Ethics at City Hall

City Hall Essentials - Fredericksburg, TX
Texas Tech University – July 13, 2018
Ethics of Reciprocity

Do unto others as you would have done to you
Biblical

10 Commandments:

1. Thou shall have no other gods before Me.
2. Thou shalt not make idols.
3. Thou shalt not take the name of the LORD your God in vain.
4. Thou shall remember the Sabbath day, to keep it holy.
5. Thou shall honor your father and your mother.
6. Thou shalt not murder.
7. Thou shalt not commit adultery.
8. Thou shalt not steal.
9. Thou shalt not bear false witness against your neighbor.
10. Thou shalt not covet (thy neighbor’s wife, house, animals, other).
Scouting

The Girl Scout Law

I will do my best to be:

- honest and fair
- friendly and helpful
- considerate and caring
- courageous and strong
- responsible for what I say and do
- respect myself and others

- respect authority
- use resources wisely
- make the world a better place
- be a sister to every Girl Scout.
Honor Codes

New Mexico Military Institute:

“A cadet will not lie, cheat, steal or tolerate those who do.”
Professional Associations

American Society for Public Administration

1. Advance the Public Interest.
2. Uphold the Constitution and the Law.
3. Promote democratic participation.
4. Strengthen social equity.
5. Fully Inform and Advise.
6. Demonstrate personal integrity.
7. Promote Ethical Organizations.
Professional Associations

International City Management Association

**Tenet 3.** Be dedicated to the *highest ideals of honor and integrity* in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

**Tenet 5.** Submit *policy proposals* to elected officials; provide them with *facts* and *advice* on matters of policy as a basis for making decisions and setting community goals, and uphold and implement local government policies adopted by elected officials.
Professional Associations

American Planning Association (APA):
AICP Code of Ethics & Professional Conduct

We Shall Not:

- Advocate a Position Clearly Adverse to Prior
- As Salaried Employee Moonlight without Permission
- Accept pay from other related our public job
- Work on project for Employer that benefits Family member
- Use info to personal advantage
- Deliberately or recklessly misrepresent the qualifications or opinions of other professionals
- Influence Peddle (implying ability to influence decisions)
Municipal Codes of Conduct

• Home-Rule Charters
• Ethics Ordinances
  - Board of Ethics
  - Process & Criteria
  - Representation of Others
  - Moonlighting
  - Revolving Door
  - Purchasing Rules
  - Vendor Disclosures
  - Lobbying
  - Reprimands, Sanctions
Conflict of Interest

• Tex. Loc. Gov’t Code §171
• Related to Finances and Real Estate
• Substantial Interest:
  - 10% Stock
  - $15,000 in fmv
  - 10% Income
  - $2,500 Real Property
• Must Abstain (Talking & Voting)
• Must Declare (Through Affidavit)
Conflict of Interest- Plats

• Tex. Loc. Gov’t Code §212

• Substantial Interest in Subdivided Tract if:
  - Own $2,500 of land
  - Act as Developer
  - Own 10% Stock of Business
  - 10% of fmv of Business
  - $5,000 of fmv of Business
  - 10% of Income

• Must File Affidavit & Abstain
Conflict of Interest- Banks

• Tex. Loc. Gov’t Code §131

• Bank is not disqualified as Depository unless:
  - One or more officers who have a duty to select the city’s depository
  - are officers or directors, or
  - Own 10% of bank’s stock
Incompatibility

- Common Law Rule (not Statutory)
- Case-By-Case Determination by Courts
- *Thomas v. Abernathy County Line ISD* (1927)
- Conflict of Loyalties
- Conflict of Duties
- Can’t appoint yourself
- Can’t be own supervisor
- e.g., Councilmember can’t be City Manager, Mayor can’t be on School Board
Nepotism

- Tex. Gov’t Code §573
- Can’t Bestow Patronage on Relatives
- Mayor & Council’s family can’t be hired if:
  - 2nd degree by affinity (marriage)
  - 3rd degree by consanguinity (blood or adoption)
- Full-Time, Part-Time (but not volunteer)
- Ok if Charter gives Hiring Authority to Manager
Public Disclosures

• Tex. Loc. Gov’t Code §176
• Mayors & Council Members must file
• Conflicts Disclosures Statements
  - Business / Employment Relationships ($2,500+)
  - Family Relationships (1st Degree)
  - Gifts ($250+ in 12 mos.)
• When related person is seeking city business
Criminal Offenses- Bribery

• Tex. Penal Code §36.02

• Public Servant violates the law if they
  - Offer, Solicit or Accept
  - Any Benefit as Consideration
  - For a Decision, Opinion, Vote, Recommendation, or Action
Criminal Offenses- Coercion

• Tex. Penal Code §36.03
• Coercion is a Threat (to harm, expose, ridicule)
• Coercion of a Public Servant:
  A Person Attempts to Influence a Public Servant
• Coercion of a Voter
Criminal Offenses- Obstruction

• Tex. Penal Code § 36.06

• Obstruction or Retaliation:
  – Harms or Threatens to Harm
  – Public Servant
  – In Retaliation for Service, or
  – To Prevent or Delay Service
Criminal Offenses- Honorarium

• Tex. Penal Code § 36.07
• Gifts for Services:
  – Public Servant Solicits or Accepts
  – Honorarium
  – For Services would not have been requested to provide \textit{but for} official duties or position
• Transportation & Lodging OK if related to speaking event
• Gifts, Awards & Mementos OK if \textless $50
Criminal Offenses- Misuse Info

- Tex. Penal Code §39.06
- A Public Official cannot use
- For Personal Gain or Speculation
- Knowledge acquired by holding public office
- Not available to the general public
Criminal Offenses - Abuse of Office

- Tex. Penal Code §39.02
- Public Servant commits offense if
  - Intends to obtain a **benefit**, or
  - Intends to **harm** or **defraud** another
  - Violates law regarding office held, or
  - Misuses government property, services, personnel, or other
Scenario 1: It’s Who You Know

- Man gets in car wreck and calls his friend the City Councilman.
- Councilman calls the Mayor.
- Mayor calls the Chief of Police
- Mayor informs Chief how it all went down.
Scenario 6: Let’s Do Lunch

• City Manager has series of private lunches at invitation of 3 finalists for Solid Waste Contract.

• Contract is for a 7-year exclusive franchise.
Scenario 9: *Enjoy the Perks!*

- Purchasing Manager & staff head to Dallas.
- They enjoy a suite at an NBA game.
- Suite belongs to investor in a company that operates the city’s wastewater treatment plant.
Scenario 12: Don’t Let Door Hit Ya….

- City Engineer resigns.
- Goes to work for Development Firm
- Projects include lots Engineer previously characterized as “unbuildable”.
Scenario 17: *Which Hat to Wear?*

- Chairperson of P&Z recuses himself from voting on an item.
- Chair is representing the Property Owner.
- Chair is advocating the Owner’s Interests.
Best Practices

• Be familiar with the Law & Codes
• Network with honorable colleagues
• Remember you are part of a team
• Imagine Your Worst Enemy Learns
• Know your place
• Make Training a Priority
• Engage in a Dialogue
• Put Your Citizens 1st
• Remember Whose Money It Is
• Remember Why You Got Into Public Service
Alan’s System for City Codes

Fostering Integrity at City Hall

Leadership
Administration
Regulation
Instruction
Accountability
Transparency
New Website for Cities!

TexasEthics.com

Texas Center for Municipal Ethics™
TO PROMOTE INTEGRITY IN MUNICIPAL DECISION-MAKING AND A CULTURE OF ETHICS AT CITY HALL.

INTEGRITY AT CITY HALL

Q: Can a city council member represent private clients before municipal boards?

A: Yes, absent a local ethics ordinance or home rule charter provision to the contrary. If the council member is being paid to advocate on a client’s behalf, the council member probably has to file an affidavit with the city secretary and abstain from any council action on the subject pursuant to Tex. Loc. Gov’t Code § 571.

“Per what does it profit a man to gain the whole world and forfeit his soul?”

– Mark 8:36

Articles

Which of These 8 Ethical Styles Are You?

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What is the Proper Role for the Chief Lawyer for a Government Entity?

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