing to report from VI. Reports: Complaints, Request, and Investigations.

VII. Closed Session.

Chairperson Lusn called for a motion to enter into Closed Session for the purposes of discussing Investigation 2023-01, RAO 2023-13, and RAO 2023-14. So moved by David Jones. Carron Pinkins seconded.

Roll call vote: David Jones (Yes), Carron Pinkins (Yes), Robert Watt (Yes), Kristin Lusn (Yes). Motion Carried.

****CLOSED SESSION BEGAN AT 2:08 PM****

**** CLOSED SESSION ENDED AT 2:20 PM****

A. Investigation 2023-01. October 18, 2023 / January 17, 2024.

This is a continuing investigation. No vote needed.

B. RAO 2023-13. November 27, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to issue an opinion in accordance with legal counsel's recommendation and pursuant to Section 2-5-124(b)(4). So moved by Robert Watt. Seconded by Carron Pinkins. Motion Carried.

C. RAO 2023-14. December 5, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to decline to issue an opinion pursuant to Section 2-5-124(b)(3) but to tell the requestor to look to RAO 2018-18 for guidance. So moved by David Jones. Motion Carried.

VIII. Unfinished Business.

A. COGEL Conference.

Mr. O'Connell explained the travel packet required to be filled out and submitted to the City. Dawn Widman will present on report writing and investigative methods, and Michael O'Connell will present on data analytics and ethics at the COGEL Conference.

B. Green Belt Training / Lean Six Sigma.

Dawn Widman completed her Green Belt program and presented to the Mayor's Executive Committee on September 6, 2023. The project is completed and Ms. Widman will receive her certificate.

C. Learning, Training, Website, and Marketing.

Michael O'Connell has an in-person training scheduled for 6:00 PM next Wednesday with the trainers for poll workers at the Department of Elections as requested by the Director of Training Rueben Washington.

Mr. O'Connell is working on updating the website for the 2022 opinions and should be done by the end of October. At the request of Carron Pinkins, the minutes for 2022 and up to today's approval of the August 24, 2023 minutes will appear on the website correctly.

IX. Announcements.

A. The next General Meeting of the Board of Ethics is Wednesday, October 18, 2023, at 2:00 PM. The location is the Butzel Family Center, 7737 Kercheval, Detroit, MI 48214.

Chairperson Lusn called for a motion to adjourn. So moved by David Jones. Seconded by Carron Pinkins. Motion Carried.

Meeting Adjourned at 2:30 PM.

Board Members:

Kristin A. Lusk, Chairperson	P
Carron Pinkins, Vice-Chairperson	P
David Jones	A
Robert Watt	P
Yvette McElroy Anderson	P
Vacant	
Vacant	

Chairperson Kristin Lusk called the General Meeting to order at 2:23 PM. A Quorum was established.

II. Roll Call.

III. Approval of the Agenda.

Chairperson Lusk entertained a motion to add two additional items to the agenda, under the Executive Director’s Report, G. New City of Detroit Disclosure Requirements. and H. Inquiry from the Kelly Clarkson Show. So moved by Carron Pinkins. Robert Watt seconded. Motion Carried.

Chairperson Lusk entertained a motion to approve the agenda as amended. So moved by Yvette McElroy Anderson. Seconded by Carron Pinkins. Motion Carried.

IV. Period for Public Comment.

No members of the public were present.

V. Reading and Approval of the Minutes.

A. Approval of the Meeting Minutes from September 20, 2023. General Meeting Session.
Chairperson Lusk called for a motion to approve the meeting minutes from September 20, 2023. So moved by Carron Pinkins. Robert Watt seconded. Motion Carried.

VI. Closed Session.

Chairperson Lusk called for a motion to enter into Closed Session for the purposes of discussing Investigation 2023-01, RAO 2023-15, and OIG 22-0009-INV. So moved by Yvette McElroy Anderson. Carron Pinkins seconded.

Roll call vote: Robert Watt (Yes), Carron Pinkins (Yes), Yvette McElroy Anderson (Yes), Kristin Lusk (Yes). Motion Carried.

****CLOSED SESSION BEGAN AT 2:27 PM****

Chairperson Lusk called for a motion to go back into Open Session. So moved by Carron Pinkins. Robert Watt seconded.

Roll call vote: Carron Pinkins (Yes), Robert Watt (Yes), Yvette McElroy Anderson (Yes), Kristin Lusk (Yes). Motion Carried.

**** CLOSED SESSION ENDED AT 4:05 PM****

A. Investigation 2023-01. October 18, 2023 / January 17, 2024.

Chairperson Lusn entertained a motion on this matter. Carron Pinkins made a motion to hold a Hearing on Investigation 2023-01. Robert Watt supported. Motion Carried.

Chairperson Lusn entertained a motion on the scheduling date of the Hearing. Carron Pinkins made a motion to schedule the Hearing as soon as the Board is able to, which is December 8, 2023. Robert Watt supported. Motion Carried.

B. RAO 2023-15. December 20, 2023. Preliminary Analysis.

Chairperson Lusn called for a motion to issue an opinion in accordance with legal counsel's analysis. So moved by Robert Watt. Seconded by Carron Pinkins. Motion Carried.

C. OIG 22-0009-INV. BOE Referral.

Chairperson Lusn acknowledged that the matter was received and filed.

VII. Executive Director's Report.

A. Budget.

Executive Director Christal Phillips reported that tomorrow will be the budget director's hearing with OCFO. The budget amount given to the Board of Ethics for FY25 is \$551,441. The Board of Ethics is asking for an additional \$181,104 for a total budget request amount of \$732,545. The largest request is \$125,000 for an autonomous Learning Management System. Funding for the Learning Management System was requested for FY24 and recommended in the City Council's closing resolution, but the funding was not given to the Board of Ethics. Other requests include funding to cover the increase in COGEL membership and conference expenses, consultant attorney's fees, etc.

B. Board Member Vacancies.

Executive Director Christal Phillips welcomed new Board member Yvette McElroy Anderson. Updated board and staff contact sheets were provided. The Board currently has five members, with David Jones' term ending on December 12, 2023. Executive Director Phillips is in touch with the mayor's office to fill the joint appointment vacancy and Mr. Jones' seat. Executive Director Phillips also submitted a memo to City Council last month requesting that its vacancy be filled.

C. Online Ethics Training and Annual Board Training.

Executive Director Christal Phillips reminded Board members to take their online ethics training. The first Board training since 2018 was held in January 2023. Executive Director Phillips wants to make Board training an annual event, so another Board training is being planned for early Spring 2024.

D. Updated RAO and Disclosure Forms.

Updated RAO and Disclosure Forms were submitted to the Law Department last month for approval. Law Department attorney Jordan Miller stated that he is still working on the

**Wednesday, November 15, 2023
City of Detroit
BOARD OF ETHICS
General Meeting Minutes
process for approval.**

**Butzel Family Center
7737 Kercheval
Detroit, MI 48214
2:00 p.m. – 4:00 p.m. EST**

E. Gift Collection Procedures.

Standard Operating Procedures for gift collection were created, along with an updated Gift Collection Form and a new Disposition of Gifts form.

One of the ways the Board of Ethics hopes to dispose of gifts is by doing good for the community with a donation this holiday season. This year, the Board of Ethics will participate in Adopt a Family with Children’s Hospital of Michigan for an anonymous child patient at the hospital.

F. Updated Board of Ethics Administrative Rules.

Executive Director Christal Phillips reported that final edits are being made to the administrative rules based on comments from the Ethics Ordinance and Administrative Rules working group meetings. She hopes to have the Administrative Rules turned in to the Law Department by the end of December. This will be the first time the Administrative Rules will be revised since its creation in 2007. The Ordinance Revision Working Group meetings will be restarted in the New Year.

G. New City of Detroit Disclosure Requirements.

On November 8th, the Free Press published an article, Detroit Enacts Ethics Reforms. Executive Director Christal Phillips said she emailed CRIO Director Anthony Zander but has not received a response. At no time was the Board of Ethics consulted on this issue or made aware of new ethics disclosures.

H. Inquiry from the Kelly Clarkson Show

Yesterday, the Board of Ethics received a phone call from an assistant associate producer from the Kelly Clarkson Show about Linita Edge, a City of Detroit Traffic Control Operator with DPD. Ms. Edge was flown out to New York to attend a taping of the Kelly Clarkson Show today. The Kelly Clarkson Show wanted the Board of Ethics to sign a compliance letter to give approval for the show to give Ms. Edge one year’s worth of rent from the show’s partner Bilt Rewards, in the form of a check for \$30,000. Ms. Edge is unaware that she will receive \$30,000, only that she will speak to the viral TikTok video in May with influencer Zachery Dereniowski. The Board of Ethics cannot sign the compliance form.

Jordan Miller stated that if the conduct has already occurred, we can only opine on the legality of a course of action through an RAO or go through the process of an Investigation or Complaint, and this can be discussed at the next Board meeting. Michael O’Connell will send a request for a meeting with the Chief’s office about tailor-made training, drawing attention to Section 2-5-70 of the Ethics Ordinance.

VIII. Unfinished Business.

A. COGEL Conference.

Executive Director Christal Phillips provided the COGEL conference program and schedule, noting when Dawn Widman and Michael O’Connell will present. Mr. O’Connell also put together a travel packet for the Board members with flight and hotel information.

**Wednesday, November 15, 2023
City of Detroit
BOARD OF ETHICS
General Meeting Minutes**

**Butzel Family Center
7737 Kercheval
Detroit, MI 48214
2:00 p.m. – 4:00 p.m. EST**

B. Learning, Training, Website, and Marketing.

Michael O’Connell reported that two in-person trainings were conducted in the last two weeks. Mr. O’Connell requested that the Board approve a new biannual training schedule.

Chairperson Lusn called for a motion to change the training to a biannual schedule. So moved by Robert Watt. Carron Pinkins seconded. Motion carried.

Mr. O’Connell reported that the office is getting new marketing materials to pass out to public servants including ornaments with the Board of Ethics logo, notebooks, cups, and ping pong balls.

IX. Announcements.

A. The next General Meeting of the Board of Ethics is Wednesday, December 20, 2023, at 2:00 PM. The location is the Butzel Family Center, 7737 Kercheval, Detroit, MI 48214.

Chairperson Lusn called for a motion to adjourn. So moved by Robert Watt. Seconded by Carron Pinkins. Motion Carried.

Meeting Adjourned at 4:32 PM.

Board Members:

Kristin Lusn, Chairperson	P
Carron Pinkins, Vice-Chairperson	P
David Jones, Member	P
Yvette McElroy Anderson, Member	P
Robert Watt, Member	P

Corporation Counsel:

Jordan Miller, Assistant Corporation Counsel	P
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Staff:

Christal Phillips, Executive Director	P
Dawn Widman, Investigator	P
Michael O'Connell, Training Specialist	P

Public:

Angela Whitfield Calloway, Respondent	P
Yvonne Mickens, Attorney for the Respondent	P

I. Call to Order

Carron Pinkins, serving as the Chairperson for Hearing on Investigation 2023-01, called the hearing to order at 1:10 PM.

Roll Call: Robert Watt (Present), Kristin Lusn (Present), David Jones (Present), Yvette McElroy-Anders (Present), Carron Pinkins (Present)

II. Chairperson's Remarks

Carron Pinkins stated the hearing is in regard to a matter from Investigation 2023-01 in regard to Councilmember Angela Whitfield-Calloway. Mr. Pinkins stated that the hearing will allow cross-examination and time for opening and closing statements from the respondent and complainant. The hearing will follow Robert's Rules of Order. The hearing will not follow the Michigan Rules of Evidence.

Mr. Pinkins gave the details of Investigation 2023-01, and that Councilmember Calloway requested that the hearing be held in a closed session.

III. Public Comment

No members of the public were present for Public Comment.

IV. Closed Session

David Jones called for a motion to add a Closed Session to the agenda as requested by the Respondent. Kristin Lusn seconded. Motion Carried.

****CLOSED SESSION, HEARING I-2023-01 BEGAN AT 1:16 PM****

****CLOSED SESSION ENDED AT 2:15 PM****

V. Procedure for Decision

Carron Pinkins made a motion that there are sufficient facts to constitute a violation of Section 2-5-32. Disclosure of immediate family member's employment or application. against Councilmember Angela Whitfield Calloway, regarding family member Jaylinn Calloway. Kristin Lusn seconded. Open for Discussion.

Roll Call Vote: Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes), Yvette McElroy Anderson (Yes), Carron Pinkins (Yes). Motion Carried.

VI. Penalty

Robert Watt made a motion of acknowledgment of an ethics violation and moving forward not to do it again. Carron Pinkins objected to the consideration of Mr. Watt's motion.

Kristin Lusn made a motion for a 15-minute recess in order to review Robert's Rules of Order on objecting to the consideration of a motion. Robert Watt seconded. Motion Carried.

Kristin Lusn made a motion to return to open session. David Jones seconded. Motion Carried.

Robert Watt withdrew his motion.

Yvonne Mickens, attorney for the Respondent, requested that Councilmember Calloway be allowed to speak before the Board enters the penalty phase. Carron Pinkins objected to Ms. Mickens's request, stating that he did not want the Board to be influenced by Councilmember Calloway saying something at the penalty phase to gain favor from the Board.

David Jones made a motion to allow Councilmember Calloway to speak. Carron Pinkins stated that David Jones had not been given the floor or acknowledged by the Chair. Therefore, the motion is not on the floor at this time.

Carron Pinkins made a motion for a resolution for a public admonishment with respect to the violation of Section 2-5-32 with respect to Councilmember Calloway not disclosing family member Jaylinn Calloway. Kristin Lusn seconded. Open for discussion.

Yvonne Mickens requested again that Councilmember Calloway have the opportunity to speak. Councilwoman Calloway is given the opportunity to speak by the Chair.

Roll Call Vote: Robert Watt (Yes), David Jones (No), Yvette McElroy Anderson (No), Kristin Lusn (No), Carron Pinkins (Yes). Motion Fails.

David Jones made a motion for adjournment. Yvette McElroy Anderson seconded.

VII. Public Comment

One member of the public attending virtually was allowed to speak. However, the person's comment was irrelevant to the hearing on Investigation I-2023-01. Additionally, the person did not turn his camera on in violation of the rules determined by the Board of Ethics.

David Jones withdrew his motion for adjournment. Robert Watt seconded.

VIII. Penalty

Yvette McElroy Anderson made a motion for a penalty of a public admission before this Board that Angela Calloway violated the ethics ordinance, Section 2-5-32. David Jones seconded. Yvette McElroy Anderson passed the floor to David Jones.

David Jones proposed an amendment to Yvette McElroy Anderson's motion that the Board has ruled and filed Ms. Calloway in violation of Section 2-5-32 for failure to disclose an immediate family member's employment or application and that the matter be closed.

Roll Call Vote: Robert Watt (Yes), David Jones (Yes), Kristin Lusn (Yes). Yvette McElroy Anderson (Yes), Carron Pinkins (Abstained). Motion Carried.

Yvette McElroy Anderson called for a motion to adjourn. Kristin Lusn seconded.

Meeting adjourned at 3:30 PM

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