

City of Bozeman Board of Ethics

Report 2012

www.bozeman.net/bozeman/Residents/Ethics

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Board of Ethics Summary

Current Board Members:

Melissa Frost - past Chair Appointed June, 2009 Term expires July, 2013
mfrost@bozeman.net

Mary Jane McGarity Appointed January, 2011 Term expires July, 2013
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 at Title 2, Chapter 2, Part 1, MCA (Sect. 2-2-201, *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.*

2012 Year-End Report

The City of Bozeman Ethics program has evolved significantly in 2012. Board of Ethics members and administrative staff have concentrated on the culture of ethics and establishment of a robust, long-term ethics program within the organization. As you can see in the following descriptions of activities accomplished, communication and accessibility of resources have been main themes this year.

2012 Ethics Training

This year's annual ethics training was provided by Elizabeth Webb from the MSU Local Government Center with logistical meeting assistance from staff. Three variations of the training provided customization specific for supervisors, non-supervisors and board members. In March, April and June a series of 14 trainings were provided to approximately 375 employees. Five trainings were provided to about 170 advisory board members with six board members not taking the required training.

The trainings were generally well received with participants engaged and appreciative of the format. Ninety-minute sessions began with results of previous research completed by Ms. Webb regarding past ethics trainings. This was followed by a series of short scenarios that presented potential ethical dilemmas on which participants could vote using software-aided machines. The use of this 'clicker' technology to simultaneously vote on the scenarios was well received and created an element of anonymity and an air of novelty. Large-group discussion and reference to the Code followed. Next, more in-depth ethical scenario questions were asked, followed by discussion in small groups allowing participants to contemplate how they would respond to the scenario. Discussion was lively and emphasized the importance of airing ethical dilemmas with peers. Towards the end of the trainings for the employees, small groups were asked questions related to the current ethical culture within the organization, suggestions for improvement, the role of leadership and questions related to the ethics policy, board of ethics and future trainings. Responses were reported back to the group, were used to further research on the city's ethics program, and will inform future efforts.

Throughout the year, new employees and board members were asked to take the online ethics training shortly after hiring/appointment to help familiarize them with the Code

and meet their requirements for annual training. About five new board members also attended the in-person training that was provided as a makeup session in October.

Recommendations for Legislative and Administrative Changes

The Board of Ethics made several recommendations to the City Commission in June of 2012. After considerable debate, and with the feedback and advice of city staff, they forwarded Board of Ethics resolution No. 2012-01 recommending revisions to the gift provision. This led to asking the City Commission to adopt Ordinance No. 1833 which revised Bozeman Municipal Code section 2.03.540, governing gifts, gratuities and favors, and section 2.03.600, authorizing removal procedures of a board member for not attending required training. The City Commission agreed to adopt Ordinance No. 1833, which went into affect October 4, 2012.

The importance of changing the gift provision became apparent as employees voiced concerns that the outright prohibition was hindering establishing relationships with citizens, accepting professional and community awards for public service and attending public events in an official capacity. The new guidelines acknowledge the legitimate reasons for accepting a gift, gratuity or favor while continuing to uphold public trust and the important tenet that employees or officials not receive private gain from public office.

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.

In April and May, 2012 Board of Ethics members were asked to make a determination as to whether members of the Community Climate Action Plan Working Groups were subject to the city's Code of Ethics. Careful consideration occurred regarding the characteristics of the working groups and the meaning of definitions in the code for 'persons covered' and 'official'. Taking into account all of the above and considering that the working groups do not provide formal recommendations to the City Commission but rather work with staff, Board members determined these particular working groups were not subject to the code of ethics. The Board determined, however, that these working groups should nonetheless be made familiar with the Code and encouraged to comply fully. In the future, the City Commission will be asked when establishing a working group whether the group will be subject to the city Code of Ethics. This decision was memorialized with Board of Ethics Resolution 2012-02.

No other formal decisions or opinions were made by the Board in 2012. City Attorney Greg Sullivan did, however, begin 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. This created a way to keep records of the types of situations that arise while also providing real world examples of the dilemmas facing employees as they go about their day-to-day duties.

Administrative Accomplishments

A theme emerged from the trainings that employees need a personal connection to the resources available to them for handling ethical dilemmas. In other words, they need to know more about the actual people they were expected to report to and ask questions of. 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 what ethical dilemmas they have faced. Interactive discussions helped Mr. Sullivan understand and relay to the Board training formats that may be effective in the future and the types of ethics-related resources employees need. Most importantly, by introducing himself to employees across the organization and engaging them in a meaningful conversation, Mr. Sullivan was able to establish important relationships critical to a robust ethics culture. He also provided background about Board of Ethics members, thus helping employees become more familiar with them. Visits to several departments remain and will occur towards the beginning of 2013 as time allows.

Resource availability was also improved with changes and additions to the city of Bozeman ethics webpage. A wide variety of links are available there including past presentation slides, a link to the online training, and Ms. Webb's research results. Updates were also made to the city Ethics Handbook and a new flowchart created to illustrate the revised gift provision. As administrative support to the board, Deputy City Clerk Aimee Brunckhorst also created a new online form to be used if a gift, gratuity or favor must be disclosed per the new Code provisions. This form and others are easily accessible from the ethics webpage.

Upcoming Goals

2013 Ethics Training

The Board of Ethics emphasized the importance of continuing to evolve the annual ethics training. Brainstorming about upcoming trainings occupied a significant amount of the meetings in the second half of 2012. Staff and Board of Ethics members feel that employee training should be an ongoing process throughout the year with an emphasis on the link between training and actual ethical dilemmas that arise on the job. While the details still need to be developed, trainings will likely be based as much as practicable upon the specific functions of an employee. Small, focused meetings occurring throughout the year will concentrate on scenarios that are likely to happen in the workplace.

Citizen advisory board trainings for 2013 will most likely occur during regularly scheduled board meetings. Training will encompass a variety of board-related dilemmas and questions that have been brought forward over time by board members and staff liaisons. A packet of materials will also be provided by the clerk's office covering topics such as open meeting laws, creating effective agendas, the city's purchasing policy, quasi-judicial v. legislative hearings and the appearance-of-fairness doctrine. In this manner, the ethics training can be combined with other types of training that have been requested.

Upcoming Recommendations

The Board of Ethics plans to continue to review the conflict of interest and post-employment provisions in the Code of Ethics and again bring recommended revisions before the City Commission.