



LOS ANGELES

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Ethics for Planning Commissioners & Officials

(S544)

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Earning the Public Trust

- “The planning process exists to serve the public interest”
APA Ethical Principles in Planning
- “..preserving the public trust”
Los Angeles City Planning Commission
- “To foster integrity of government and promote the public trust”
Massachusetts Ethics Commission
- “...confidence in the City’s services & public trust of its decision-makers.”
City of Santa Clara Code of Ethics & Values

Ethics

- “Ethics is a system or code of morals of a particular person, group or profession.”
Webster’s
- “Always do right. This will gratify some people and astonish the rest.”
Mark Twain
- “Ethics are what you have when no one is looking.”
Unknown

Scenario # 1

Testifying before your own Commission

- You are the chair of your Planning Commission
- One of the members tells you as the Chair that she will step down for the next hearing because she is an abutter
- She tells you that she will testify as an abutter and remain in the audience
- She will not return to the Commission to discuss and vote on the case
- What do you do?

Scenario # 1

Possible Responses

- A. Say nothing and start the public hearing
- B. Call a recess to check the Commission regulations and rules of procedure to see how to proceed
- C. The subject of the hearing is a minor issue and you decide this will have no impact on financial interest and property values. Move ahead with the hearing
- D. Ask the commissioner if she has talked to the city attorney about the situation. If she hasn't, ask her to leave the room
- E. Other?

“Ethical” Situations Facing Public Officials

- Conflict of interest – real or perceived
- Day job versus commissioner role
- Relatives involved with application
- Ex parte communications
- Electronic media use
- “Avoiding” difficult vote
- Decisions without findings
- Decisions that are made too soon/take too long/too little information
- Your neighbors are applicants
- Bias issues
- Political pressure from above
- Conflict between Comprehensive plan and zoning ordinance
- Public officials’ “public” demeanor
- How to be “fair” in seemingly unfair situations
- Too “friendly” with applicant at meeting

Open, Ethical & Transparent Meetings & Decision Making

In general:

- Decision making is impartial and timely
- Meetings and decision are based on clear rules that are followed
- Decisions are based on the law (state & local) & the Plan (if applicable)
- Decisions are based on findings of fact— build a record
- “Own” the decision – it is the Commission’s decision, not the applicant’s or audiences’
- Meetings are free from conflict of interest
- Proceedings inspire public confidence
- The public is genuinely invited to participate
- Information is available to all

Ethics – Sources of Information/Assistance

- City/county attorney
- State ethics code
- State ethics commission
- City/county/town/commission ethics code and handbook
- Fellow commissioners
- Training programs – State/local Ethics commission; State planning commission organization; State APA chapter; other training providers
- University/college training programs
- Ethics code examples from other communities
- Non-profit organizations

Ethics Code – Adoption Issues

- **Why adopt –**

- ✓ Ethical “high ground”
- ✓ Response to recurring problem or one time problem
- ✓ Lack of other state or local code for guidance

- **Who adopts –**

- ✓ Local custom
- ✓ City/county charter
- ✓ Adopted by public body/citizens/other?

- **What to adopt –**

- ✓ If state does/does not have applicable ethics code
- ✓ Aspirational versus regulatory
- ✓ Topics to include:

Ethics Code – What Might it Include?

- Purpose/goals
- Values behind the code
- Who it applies to
- Definitions
- Strategies for addressing ethical problems
- Confidential information

- Gifts/gratuities
- Conflict of interest
- Assessment mechanism
- Complaint process, if any
- Enforcement
- Ethics training

APA Ethical Principles in Planning

- A guide to ethical conduct for all who participate in the planning process
- Pursue & faithfully serve the public interest
(7 actions listed)
- Strive to achieve high standards of integrity & proficiency to maintain public respect for the planning process
(13 actions listed)

AICP Code of Ethics

Principles of the Code

- Responsibility to the Public – 8 principles
- Responsibility to Clients and Employers - 3 principles
- Responsibility to the Profession & Colleagues – 10 principles

Rules of Conduct

- 24 separate rules to adhere to

Chatham County-Savannah MPC

Statement of Ethical Principles in Planning

Two Overarching Principles

- Planning process must pursue & serve the public interest
(Seven underlying principles)
- Planning Process must strive to achieve high standards of integrity & proficiency so that public respect is maintained
(Twelve underlying principles)

Chatham County-Savannah MPC Planning Commissioners Creed

- Place competence & effectiveness of service to the public above other interests
- Represent the best interests of the community as a whole
- Assimilate all information prior to committing to a decision
- Prepare myself for all items before the Commission
- Make services equally available to any citizen
- Abstain from participation when I have a conflict of interest
- Avoid unilateral action that does not comply with the Commission policy
- Work with staff & others to achieve the most desired results
- Refuse personal gifts where I believe the gift is based on my official position, the giver's interest could be affected by my official decision or it may reasonably be considered to be designed to influence my official actions

State of California

- Fair Political Practices Commission
 - Office of the Attorney General
 - Brown Act
 - Public Records Act
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Ethics training requirements & guidance

Open meeting requirements

Statement of Economic Interest

Post government service

Conflict of interest

California Fair Political Practices Commission

Local Agency Ethics Training – Core Topics

- Laws relating to personal financial gain (conflict of interest laws, bribes)
- Laws relating to claiming prerequisites of office (gifts, honoraria, misuse of public funds)
- Government transparency laws (Economic interest disclosure, Brown Act, Public Records Act)
- Laws relating to fair processes (common law bias prohibition, due process, nepotism)

Los Angeles City Ethics Commission

“Helps to preserve the public trust by promoting elections and government decisions that are fair, transparent and accountable...”

- Administers & enforces Governmental Ethics ordinance
- Implements City laws regarding ethics, campaign finance & lobbying
- Reviews & makes recommendations on policies and regulations and legislation regarding ethics
- Regulations regarding financial disclosure, gifts, outside income, post-city employment, misuse of position, political activities etc.
- Provides advice – informal & formal – to city officials & employees
- Provides education & ethics training (required every 2 years)
- Provides information & resources (Ethics Handbook)
- Whistleblower hotline

Massachusetts Ethics Commission

Provides:

- Training resources – workshops, on-line PowerPoints, ethics law summaries, FAQs
- Advisory opinions upon request
- Information on how to file ethics complaints
- Ethical Commission rulings (names & fine \$ amount)
- Chapter 28 of the Acts of 2009 – Ethics Reform law - requires mandatory on-line training and test every two years for all state, county and local public employees (this includes elected/appointed officials)

City of Springfield, MA

Code of Conduct & Ethics, Lobbying, & Financial Disclosure

- Statement of Policy
- Conflict of Interest provisions
- Lobbying regulations
- Financial Interest statements
- Establishment of City Ethics Commission - 2009
- Requests for Advisory Opinions from City Ethics Commission
- Penalties
- Retaliatory Action protection

Other Examples of State - Local Ethics Commissions & Codes

Cities/Towns

- Santa Clara, California
- Minneapolis, Minnesota
- Londonderry, New Hampshire
- New Orleans, Louisiana
- Springfield, Massachusetts

State Ethics Commissions

- Pennsylvania State Ethics Commission
- California Fair Political Practices Commission & Attorney General
- Wisconsin Government & Accountability Board
- Texas Ethics Commission
- Oregon Ethics Commission
- Massachusetts Ethics Commission

Scenario #2

Conflict of Interest - Family

- A) Is it a conflict of interest for a commission member to vote on an application for a grocery store to be located in proximity to where his parents live?

- B) Is it a conflict of interest for a commission member to vote on an affordable housing development application when her sister is an abutter to the site of the development?

Scenario #2

Conflict of Interest - Family

- A) No – The court found no prohibited conflict of interest because there was no evidence that the board member did his parent's grocery shopping or that the parents would shop at this particular store (N.J. Superior Court)
- B) Yes – A board member is prohibited from participating in a particular manner in which she has knowledge that an immediate family member has a financial interest. Under the conflict of interest law, an abutter is presumed to have a financial interest in matters on abutting property. Mass. Ethics Commission – (Board member fined \$2000)

Resources for Information on Ethics

- American Planning Association – Ethical Principles of Planning www.planning.org/ethics/ethicalprinciples.htm
- American Institute of Certified Planners – Code of Ethics & Professional Conduct www.planning.org/ethics
- Massachusetts Commission on Ethics – www.mass.gov/ethics
- Chatham County-Savannah Metropolitan Regional Commission www.thempc.org
- California Fair Political Practices Commission
<http://www.fppc.ca.gov/>
- City of Springfield MA
http://www.springfieldcityhall.com/ordinances/fileadmin/law/62504-v1-Ethics_Manual.pdf
- City Ethics – model ethics code, information on states' codes, resources
www.cityethics.org

Resources for Information on Ethics

- National Conference of State legislatures – list of websites of 50 state ethics commissions & statutes
www.ncsl.org/programs/ethics/comprehensive_list.htm
- Vermont Land Use Education & Training Collaborative – Rules of Procedure & Ethics Manual
www.vpic.info/pubs/rules_proc.pdf
- Santa Clara University Markkula Center for Applied Ethics
www.scu.edu/ethics
- City of Santa Clara, CA – Comprehensive site on ethics
www.santaclaraca.gov
- Institute of Local Self Government –Developing a Local Agency Ethics Code www.ca-ilg.org/ethicscodes