

2001 Annual Report

Board of Ethics
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DENVER BOARD OF ETHICS

ANNUAL REPORT
2001

February 13, 2002

I. INTRODUCTION

The Denver Board of Ethics hereby submits to the Mayor and City Council its first annual report, as required by Section 2-66 of the Code of Ethics.

On January 29, 2001, the Denver City Council passed a new Code of Ethics. The Code, which was signed by the Mayor on February 2, 2001, called for the appointment of a new 5-member Board of Ethics. The Mayor and the City Council completed the appointment process in April, 2001, and a press conference was held on May 8 to introduce the new Board members: Harry MacLean, Marcelina Rivera, Charles Savage, Carolyn Livers and Christopher Weimer. A short biography of each member is attached as Exhibit A. (Ms. Rivera resigned from the Board in January 2002.)

The Board held its first meeting on May 17, 2001, at which time the members were sworn in. The Board has met once a month since then. At its June meeting the Board elected Harry MacLean as chair, and at its July meeting the Board elected Marcelina Rivera as vice-chair. This report is a summary of the work of the Board in the first eight months of its existence.

II. GOALS FOR 2001

During 2001, the Board focused its efforts on four specific areas:

- (1) Expedient fulfillment of its obligation to receive, review and decide requests for advisory opinions, requests for waivers and inquiries regarding alleged misconduct.
- (2) Institutionalization of the Board of Ethics within the framework of city government.
- (3) Publication of the Ethics Handbook.
- (4) Development and implementation of ethics training for all city officers and employees.

A. ADVISORY OPINIONS, WAIVERS AND INQUIRIES

At the conclusion of its meeting on December 27, 2001, the Board had received and reviewed a total of 7 written inquiries or complaints and 24 written requests for advisory opinions. Two of the requests for advisory opinions were withdrawn by the requesting party before deliberations were held. For all but two of these 29 cases, the Board was able to reach a decision at the first Board meeting after the case was filed and to issue a written decision within one week of the meeting. Two cases were postponed for one month in order to obtain additional information necessary to make the decisions. All of the Board's decisions have been unanimous. The Board is committed to prompt resolution of cases and prompt communication of the decisions to the affected parties.

Of the seven inquiries (complaints) received, one was against an elected official, five were against City employees and one was against an individual who was not a City employee, officer or official. All seven of these inquiries were dismissed by the Board at the initial screening, either because the Board lacked jurisdiction or because the alleged conduct did not violate the Code of Ethics. As a result of these early dismissals, no hearings on inquiries have yet been held.

Twenty-two requests for advisory opinions have been decided by the Board. A digest of selected advisory opinions is attached as Exhibit B. This digest has been published in the 2002 Ethics Handbook and on the Board of Ethics internet website and intranet site.

One of the requests for an advisory opinion included an alternative request for a waiver, which was granted by the Board of Ethics.

Of the 22 requests for advisory opinions actually decided by the Board, the subject matters were as follows:

- conflicts of interest 8
- gifts 6
- outside employment 3
- hiring of relatives 2
- other 3

The "other" category requested ethical advice on matters that are not addressed by the Code of Ethics.

The two requests for advisory opinions that were withdrawn by the requesting party before the Board issued an advisory opinion related to gifts.

Of the 22 requests for advisory opinions decided by the Board, the affected parties were:

elected office - holders 2

cabinet members 1

board or commission members 2

city employees 17

In compliance with the requirements of the Code of Ethics, the Board adopted Rules of Procedure for the handling of inquiries that are designed to “create a process that is fair both to the person who submitted the inquiry and the person who is the subject of the inquiry.” The Rules also set forth procedures for dealing with requests for advisory opinions and requests for waivers. The Board distributed a draft of the Rules of Procedure to City Council, department heads and other interested parties, and adopted the Rules on June 15, 2001. One section was amended on September 28, 2001. The Board also approved an Inquiry Form for inquiries from employees and citizens.

In addition to the written inquiries and requests for advisory opinions, the Board’s staff director received, during 2001, approximately 50 telephone, e-mail or in-person requests for information or informal consultation regarding the Code.

B. INSTITUTIONALIZATION OF BOARD OF ETHICS

The Board believed that in order to carry out its duties effectively it needed to be established as an independent entity. This required that it have its own budget, staff, and office, including separate computer, telephone, fax, and secure files.

a. Budget. With the support of the Mayor’s office and City Council, the board began operating under its own budget on October 16, 2001, under a supplemental appropriation of \$24,000 for the last quarter of 2001. For the calendar year 2002, the Board has received a budget of \$88,300. (Exhibit C) The largest portion of the budget is for the staff director and a half-time clerical assistant. The Board believes that it will not have a firm idea of its ongoing budgetary and staff needs until it has been in existence for one year.

b. Staff. Michael Henry served as interim staff director under a contract with the City Attorney's Office beginning March 15, 2001. Under a supplemental appropriation, his contract was extended to December 31, 2001. In cooperation with the Career Service Authority, the permanent position of staff director was established and advertised in September, 2001. From a pool of 100 applicants, Michael Henry was selected by the Board to fill the position effective January 1, 2002.

c. Office. On October 8, 2001, the Board moved from its temporary office in the City Attorney's Office on the sixth floor of 1675 Broadway to a separate office in the City Clerk's Office, Room 281 of the City and County Building. The Board has a separate phone, computer, fax and filing system.

C. ETHICS HANDBOOK

The Code of Ethics requires that the Board "shall prepare and distribute an employee handbook on the Code of Ethics." Under the guidance of Board Vice-Chair Marcelina Rivera, the Board spent several months developing the text of a 54-page handbook. The goal of the Board was to develop a handbook that is easily understandable and yet provides firm guidance to city employees on how to comply with the requirements of the new Code. The printing of 10,000 copies of the 2002 Ethics Handbook was completed in January 2002. City employees will receive their copies in early 2002.

D. ETHICS TRAINING

The Board of Ethics believes strongly that excellent, consistent ethics training for City employees, officers and officials is critically important to the success of the new Code of Ethics. The Board, in cooperation with the City Attorney's office and the Training Division of the Career Service Authority, prepared a Request for Qualifications for a consultant to assist the City for a one-year period to develop an ethics training program. Five responses were received and one consultant was selected – J.H. Twinam and Associates. A supplemental appropriation for a one-year \$110,000 contract between Career Service Authority and the consultant was approved by City Council on August 20, 2001, after having been approved by both the Personnel and Public Safety Committee and the Finance Committee of City Council. The appropriation also included \$15,000 for printing costs for the Ethics Handbook and for training materials.

The Board has been significantly involved in overseeing the development of the training program and the delivery of the training by the consultant and the Career Service Authority. An Ethics Training Oversight Task Force has been organized and held three meetings in 2001 to oversee the design and implementation of the program. The list of members of the Task Force is attached as Exhibit D.

Between January 8 and February 1, 2002, the Board and the consultants delivered 8 hours of ethics training to 108 Cabinet members, City Council members and other top-level leaders of the City. Evaluations from the participants have been very positive.

The Board of Ethics, the consultants, the Career Service Authority Training and Organizational Development Section and the Ethics Training Oversight Task Force are planning the next stages of the ethics training as follows:

February – April, 2002 - the consultants will provide 4-hour ethics training sessions for approximately 400 mid-level managers

March, 2002 - the consultants will train approximately 25 City trainers to provide ethics training to all rank and file City employees

April – December, 2002 - the City trainers will provide 3-hour ethics training to approximately 10,000 rank and file City employees

For those unable to attend classroom-style training, the consultant will develop a web-based interactive application.

III. LEGISLATIVE RECOMMENDATIONS

The Board is required by the Code to recommend annually changes to the Code. There are definite areas for improvement in the Code of Ethics which the Board will explore and refine as its gains additional experience in interpreting and applying its provisions. At this time, the Board is recommending the following changes.

(1) Add to Section 2-52 (b), which is the definition of direct official action, the following language: 6) approving, disapproving or recommending for or against a rezoning or a zoning variance for land. Under the

current definition of direct official action, it is not clear that such actions are included. Thus, a Board of Adjustment-Zoning member would be allowed to vote on a zoning variance for property in which he or she had a substantial financial interest. Likewise, a city planner would be able to recommend a rezoning for property in which he or she had a substantial financial interest.

(2) Add “to solicit or” to the phrase “to accept” in Section 2-60(a) regarding gifts. If a person is not permitted to accept a gift, he or she should also not be permitted to solicit a gift.

(3) Strike the reference in 2-55 to the requirement that the City Clerk shall accept inquiries and transmit them to the Board. This is no longer necessary because the Board of Ethics now has its own office location and personnel.

(4) The Board supports a separate effort to amend the Financial Disclosure Ordinance (2-70 et seq.) to make the definitions of officers, officials, immediate family and gifts the same as in the Code of Ethics. This will avoid confusion and inconvenience for City employees, as well as to the public.

IV. OTHER MATTERS

A. REQUESTS FOR ADVISORY OPINIONS TO BE FILED WITH BOARD

The Board of Ethics discovered quickly that there was some confusion among City employees as to whether they could file requests for advisory opinions directly with the Board or whether they should first contact their supervisors, the City Attorney’s office, or the Career Service Authority. On July 20, 2001, the Board of Ethics adopted the attached Policy Memorandum (Exhibit E) which makes it clear that employees are free at any time to request an advisory opinion directly from the Board without previous supervisory clearance or concurrence. Through the cooperation of the Auditor’s office, the notice regarding the Policy Memorandum was distributed with the paychecks of all City employees, officials and officers to explain the Board’s policy.

B. COUNCIL OF GOVERNMENTAL ETHICS LAWS

The Board of Ethics joined an international organization of governmental entities involved with ethics, the Council on Governmental Ethics Laws. The Board chair attended an annual conference of the Council December 2-5, 2001 in Lexington, Kentucky.

C. WEBSITE

With the cooperation of the Denver Office of Television and Internet Services, the Board of Ethics has established a website at www.denvergov.org/ethics. The website contains the Code of Ethics, Rules of Procedure, Digest of Opinions, meeting minutes, the Ethics Handbook, and will include this Annual Report.

D. INVOLVEMENT OF BOARD MEMBERS IN CITY POLITICS

In January, 2002, the Board enacted a resolution (attached as Exhibit F) prohibiting Board members from running for any city office and requiring them to disclose any contributions made to candidates for city office and to recuse themselves from acting on any matter involving any candidate to which they have made contributions. Board members are also restricted from receiving any gifts from city officers, officials or employees. The intention of the Board is to ensure the appearance of fairness and impartiality toward all Denver officials, officers and employees.

E. ADVISORY OPINIONS – PUBLIC RECORDS

During 2001, the Board faced the question of whether advisory opinions, as well as the requests for advisory opinions, were confidential, as apparently contemplated by the Code, or were open records under the Colorado Open Records Act. After being advised by the City Attorney's Office that the advisory opinions are subject to the Open Records Act and do not clearly fall within an exception, the Board determined that both the requests for advisory opinions and the advisory opinions themselves are open records and available to the public.

F. MEETING TIMES

The Board generally meets on the fourth Thursday of each month. The meetings are open to the public.

V. CONCLUSION

The Board believes that it made substantial progress in achieving its four goals in 2001. This has been accomplished with the assistance and cooperation of the Mayor's Office, the City Council, the City Attorney's Office, the Office of City Clerk, the Career Service Authority and many other agencies and employees.

The Board of Ethics views its responsibility not only to interpret and apply the Code in a consistent, coherent fashion, but also to serve as a general resource for employees and citizens as to the various provisions of the Code. The Board is committed to the principle that compliance with the Code can be achieved through clear, consistent advice and good training.

Respectfully submitted,

Harry N. MacLean
Chair
Denver Board of Ethics

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WELLINGTON E. WEBB Mayor CITY AND COUNTY OF DENVER
HARRY MACLEAN – CHAIR CHARLES SAVAGE, CAROLYN LIEVERS, CHRISTOPHER C.
WEIMER L. MICHAEL HENRY STAFF DIRECTOR BOARD OF ETHICS City and County
Building 1437 Bannock Street, # 281 DENVER, CO 80202 Email: Michael.henry
@ci.denver.co.us Website: www.denvergov.org/ethics Phone: (720) 865-8412 Fax: (720) 865-
8419

Date: February 21, 2002

To: Mayor Wellington Webb
Members of City Council

Harry N. MacLean, Chair

Enclosed please find a copy of the annual report of the Denver Board of Ethics, which is required by ordinance to be submitted by February 15 of each year. It was submitted to the Personnel and Safety Committee on February 13, 2002.

As noted in the report, the board believes that, with your support, it has made substantial progress in accomplishing its four goals in the first eight months of its existence. Any suggestions or comments as to how we could more effectively carry out our task would be greatly appreciated.

We look forward to working with you in the future.

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Respectfully submitted,

Harry N. MacLean
Chair
Denver Board of Ethics

MEMBERS OF DENVER BOARD OF ETHICS

Harry N. MacLean graduated from Lawrence University in Appleton, Wisconsin with a B.A. in Psychology and obtained his law degree and a Masters of Science in Law and Society from the University of Denver. He was a magistrate in the Denver Juvenile Court, a Colorado First Assistant Attorney General and General Counsel for the ACTION agency in the federal government. He is a best selling author. Currently he is an arbitrator and mediator in labor and employment disputes. Appointed by City Council. Term expires 4-20-2005.

Charles Savage is a graduate of Columbia College and Columbia Law School. He served as an attorney and officer in three different energy companies and was an Assistant General Counsel of the U.S. Department of Energy. He served as president of the Colorado Association of Corporate Counsel and was a member of the previous Denver Board of Ethics. He currently is a principal in a Denver law firm concentrating in corporate, commercial and transactional matters. Appointed by Mayor. Term expires 4-30-2005.

Carolyn Lievers obtained a B.A. in Political Science from Morgan State College in Baltimore, Maryland and J.D. from the University of Colorado School of Law. She worked for the Legal Aid Society of Metropolitan Denver and for the Legal Services Corporation. She was a member of the former Denver Board of Ethics. She currently is a Colorado Assistant Attorney General handling matters for the Colorado Department of Revenue. She is an active member and past president of the Colorado Potters Guild. Appointed by Mayor. Term expires 4-20-2003.

Christopher C. Weimer earned a B.A. in Psychology from Edinboro University in Edinboro, Pennsylvania and an MBA in Management from Webster University in Albuquerque, New Mexico. He has been a counselor and administrator in several hospitals and treatment centers in New Mexico and Colorado. Since 1996 he has been the director of the Mayor's Office of Employee Assistance in Denver. Appointed by Mayor and City Council. Term expires 4-30-2005

Denise Maes graduated with a B.A. in Political Science from the University of New Mexico and received her law degree from the University of New Mexico School of Law. She has been active in numerous Denver civic and philanthropic activities, including serving currently as a member of the Denver Board of Water Commissioners and as the president of the Mi Casa Resource Center for Women, Inc. She is a partner in the law firm of Kamlet Shepherd, concentrating in

environmental law, land use issues and commercial disputes. Appointed by City Council. Term expires 4-20-2003.

EXHIBIT B

DIGEST OF SELECTED ADVISORY OPINIONS ISSUED BY DENVER BOARD OF ETHICS

The following is a digest of selected advisory opinions issued by the Board of Ethics from May to December 31, 2001. All opinions were adopted by a unanimous vote of the Board. The full texts are available for review.

1. Case 01-3

The Police Department requested an advisory opinion regarding whether there would be a violation of the Code of Ethics if a police officer would be allowed to operate an off-duty outside business in which he would lease and manage private parking lots for use by people attending concerts and other special events in the vicinity. The parking lots were in the police district where the officer was on patrol while on duty.

Under Section 2-61 of the Code of Ethics, an actual conflict of interest would occur only if the officer were required to take "direct official action" regarding persons or situations involving one of the parking lots in which he had a "substantial interest". The Board urged the Department and the officer to consider whether such outside employment would constitute an "appearance of impropriety" and whether it was wise to place the officer in a situation where he might be forced to choose between his interests as a police officer and his interests as a business owner.

2. Case 01-4

A deputy director of a city agency requested an advisory opinion regarding whether the Code of Ethics would be violated if the deputy director's brother applied for a business loan from the agency.

There would not be a violation of the Code under the above facts if the deputy director was not involved in any manner in reviewing, recommending, discussing, or monitoring the loan application or the loan, if granted.

3. Cases 01-5 and 01-6

Two city employees requested advisory opinions from the Board regarding the propriety of businesses for which their spouses work applying for city contracts. Both employees work for a city agency that is involved in reviewing and monitoring city contracts.

Section 2-61 of the Code would not be violated as long as the two employees have no involvement in their spouses' businesses and as long as they are not involved in any manner as city employees in reviewing, recommending, discussing, or monitoring the contracts or in supervising anyone who does.

4. Case 01-7

The executive director of a city agency requested an advisory opinion concerning whether it would constitute a violation the Code of Ethics if a city commission recommended the award of a contract to a non-profit agency whose executive director was also a member of the commission.

Section 2-61 of the Code would not be violated so long as the commission member 1) did not participate in any way in recommending, or discussing or deliberating or voting on the contract between the City and the non-profit agency and 2) did not receive any compensation or any other direct benefit from city funds as part of her duties of the non-profit agency.

5. Case 01-8

A request was received from a city employee regarding the propriety of employees soliciting door prizes, food and other donations for the Games Day event at City Team Week. The employee is a member of the committee planning the event, which offers entertainment, social and sports activities, and food for city employees and their families.

The solicitation of such items does not violate Section 2-60 (c) of the Code regarding the acceptance of gifts because Section 2-60 (c) of the Code specifically grants an exception for Denver officers, officials or employees to solicit donations to the City for charitable purposes so long as the person doing the solicitation or a member of that person's immediate family does not keep or use any of the donated items or funds.

However, the Board strongly recommended that the city employees refrain from soliciting donations from persons or businesses if the city employee has any type of regulatory or enforcement or contractual or other type of relationship with the person or business. For example, a police officer should not solicit a donation from a restaurant in the area that he or she patrols.

6. Case 01-9

The City Attorney requested an opinion as to whether it would constitute a violation of the Code of Ethics if the City hired a law firm in which the Mayor's brother was a partner to do bond work on a proposed real estate transaction. The request stated that the Mayor did not initiate the proposed contract with the firm or have any involvement in selecting, recommending, or negotiating with the law firm.

Under the Code of Ethics, officials are prohibited from taking direct official action on any matter if the official has any substantial interest therein, as that term is defined in Section 2-61. Direct official action in Section 2-52 (b) excludes the signing of a contract by the Mayor unless the Mayor "initiated the contract or is involved in selecting the contractor or negotiating or administering the contract." Under the above facts, the Mayor's signing of the contract would not constitute direct official action and would be permissible.

7. Case 01-10

The Police Department requested an advisory opinion as to whether it would be a violation of the Code of Ethics if police officers in an honor guard who were to present the colors for the national anthem at a Denver Broncos game accepted free tickets for the Bronco game from the Denver Broncos.

Under Section 2-60 (b) 4 of the Code of Ethics, a gift of a free ticket to an event for which admission is charged may be accepted by a City employee, so long as no more than four such tickets are received from the same donor during the same calendar year. The board also cautioned that the individual employees should determine whether or not the gift tickets are of sufficient value to require disclosure under Denver's Financial Disclosure ordinance, 2-72 Denver Revised Municipal Code.

8. Case 01-17

A manager at a city department requested an advisory opinion regarding three situations in which city employees would be asked to sit on non-profit boards that have contracts with the department.

In the first situation, the employee requested to sit on the board is not an employee of the city department awarding the contracts. There would not be a conflict of interest here because the employee would not be in a position to take "direct official action" regarding the proposed contract.

In the second situation, the city employee works for the city department that will be awarding the contract to the non-profit on whose board the employee is asked to sit, but the employee is not involved in the program involved in the contract. The Code would not be violated by the mere

fact that the employee sits on the board of the non-profit. However, it would be wise for the department to take steps to ensure that the employee is completely removed from having any involvement in program areas involved in the contract.

In the third situation, the employee is directly involved in the program area which is the subject of the contract with the non-profit agency. The Board cautioned that in such a situation it would appear highly likely that the employee would be called upon to take "direct official action" regarding the contract with the non-profit agency and that therefore the department should consider whether it is in keeping with the spirit of the Code, which strives to avoid the appearance of impropriety, as well as in the best interest of the City, to place an employee in a situation in which the employee might be called to take direct official action on a matter involving the non-profit agency.

If the Department determines that it is in the best interests of the City to have the employee in such a situation sit on the board of the non-profit agency, strict measures should be taken to ensure that the employee in fact takes no direct official action on any matter involving the non-profit agency.

9. Case 01-18

The manager of a city department requested an advisory opinion regarding whether a conflict of interest exists because he also sits on the Denver School Board, which has contracts with the department he heads.

Serving in both capacities does not in and of itself constitute a violation of the Code of Ethics. A violation of the Code will be avoided if the manager takes steps, which he has done, to ensure that as a city official he will take no action regarding contracts with the School Board. Steps should be taken to ensure that as a member of the School Board he also takes no direct official action regarding contracts with the City.

10. Case 01-19

The City Attorney requested an opinion regarding the propriety of the appointment of an individual to the Board of Environmental Health who holds a concession from the Department of Parks and Recreation to operate a restaurant on city property. The restaurant is subject to regulation by the Board of Environmental Health.

The appointment of the individual to the Board does not constitute a violation of the Code. The Board on which the person sits has no connection with the granting or denying of the concession. However, to avoid a conflict of interest, the appointee must excuse himself from participating in any quasi-judicial hearing conducted by the Board involving his restaurant. The Board member is not prohibited from participating in a rule-making proceeding of the Board involving the restaurant business because the definition of "direct official action" does not include the issuance of rules or regulations.

11. Case 01-22

A police officer who attended a national conference and won a contest prize of a computer device worth approximately \$300 requested an advisory opinion as to whether acceptance of the prize would violate the gift provision of the Code of Ethics. The contest was sponsored by a software vendor which is interested in providing software to the City of Denver.

The Board of Ethics determined that the officer could accept the prize without violating the Code of Ethics because he is not in a position within the Police Department to take any direct official action regarding the decision on which vendor will receive the software contract with the City of Denver.

12. Case 01-24

A department supervisor requested an advisory opinion regarding whether or not it would be a violation of the Code for an employee to hire two of his cousin's sons for seasonal work.

Section 2-59, regarding employment of family members, prohibits an officer, official or employee from hiring a member of his or her immediate family for any type of employment with the city. Immediate family is defined in Section 2-52 of the Code to include husband, wife, son, daughter, grandmother, grandfather, grandchildren, brother, sister and domestic partner. Since cousins or children of cousins are not included in this definition, the employee's hiring of his cousin's sons would not constitute a violation of the Code.

13. Case 01-27

The Police Department requested an advisory opinion regarding whether the longstanding practice by which the Regional Transportation District (RTD) offers free bus and light rail fares to metropolitan law enforcement personnel (including Denver police officers, firefighters and deputy sheriffs) violated the Code provisions regarding gifts. The RTD advised the Board of Ethics that the primary reason for providing free transportation was to enhance the safety of RTD passengers and operators.

Free transit fares are gifts as defined in Section 2-60 of the Code and none of the exceptions set forth therein apply in this situation. Pursuant to Section 2-60, gifts are permissible to Denver employees, officers and officials unless "the officer, official or employee is in a position to take direct official action with regard to the donor . . . and the City has an existing . . . regulatory relationship with the donor." The Board of Ethics determined that Denver police officers are in a position to take direct official action with regard to RTD because they can "enforce laws" (Section 2-52 (b)(2), but that firefighters and deputy sheriffs are not in a position to take direct

official action. The Board, therefore, found that acceptance of free transportation from RTD by police officers (although not firefighters and deputy sheriffs) would violate the Code of Ethics.

However, the Board concluded that providing free transportation to Denver police officers, as well as to firefighters and deputy sheriffs, is in the best interest of the City because it enhances the safety of public transportation. Therefore, the Board, in accordance with Section 2-54 of the Code, granted a waiver to allow police officers to accept free transportation which would otherwise violate Section 2-60 (a) of the Code.

14. Case 01-28

The Police Department asked whether the Code of Ethics would prohibit the rental by the Department of meeting rooms at the headquarters of the Police Protective Association (PPA) for training seminars.

The Board found that the Police Chief or other department officials are in position to take direct official action regarding the PPA, which, as one of its many functions, serves as the bargaining agent for Denver police officers in labor negotiations.

The Board determined that rental of the PPA meeting rooms is not defined as a gift in Section 2-60 (a) (l) if the rental is for adequate and lawful consideration and so long as the rental is not made with any discount not similarly available to all City officers, officials and employees on the same terms. Under these conditions, the rental would not violate the Code of Ethics.

15. Case 01-29

A city employee who reviews and approves development plans for the City asked the Board for an advisory opinion as to whether a conflict of interest exists if one of her immediate family members is employed by a developer to assist or facilitate in moving an application through the development approval process.

Under the Code, an employee is prohibited from taking direct official action on a matter in which the employee, or member of the employee's immediate family, has a substantial financial interest. Substantial financial interest, as defined in Section 2-61, does not include the type of facilitating duties performed by the family member. Therefore the city employee is not prohibited from reviewing or approving projects in which the family member acts as a facilitator. The Board, however, strongly recommended that, in order to avoid the appearance that the family member's projects might receive special treatment, the City employee should step aside from any role in reviewing any permit application for which her family member acts as a consultant or facilitator.

16. Case 01-30

A city employee requested whether it was permissible under the Code of Ethics to have outside employment without obtaining his appointing authority's written permission.

Section 2-63 of the Code of Ethics provides that a Denver employee may not engage in outside employment unless the employee has received written permission from his or her appointing authority.

The Board informed the employee that such unapproved outside employment is not permitted and that the Board of Ethics does not have any authority to review an appointing authority's denial of permission.

17. Case 01-31

An employee in the Department of Human Services asked for an advisory opinion concerning outside employment as an independent broker for a health plan.

The Board advised the employee that such outside employment is permissible as long as his appointing authority approves it in writing. The Board strongly recommended that, in order to avoid the appearance of impropriety, he should not use any client lists or other information that he has access to due to his City employment to generate customers or clients for his outside employment.

EXHIBIT C

General Administration

Board of Ethics 01010-0135000

Agency Description

In 2001, the City Council enacted Ordinance 96, Series of 2001 to establish a five-person Denver Board of Ethics, appointed by the Mayor and City Council. The Board is empowered to issue advisory opinions or waivers to

Denver elected officials, City employees and members of City boards and commissions and to deal with citizen

Inquiries regarding possible violations of the Code of Ethics by Denver elected officials,

employees and members
of City boards and commissions. In addition, the Board oversees the ethics training provided to
City employees
and officials.

Mission

To ensure that City officers, officials, and employees adhere to high levels of ethical conduct so
that the public
will have confidence that persons in positions of public responsibility are acting for the benefit of
the public.

Key Objectives for the Coming Year

- Ensure effective Board response to all inquiries by hiring a permanent staff director (1).
- Ensure compliance with the Ethics Code provisions mandating training for all City employees
by overseeing Career Service's implementation of the ethics training program (2).

Budget Highlights 2000 2001 2002 \$ %
Actual Appropriated Recommended Change Change

EXHIBIT D

Ethics Training Oversight Task Force

Members

- 1) Marcelina Rivera – Vice-chair, Board of Ethics
- 2) Helen Raabe – Deputy City Attorney
- 3) Jim Nimmer – Manager of Training and Organizational

Development, Career Service Authority

4) Cathy Reynolds - Denver City Council

5) Karen Brennan - Denver Public Works

6) Helen Gonzales - Director of Excise & Licenses

7) Phil Workman - Mayor's Office

Resource Persons

June Twinam

Michael Henry
Staff Director, Denver Board of Ethics

EXHIBIT E

WELLINGTON E. WEBB Mayor CITY AND COUNTY OF DENVER
HARRY MACLEAN – CHAIR CHARLES SAVAGE, CAROLYN LIEVERS, CHRISTOPHER C.
WEIMER, DENISE MAES L. MICHAEL HENRY STAFF DIRECTOR BOARD OF ETHICS City
and County Building 1437 Bannock Street, # 281 DENVER, CO 80202 Email: michael.henry
@ci.denver.co.us Website: www.denvergov.org/ethics Phone: (720) 865-8412 Fax: (720) 865-
8419

DENVER BOARD OF ETHICS POLICY MEMORANDUM

PROPER FORUM FOR ADVICE AND INTERPRETATION OF ETHICS CODE

The Denver Code of Ethics makes it clear that the Board of Ethics bears the primary responsibility for formal guidance regarding the intent and meaning of the Code. Inquiries from citizens asking whether an officer, official or employee has failed to comply with the Code must

be filed with the City Clerk, who will forward the inquiry to the Board. Requests from city officers, officials or employees seeking waivers from compliance with specific provisions of the Code must be filed directly with the Board.

City employees certainly may discuss questions concerning the meaning, application, and interpretation of the Code with other employees, their supervisors, the Career Service Authority, and, where appropriate, the City Attorney's office. However, where an employee seeks formal guidance as to whether or not a specific situation or proposed conduct would constitute a violation of the Code, the employee should file the request for an advisory opinion directly with the Board of Ethics. Additionally, supervisors, city attorneys and Career Service representatives should make it clear to employees that they are free at any time to request an advisory opinion directly from the Board with or without previous clearance or concurrence.

The Board would note that the Code does not change the requirement that the requests for approval of outside employment must be filed in writing with the employee's appointing authority.

The Board would also note that employees are responsible for complying with the ethics policy of their particular agency if one has been adopted.

Approved by the Denver Board of Ethics July 20, 2001.

Harry N. MacLean
Chair

EXHIBIT F

VOLUNTARY UNDERTAKING REGARDING POLITICAL ACTIVITIES BY MEMBERS OF THE DENVER BOARD OF ETHICS AND REGARDING ACCEPTANCE OF GIFTS

WHEREAS the Denver Board of Ethics must act and must be perceived to act with complete impartiality in administering and interpreting and enforcing the Denver Code of Ethics; and

WHEREAS the Denver Board of Ethics must be fair and unbiased and be perceived as being fair and unbiased toward all Denver officers, officials and employees and prospective officers, officials and employees;

The following members of the Denver Board of Ethics who sign below agree as follows:

- 1) I will not be a candidate for any elective office in the City and County of Denver while I serve on the Board of Ethics.
- 2) In the event I serve as an officer or a committee person in a campaign for an elective office of

the City and County of Denver, I shall recuse myself from any participation in any matter coming before the Board involving the candidate. I shall also disclose to the Board my involvement in the campaign prior to the Board considering the matter.

3) In the event I make a financial or in-kind contribution to any candidate for an elective office of the City and County of Denver or host any fundraising event for such a candidate, I will disclose such contribution to the Board and recuse myself from any participation in any matter involving the candidate.

4) I will make every effort to ensure that any campaign involving a candidate for elective office in the City and County of Denver which chooses to use my name in any campaign literature or advertisement shall not indicate my position on the Board of Ethics.

5) I will not solicit or receive any gift, as that term is defined in the Code of Ethics, from any employee, officer or official of the City and County of Denver.

6) I will not work either part time or full time or as an independent contractor for the City and County of Denver. If I work for an entity that has a contract with the City and County of Denver, I shall not perform or supervise the performance of any of the work performed under the contract. Additionally I will not be involved in any manner in obtaining the contract for the entity for which I am employed.

_____ Dated: _____
Harry N. MacLean

_____ Dated: _____
Charles F. Savage

_____ Dated: _____
Carolyn Lievers

_____ Dated: _____
Christopher C. Weimer
(except that paragraph 6
above does not apply)

_____ Dated: _____
Denise Maes