

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

REQUEST FOR ADVISORY OPINION # A-10-01

SUBJECT: SEEKING SPONSORSHIPS FROM INDIVIDUALS OR ENTITIES DOING BUSINESS WITH WSSC

By request dated January 6, 2010, a WSSC employee ("Requestor") has asked the Board of Ethics (Board) for an advisory opinion on whether there are any Code of Ethics (Code) restrictions on the Communications and Community Relations office seeking sponsorships for the following purposes: 1) To raise \$30,000 to print WSSC calendars to distribute to customers and 2) For the WSSC "H2O Fest" to defray the costs of tent rental and food.

The issue, as the Board sees it, is whether the Code permits WSSC or its employees to seek sponsorships from entities or individuals that either do business with WSSC or that are regulated by WSSC?

Section 3-6(a) of the Code prohibits employees from soliciting gifts "to the employee or another person or organization" from any business or individual that is registered (or who must register) as a lobbyist, that does business with WSSC, or which owns or operates a business that is regulated by WSSC. To the extent that the sponsorships sought qualify as a "gifts"¹, as that term is defined in the Code, then the solicitation from the entities set forth in § 3-6 is prohibited by the Code. Even if the sponsorship sought does not qualify as a "gift", the Board notes that the Policy section of the Code makes clear that "[t]he standards of the Code of Ethics are intended to require Commissioners and employees to avoid activities which might result in the use and/or appearance of use of their public employment...for providing favored treatment to any person, group, or organization and to maintain the highest level of public confidence in the integrity of WSSC." See Code at § 1-2(b). In the Board's view, this concept would be undermined if Commissioners or employees were permitted to solicit sponsorships from any entity or individual "doing business with WSSC", which the Code defines as follows:

Doing business with WSSC means:

- (1) being a party with WSSC to a transaction that is at least \$5,000, on a cumulative basis, during a year regardless of when the consideration is paid;
- (2) negotiating a transaction with WSSC that is at least \$5,000, on a cumulative basis, during a year regardless of when the consideration is paid;

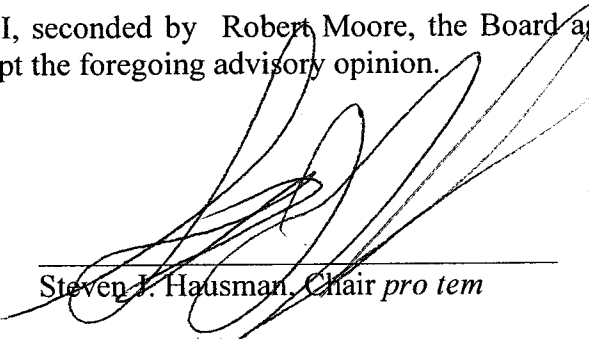
¹ Code § 1-3(k) states that "Gift means the transfer of anything of economic value, regardless of form, without an exchange of consideration of at least equal value." The Board did not receive sufficient information from Requestor to make a finding as to whether the sponsorships that will be sought would constitute "gifts" under this section.

- (3) submitting a bid or proposal to WSSC for a transaction that is at least \$5,000 during a year regardless of when the consideration is paid;
- (4) being a regulated lobbyist; or
- (5) being an entity regulated by WSSC.

For example, the appearance of the name and business logo of a regulated entity such as a plumbing company or restaurant on a tent, list of sponsors, or a calendar page, may indeed suggest that WSSC has or will in the future show preferential treatment to that entity, regardless of any actual preferential treatment.

For the above reasons, the Board advises Requestor that the Communications and Community Relations Office may seek sponsorships from individuals or businesses, as long as no sponsorships are sought from any individuals or businesses that do business with WSSC, as that phrase is defined above. The Board encourages Requestor to work with the Acquisition Office and the Regulatory Services Group to ensure that those entities "doing business with WSSC" are not solicited for sponsorships.

On motion by George Pruden II, seconded by Robert Moore, the Board agreed at its meeting held on March 11, 2010 to adopt the foregoing advisory opinion.



Steven J. Hausman, Chair *pro tem*

3/11/10

Date