



BOARD OF ETHICS

June 29, 2010

Re: Request for Advisory Opinion 2010-04

Dear Municipal Employee:

The Board of Ethics writes in response to your request for an advisory opinion regarding how you as an Ethics Officer should advise and manage gift giving to a seriously injured municipal employee. In issuing this opinion the Board has relied on the information presented to us at our meeting of June 2, 2010, and additional information provided to us by your email to the Board on June 3, 2010. The Board has not undertaken an independent investigation of such information. If material facts have not been disclosed or have been misrepresented this opinion is without force and effect.

As the Board understands it, a municipal employee (hereafter “the employee”) sustained significant bodily injuries while performing his/her job duties. Various members of the Anchorage community have given gifts to this employee, and a “relief” fund has been created to assist the employee during his/her recovery. As an ethics officer for the relevant agency in this case, you have been asked to give advice regarding these gifts in light of the Municipal Code of Ethics (hereafter “the Code”).

The Code has numerous requirements regarding gifts. Perhaps most importantly Section 1.15.020 A.8. requires no person shall:

Accept a gift from an individual or an entity with interests that may be substantially affected by the performance of the person’s official municipal duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the person’s judgment in exercising official municipal duties on a matter affecting the donor.

In addition, Section 1.15.025 H. states as follows:

H. Gifts. A municipal employee may not solicit or accept a gift that benefits the employee’s personal or economic interest if it can be reasonably inferred that the gift is intended to influence the employee’s independence of judgment in the exercise of official duties. Gift receipt and

disclosure apply to the mayor as an elected official under 1.15.035.

1. An item is a “gift” under this subsection if it is:

- a. Money, an item of value, service, loan, travel or hospitality accommodation, meal, or entertainment; and
- b. Provided to a municipal employee for less than full value.

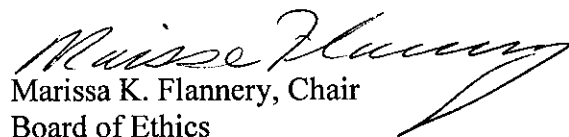
The Board has consistently interpreted these provisions of the Code to require that municipal employees avoid conflicts of interest as well as the appearance of such conflicts when receiving gifts. The Code’s purpose here is to protect the integrity and trustworthiness of the municipality.

Thus, in terms of the gifts and the relief fund monies given to the employee, the Board recommends, as an Ethics Officer, you should focus on the totality of the gifting circumstances (i.e., the gift giver, the amount, their relationship to the duties of the employee, the timing of the gift), such that the circumstances under which the gift was given would not lead a reasonable person to question of integrity of the employee, or other Municipal employees involved in the collection of such gifts. Because of the amount of funds involved, this caution is especially relevant for the relief fund. The donors to the fund, the amount they contribute, and the timing of their contribution should be such that a reasonable person would not question the integrity of the employee or any other Municipal employee involved in the collection of such gifts. Efforts should be made to create procedural “firewalls” to avoid the appearance of impropriety, for instance through a system anonymous donation.

For the gifts given directly to the employee, including disbursements of fund from the relief fund, the Code generally requires that gifts over \$50 be disclosed to the Municipal Clerk (Section 1.15.020 H.2.). As an Ethics Officer, you should advise relevant individuals of this requirement.

The Board found that, in this particular case, there is *no* appearance of impropriety. The community has been moved to generously support the employee and all parties appear to have acted ethically.

Respectfully submitted,


Marissa K. Flannery, Chair
Board of Ethics
Municipality of Anchorage