

City of Bozeman Board of Ethics

Report 2013

www.bozeman.net/bozeman/Residents/Ethics

February 2014

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Board of Ethics Summary

Current Board Members:

Melissa Frost - past Chair Appointed June, 2009 Term expires July, 2015
mfrost@bozeman.net

Mary Jane McGarity Appointed January, 2011 Term expires July, 2015
mmcgarity@bozeman.net

Chris Carraway -Chair (elected 6/12) Appointed August, 2011 Term expires July, 2014
ccarraway@bozeman.net

Past Board Members:

Rodger McCormick Appointed August, 2008 Term expired July, 2010

Stephen Schultz Appointed August, 2008 Term expired July, 2010

Support Staff:

Aimee Brunckhorst – Deputy City Clerk Administrative and Recording
Services
abrunckhorst@bozeman.net

Greg Sullivan – City Attorney Legal and Procedural Recommendations
gsullivan@bozeman.net

Membership Details

The Board of Ethics is made up of three members appointed by the City Commission to two year terms. Members cannot be city elected officials, city employees, or currently serving on any other city board or commission.

Creation of the Board of Ethics

2008 Bozeman City Charter

The Bozeman City Charter (the “Charter”) was proposed by the City of Bozeman’s 2004-2006 Local Government Study Commission and was approved by the voters at the November 7, 2006 general election. The Charter became effective on January 1, 2008. The Charter confers certain powers and restrictions, prescribing procedures and governmental structure. The Charter was created *...to secure the benefits of local self-government and to provide for an honest and accountable commission-manager government.* (Preamble, City of Bozeman Charter)

Section 7.01 (b) of the Charter called for the establishment of an independent Board of Ethics as well as the requirement for annual training and education of city officials, city board members and employees regarding the state and city ethics codes.

Ordinance No. 1726, Creation of the Board of Ethics

To establish a Board of Ethics (the “Board”) as required in the voter approved Charter, the City Commission adopted [Ordinance No. 1726](#) which provide guidelines for the creation of the board and other ethics related content required in the Charter. These provisions are codified in the Bozeman Municipal Code at Chapter 2, Article 3, Division 4 ([Sect. 2.03.460 et seq., BMC](#)). Duties and powers of the Board, who may request board action and the limitations of the board’s power, are included. In May of 2009, the City Commission adopted [Ordinance No. 1759](#) which amended the original Ordinance. Changes made relating to the board itself were minor.

Board Duties and Responsibilities

Bozeman Municipal Code, Chapter 2, Article 3, Division 4 - Code of Ethics

The Code of Ethics is an important piece of City law. As the declaration of policy section 2.03.460 states, *The purpose of this code of ethics is to set forth standards of ethical conduct, to assist public officials and employees in establishing guidelines for their conduct, to foster the development and maintenance of a tradition of responsible, accountable and effective public service, and to prohibit conflict between public duty and private interest.*

Following are sections within the Code of Ethics directly related to the Board and a brief summary of each. Other sections within the Code of Ethics provide additional direction to the Board and the public in addressing ethical issues and violations.

Sec. 2.03.580 - Board of Ethics.

This section defines the composition and terms of the Board, requirements for membership, and lists the support City staff will provide.

Sec. 2.03.600 - Duties and powers of the board.

This section provides details about Board procedures related to meetings, conducting hearings, and reporting and establishing procedures for administration and implementation of the Code of Ethics. These duties include:

- Evaluating all aspects of the Code of Ethics to ensure the public and all public servants have a reasonable opportunity and are encouraged to participate;
- Developing a plan to educate public servants about their rights, duties and responsibilities;
- Submit an annual report of summary decisions, opinions and recommended actions regarding ethical practices or policies;
- Arrange for an annual workshop or training program for all employees, elected officials and board and committee members; and
- Conduct hearings as needed.

Sec. 2.03.610 - Who may request board action.

This section outlines that any person may file a complaint with the Board and further explains who may request of the Board an ethics opinion.

Sec. 2.03.620 - Limitations on board's power.

This section explains in detail what limitations are placed on the Board and that the Board may refer a matter to the city attorney for review.

In addition to the City's Code of Ethics, the Board has jurisdiction over State of Montana Ethics laws. These provisions are codified in Title 2, Chapter 2, Part 1, MCA ([Sect. 2-2-101, et seq., MCA](#)).

Requirement of Annual Report

The annual report of the Board is a way to inform the public, officials and city employees of what the Board has accomplished in the past year and report any decisions or opinions.

The [Bozeman Municipal Code Sec. 2.03.600](#) specifically states that the board shall:

4. *No later than December of each year, submit an annual report to the city commission concerning its action in the preceding year. The report shall contain:*
 - a. *A summary of its decisions and opinions, both open and confidential; the board shall make any alterations in the summaries necessary to prevent disclosure of any confidential information pertaining to any individual or to any organization if the disclosure could lead to the disclosure of the identity of a person who is entitled to confidentiality; and*
 - b. *Recommend any legislative or administrative actions regarding the city's policies and practices which the board believes would or could enhance the ethical environment in which public servants work.*

2013 Year-End Report

2013 Ethics Training

This year's employee ethics training was again provided by Elizabeth Webb from [Montana State University Local Government Center](#), with logistical meeting assistance from the city human resources staff. Three variations of the training provided customization for supervisors, customer service and every day leadership. Twenty sessions were held to train 368 employees. Only one employee failed to take the training. Ms. Webb indicated that participation in discussions increased over the previous year and employees seemed more at ease. Human Resources Associate Becky Wilbert attended many of the trainings helping to personalize resources within that department. The cost for development and execution of the employee trainings through Montana State University Local Government Center who contracted with Elizabeth Webb was \$3500. Additional internal personnel costs have not been calculated at this time.

Throughout the year, seventeen trainings were provided by Deputy City Clerk Aimee Brunckhorst during regularly scheduled advisory board meetings. Several related boards had combined trainings and two additional meetings were held to accommodate members who were unable to attend their regularly scheduled meeting and for city representatives on non-city boards. The training for the Bicycle Advisory Board was conducted by Commissioner Carson Taylor as Ms. Brunckhorst was unavailable. Approximately 160 board members were trained, with 5 members not attending the training. Ordinance 1833 requires that the clerk's office forward to the Commission a list of officials who failed to take the training. This list was sent to the Commission via e-mail in February.

Board trainings began with information on the changes that were made to the code of ethics, followed with a group discussion with examples and questions from the board. Some of the boards also raised questions related to rules of procedure and meeting protocol. Board members liked the personal approach with this method and expressed appreciation that past feedback was incorporated into the training protocol. Discussion was initiated based upon actual experiences and stories from board members to help them become accustomed to talking out ethics issues that arise. Some of the boards were very forthcoming while others were difficult to engage. In retrospect, developing a case study specific to each board may have been helpful to spur discussion when

necessary, although writing multiple case studies would have been very time consuming.

The city continues to ask new employees and board members to take the online ethics training shortly after hiring/appointment to help familiarize them with the Code and to meet the yearly training requirement even when joining the organization after the yearly training.

Recommendations for Legislative and Administrative Changes

The Board of Ethics brought before the Commission recommendations to the conflicts of interest and post-employment activities in the form of [Ordinance 1856](#). The City Commission finally adopted this Ordinance on April 22, 2013 with the Ordinance becoming effective May 22, 2013. The intent of these legislative changes was as follows:

1. The City Commission intends that amendments within this ordinance to [2.03.520](#) (conflict of interest), in addition to minor changes for reorganization, clarify the only officials who may participate in an action on a matter when a conflict of interest exists are the City Commissioners and only as authorized by Montana statute. Additional amendments to 2.03.520 clarify the relationship between state law and the city's Code of Ethics.
2. Amendments to [2.03.560](#) (post employment activities) make certain the standards in this section work in concert with post-employment prohibitions found in state law and clarify the more stringent provision or the provision that requires greater disclosure, applies.
3. Amendments within [2.03.570](#) (public notice) clarify under what circumstances and through which process a former public servant could override the prohibitions found in 2.03.520. This process enhances transparency and accountability to the public. This section also clarifies that if a conflict exists between the standards in state law and the city's Code of Ethics, the more stringent standard applies.

Summary of the Board's Decisions and Opinions

This section is designed for reporting to the Commission and public any advisory opinions or ethics hearings that were requested and may have been granted throughout the year.

No formal or informal decisions or opinions were made by the Board in 2013. City Attorney Greg Sullivan continued providing a monthly staff report during Board meetings to relay ethics questions and concerns that came to his attention throughout the month and the advice or comments he provided. In addition to informal advice throughout the year, the City Attorney provided several [formal ethics opinions](#) to City

Commissioners and has made these available online. In addition, several board members received advice from the city attorney regarding post-employment matters and have filed [post-employment disclosures](#) which are also available to the public online. A link to these documents can be found from the city of Bozeman [ethics webpage](#).

Administrative Accomplishments

In 2013, an emphasis was placed on helping staff and board members feel more connected and comfortable with the people and resources available to them for handling ethical dilemmas. Building trust and rapport was facilitated by City Attorney Greg Sullivan, who spent many hours visiting each city department during their regular staff meetings. During these visits, staff learned of the changes to the gift provision, received a new version of the Ethics Handbook and provided information about ethical dilemmas they have faced. Resource availability was also improved last year with changes and additions to the city of Bozeman ethics webpage. This personal connection and improvements to resources has paid off as more employees and board members have come to the City Attorney with questions on how to handle future potential conflicts and other ethical dilemmas. During the trainings, staff and board members were reminded again this year that the City Attorney is always available to answer questions and that it is better to solicit advice prior to a potential conflict or post-employment activity.

An online [gift disclosure form](#) was created by staff and approved by the Board of Ethics for employees or officials to utilize when they accept items that do not violate the gift provisions but have a value greater than \$25 and require the filing of a public disclosure statement with the Board of Ethics that indicates the gift, its estimated value, the person or entity making the gift, the relationship to the employee or official and the date of the gift. [Filed gift disclosure forms](#) can be viewed by the public online.

Per the requirement in the City Charter, the City Clerk's office continues to collect [financial disclosure forms](#) in January from every employee and board member who has major financial decision making responsibilities. This list consisted of approximately 100 people in 2013.

Upcoming Goals

Planning for the required 2014 ethics training began during the February Board of Ethics meeting and included Elizabeth Webb and staff from the Human Resources

Department, the City Manager, the City Attorney and the Deputy City Clerk. Initial discussions have focused on ways to continue to strengthen the culture of ethics within the organization. City staff will utilize feedback within the employee high performance organization (HPO) group to narrow down design options.

Upcoming Recommendations

There are no planned recommendations at this time. The Board of Ethics feels legislative changes are not currently necessary. The board met quarterly towards the end of 2013 as the need for monthly meetings dwindled with legislative changes completed. When necessary, the board will meet more frequently.