

City of Detroit Board of Ethics

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Department Directors, Heads of All Boards and Commissions

FROM: **Board of Ethics**

SUBJECT: **10th Annual Report of the Board of Ethics**

DATE: **August 25, 2011**

The Ninth Annual Report of the Board of Ethics (the “Board”) was submitted on August 25, 2010, and reported on activities of the Board from June 1, 2009 to June 30, 2010. This Tenth Annual Report covers Board activities from July 1, 2010 to June 30, 2011. In accordance with Section 2-6-97 of the Ethics Ordinance (the “Ordinance”), this Report contains:

- 1) An analysis of Board activities, including the number of Advisory Opinions requested and issued, and the number of Complaints filed and their disposition;
- 2) A compilation of Advisory Opinions issued; and
- 3) Recommendations, if any, for improvement of the disclosure requirements and standards of conduct found in the Ordinance, and for improvement of the administration and

enforcement of the Ordinance.

Board Activities

A. Meetings

During the period of this Report, the Board met nearly every month and disposed of all matters presented, including three (3) Requests for Advisory Opinion and two (2) Complaints.

B. Advisory Opinions

In response to the Request for Advisory Opinion # 2010-03, the Board issued an Advisory Opinion interpreting the application of Section 2-6-32 of the Ethics Ordinance titled “Disclosure of interest in city contracts.” and Section 2-6-67 of the Ethics Ordinance, titled” Self-interested regulation prohibited.” A synopsis appears below.

In response to the Request for Advisory Opinion # 2011-01, the Board issued an Advisory Opinion interpreting the application of Section 2-6-62 of the Ethics Ordinance, titled “Use of confidential information for private gain prohibited.” and Section 2-6-63 of the Ethics Ordinance, titled “Disclosure of confidential information prohibited.” A synopsis appears below.

In response to the Request for Advisory Opinion # 2011-02, the Board issued an Advisory Opinion interpreting the application of Section 2-6-32 of the Ethics Ordinance, titled “Disclosure of interest in city contracts.*” A synopsis appears below.

C. Complaints

Complaint # 2010-06- alleged that a public servant was engaged in incompatible employment and or rendering of services as a result of a relationship with a city contractor. The public servant was assigned as a supervisor and the contractor was among the entities that were subject to the public servants authority. The complaint alleged a violation of the Standards of Conduct found in the Ethics Ordinance with respect to Section 2-6-65. “Incompatible employment or rendering services prohibited.” After review and consideration, the Board concluded that the public servant had not violated the Ethics Ordinance and the complaint was dismissed pursuant to Section 2-6-115(b)(1)(2).

Complaint # 2011-01 alleged that a public servant represented the complainant in a private legal matter and that the public servant failed to provide the services expected by the complainant during the representation. The complaint alleged a violation of the Standards of Conduct found in the

Ethics Ordinance with respect to Section 2-6-62. “Use of confidential information for private gain prohibited.” Section 2-6-63 “Disclosure of confidential information prohibited.” and Section 2-6-68 “Improper use of official position prohibited.” After review and consideration, the Board concluded that the public servant had not violated the Ethics Ordinance and the complaint was dismissed pursuant to Section 2-6-115 (b)(1)(2).

D. Other Activities.

During the period of the Report attention was directed to the Proposed Amendments to the Ordinance which had been recommended by the Board in previous Reports. The City Council convened a Working Group in order to review and evaluate the submission. The Executive Director participated with the Group and provided information regarding the proposals. The Board received updates regarding the proposals and modified one of the recommendations. As a result of these efforts two of the Board recommendations were adopted and the Ordinance was amended to reflect the changes. (A copy of the amendments are attached to this Report). The Board reviewed all sections of the existing Ordinance in response to a request for input and suggestions from the Detroit Charter Revision Commission and submitted a Response. In addition to its submission all proposals for changes to the ethics provisions of the Charter under consideration by the Commission were reviewed and discussed by the Board. The interim and final drafts of the proposed revisions to the Charter were also examined by the Board. Based on this review the Board believes that significant changes are likely to result in the area of ethics and that the responsibility of the Board will be greatly expanded if the proposed changes are adopted in the proposed revised Charter.

Ethics Board Staff (“Staff”) continues to meet with and assist members of the public or City employees who request information regarding the Ordinance or the completion of forms.

The Board’s Executive Director (“Executive Director”) made presentations to various City departments and public servants as requested. Such presentations were made in an effort to increase employee awareness of the Ordinance and its requirements particularly regarding the amendments to the Ordinance. Regarding ethics education, the use of the web for computer based ethics training is still under consideration. The new employee orientation program that is conducted by the Human Resources Department includes information developed by the Director regarding the Charter on Ethics and the Ethics Ordinance. The Director when requested participated in the orientation and provided an overview of the Ordinance and the Standards of Conduct at the meetings. The Board received periodic informal inquiries to which the Executive Director responded with the approval of the Board. The Board also received and responded to media inquiries.

Compilation of Advisory Opinions

Advisory Opinion #2010-03 held a public servant who has an immediate family member that is employed by an entity seeking a contract with the City of Detroit and in the course of the public servants duties, exercises significant authority, as defined in the Detroit Ethics Ordinance is required to disclose the relationship as defined in Section 2-6-32, of the Ordinance. The public servant is also prohibited by Section 2-6-67 from participating in decisions that pertain to an entity in which the public servant or a member of their immediate family has an ownership interest.

Advisory Opinion #2011-01 held a former public servant who pursues City of Detroit contracts or other business opportunities with the City, does not violate Sections 2-6-62 or 2-6-63, of the Ethics Ordinance if the requestor does not utilize confidential information that was acquired in the course of his/her duties as a public servant. While the Ethics Ordinance imposes no time restrictions on the ability of former public servants to bid on or enter into contracts with the City and its agencies, there is a continuing obligation to avoid the use or disclosure of confidential information. The public servant should not utilize any information which is not readily available to the public in the process of attempting to secure a contract or business opportunity.

Advisory Opinion #2011-02 held a public servant who serves as a manager of a City department is not required to file a notice of disclosure pursuant to Section 2-6-32 of the Ordinance regarding the fact that an immediate family member works for a contractor who provides services. Where the public servant has no responsibility, management or supervision of the contract under which the immediate family member is employed and the immediate family member does not live in the public servants household disclosure is not required by the Ethics Ordinance.

Recommendations for Improvements in the Ethics Ordinance

In view of the pending changes as proposed by the Charter Revision Commission the Board has no additional recommendations at this time for improvements to the Ethics Ordinance.

It should be noted that there currently exists vacancies on the Board and it is respectfully requested that they be filled as soon as possible.

The Board will be pleased to provide any further information and to respond to any questions about its tenth year of operation.

Thank you.

cc: Municipal Reference Library