1. CALL TO ORDER

2. ROLL CALL

   Present: Chairman Cronin, Janice Anderson, Elizabeth Chaplin, Grant Eckhoff, Tim Elliot, Gary Grasso, Greg Hart, Brian Krajewski, Don Puchalski, Sam Tornatore, Kevin Wiley

3. CHAIRMAN'S REMARKS

4. PUBLIC COMMENT

5. COUNTY BOARD ETHICS TRAINING
   A. Presentation by Daniel Hanlon (Ethics Adviser);

6. QUESTIONS
   Daniel Hanlon was available for the board members questions. The presentation is attached hereto and made part of the full minutes packet

7. ADJOURNMENT
   Without objection the meeting was adjourned at 12:15 p.m.
Who is Responsible for Ethics Compliance?

- Chairman of the Ethics Commission: Gerald Cassioppi
- Members of the Ethics Commission: Blanche Fawell Robert LaDeur William Habel E.F. Todd Benson
- Ethics Investigator: Nancy Wolfe
- Ethics Adviser: Daniel Hanlon
Role of Ethics Commission

- Meets quarterly to discuss ethics related issues.
- Conducts evidentiary hearings on formal Complaints brought by the Investigator General.
- Rules on complaints brought by the Investigator General.
- Issues recommendations for disciplinary actions.
- Imposes fines of up to $5,000.00.
Role of Investigator General

• Accepts, evaluates and investigates complaints of alleged violations of the Ethics Ordinance.
• Provides the Ethics Commission with a status report every 30 days an investigation is pending.
• Provides written notice of the allegations and rights to the accused.
• Presents a formal complaint to the Ethics Commissions.
• Presents evidence of alleged violations to the Ethics Commission at a formal hearing.
Role of Ethics Advisor

- Provides guidance to any person subject to the ordinance.
- Provides written opinions when requested and/or required.
- Assists in preparing materials and information to help guide those subject to the Ethics Ordinance.
- Tracks and monitors compliance with ethics training required under the Ordinance.
Complaint Procedure

- Complaints must be in writing and directed to the Investigator General (IG).
- IG reviews complaints and determines if the person accused of a violation is subject to the ordinance and whether the act or acts complained of are covered by the ordinance.
- IG can assist a complainant with filing a complaint with proper agency.
- If IG can proceed with investigation, he must inform the complainant, the respondent, and the “ultimate jurisdictional authority” (UJA) of the respondent of the existence of the complaint.
Complaint Procedure

- IG conducts preliminary investigation to determine whether reasonable cause exists to believe a violation occurred.
- IG may compel testimony under oath as he or she deems necessary.
- IG prepares a written summary report to the Ethics Commission Chairman, the respondent, the complainant, and the UJA indicating the results of his or her inquiry.
Complaint Procedure

- If the IG believes reasonable cause exists that an ethics violation has occurred, he or she may petition the Commission for leave to file a formal complaint.
- The Commission may deny the petition and end the inquiry or authorize the petition and set a hearing within six weeks.
What Does the Ordinance Cover?

- Gift Ban
- Political Contributions
- Prohibited Political Activity
- Conflicts of Interest
- Disregard of the Ordinance and Retaliation
Gift Ban

- No person subject to the ordinance may accept or solicit a gift from a “prohibited source” subject to some limited exceptions.
- Prohibited sources generally are people and entities which do business with your unit of government.
- Prohibited gifts usually do not include gifts from friends and relatives, education or travel expenses related to a person’s official position or items with a value of less than $100 in any year.
- Prohibited gifts do not include food or refreshments that do not exceed $75 per day.
The Ordinance does not define “value” or offer direction on how or when to determine value.

While it easier to determine the value of meals or travel, the value of certain forms of entertainment (i.e., sports tickets) may be harder to discern depending on when and how the valuation occurs – relying solely on face value or on market value determinations has limitations.

When in doubt, take a step back and think about how what you are about to do will be perceived.
Political Contributions

- Campaign Contributions may not be solicited, offered or accepted on public property.
- Procurement must request a listing of campaign contributions to County officers from any vendor with more than $25,000 in County contracts.
- Requires compliance with Section 9-8.5 of the Election Code and its limitations on political committee campaign contributions.
Political Contributions

- Current contribution limits for candidates as of January 2017 pursuant to the Election Code:
  - $5,600 from an individual (excluding immediate family)
  - $11,100 from a corporation, labor organization or association
  - $55,400 from a Candidate Political Committee or a Political Action Committee
  - No limit from a Political Party Committee unless the candidate is seeking nomination in a primary.

- These limits do not apply if any candidate in the race self-funds (contributes $100,000 to his own campaign)
Prohibited Political Activity

- In general, employees are prohibited from engaging in certain political activity during compensated time.
- Most prohibited political activity involves fundraising activities, meeting planning, or electioneering.
- No person may require or reward an employee’s participation in political activity.
- Again, no solicitation of campaign contributions on public property.
Conflicts of Interest

- A conflict of interest exists whenever official action could result in a personal advantage or disadvantage to the interested person.
- Officers and employees must avoid conflicts of interest.
  - Disclosure of financial interests
  - Future employment offers
  - Prior employment relationships
  - Use of “inside” information
In Case of Conflict

- Notify, in writing (an email is sufficient) the Ethics Adviser immediately.
- The Ethics Adviser will review the matter and issue a written opinion as to the potential conflict and maintain an official copy of that opinion.
- If the Ethics Adviser determines that a conflict exists, you must abstain from discussion and deliberations and may not vote on any contract with the person or entity involved in the conflict.
  - “Show Member So-and-So Leaving the Room!”
Other Unethical Behavior

- Interference with investigations
  - Failure to cooperate
  - Providing false information
- Retaliation against whistleblowers
Question 1

- A County vendor invites your spouse to a conference as part of his/her employment.
- Your spouse is not subject to the DuPage County Ethics Ordinance.
- As part of the invitation, the vendor has agreed to waive your spouse’s entry fee of $95.00.
- Is it okay to accept this waiver from the vendor?
Question 1

- Yes, because this vendor is not considered a prohibited source to your spouse under the Ethics Code.
- Yes, because the entry fee is less than $100.00.
- No, because the vendor is a prohibited source to your spouse.
- No, because your spouse cannot do business with a prohibited source.
Section 2-455(n) defines a gift, in pertinent part, as a discount or other tangible or intangible item having a fair cash market value.

Section 2-473 prohibits you or a family member living with you from accepting any gift from a prohibited source.

Section 2-474 contains exceptions to this prohibition including any item from any one prohibited source during any calendar year having a cumulative total value less than the amount permitted under the State Officials and Employees Ethics Act which is currently $100.00.
Q. One week after your spouse attended the conference, the same vendor invites you to play a round of golf at his country club which is valued at $95.00. Are you allowed to accept?

Yes or No?

A. No. The Gift Ban section of the Ethics Ordinance allows you to accept gifts with a cumulative total value less than $100.00 in a calendar year. Your spouse’s acceptance of a $95 gift counts toward your cumulative total.
Question 2

- A County vendor who is also a childhood friend invites you to attend the fundraiser of another County Board member as his guest.
- You know the ticket price for the event is $150.
- Can you accept?
Question 2

- Yes. The gift is from my personal friend and, therefore, the gift ban does not apply.
- Yes, because you don’t really like the other Board member and don’t consider the ticket to be a gift.
- No, because any gift exceeding $100, no matter who it is from, is a violation of the gift ban section of the ordinance.
- Maybe.
Explanation

- Although it is an exception to the gift ban section of the ordinance to accept gifts based on a personal friendship, the gift cannot have been provided because of your official position.
Factors to Consider

- The history of the relationship between you and the giver, including any previous exchanges of gifts;
- Whether you have any knowledge as to whether the giver personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
- Whether you have knowledge that the giver also gave the same or similar gift at the same time to other recipients.
Follow-Up

- Your friend later tells you that he was able to deduct the cost of the tickets as a business expense.
- What do you do?
Follow-Up

- You thank him for his gift and do nothing else.
- You donate an amount equal to the value of the ticket to a qualifying charitable organization.
- You return your used ticket to your friend.
- You pay your friend an amount equal to the value of the ticket.
As soon as you discovered that the ticket was deducted as a business expense by your friend, it became a gift from a prohibited source.

Section 2-473 states that a recipient does not violate the Ethics Ordinance if that person gives the gift or an amount equal to its value to an appropriate charity that is exempt under Section 501(c)(3) of the Internal Revenue Code.

Had the recipient discovered the fact that the ticket was a prohibited gift prior to its use, the recipient could have also returned it the source. However, the Ordinance does not provide the recipient the opportunity to pay the source for the gift.
Question 3

- During a break in a County Board meeting while in the hallway County Board Member A mentions to you that Member A would like to donate to your campaign and will give you a check when they see you at a mutual friends birthday party.
- Has Board Member A violated the Ethics Ordinance?
Question 3

- No. Because you are not a prohibited source so Member A can make donations.
- Maybe.
- Yes. It is a violation of the Ethics Ordinance to offer to make a campaign contribution on County Property.
- Yes. It is a violation of the Ethics Ordinance to offer to make campaign contributions while performing the duties of a County Board Member.
Section 2-475 of the Ethics Ordinance makes it a violation of the Ethics Ordinance to intentionally solicit, accept, offer, or make on public property any campaign contributions.

So if you and a fellow board member are at a local municipal village hall for a meeting, it is a violation of the ordinance to even turn to your fellow board member and offer to buy a ticket to his or her upcoming golf outing.

This prohibition applies to all public property, including property owned by other units of government.
Follow-Up

• In this same scenario did you violate the Ethics Ordinance when Member A offered to make a campaign contribution to you while you were both on County Property?

• Maybe.
• If you accepted the offer of Member A while still on County Property, you would be in violation of the Ethics Ordinance as well.
Follow-Up

Would there be a violation of the Ethics Ordinance if you and Member A were lifelong friends, and the offer was made at a campaign fundraiser hosted at Arrowhead Country Club, a facility owned by the Wheaton Park District, for a fundraising reception?
Follow-Up

- Yes. The fundraiser is on public property.
- No. The offer was being made based upon personal friendship.
- No, because a facility is not considered public property when it is rented or leased by a private entity.
- Yes. Contributing to a fellow Board Member creates the appearance of favoritism.
Explanation

- In general, the Ordinance prohibits soliciting, accepting, offering, or making campaign contributions on public property.
- However, Section 2-475(b) provides that "Public property" does not include any portion of a building that is rented or leased from a governmental entity by a private person or entity.
Question 4

- Prior to turning in your Nominating Petitions with the DuPage County Election Commission, you ask the Commission Employee who is accepting Petitions and who is a close friend of yours to take a quick look at the Petitions to see if there are any glaring problems and the Employee complies.
- Have you violated the Ethics Ordinance?
Question 4

- Yes. You cannot direct County employees to perform campaign work during compensated time and reviewing nominating petitions is considered prohibited political activity.
- No. Because the County employee is your friend and was looking at your petitions in the ordinary course of their employment.
- No. Simply reviewing your petitions is not considering prohibited political activity.
- Maybe. It all depends on whether you provide the Employee with some benefit.
Although it is permissible for a County employee to participate in political activity during uncompensated personal time, Section 2-478 of the Ethics Ordinance prohibits the intentional misappropriation of an employee's compensated time to conduct prohibited political activity. Section 2-477(g) of the Ethics Ordinance defines, in part, prohibited political activity as reviewing any petition on behalf of a candidate for elective office.
Question 5

- After you have turned in your nominating petitions to the clerk at the Election Commission, whom you have known for years, you state “Don’t forget to vote for me on election day”.
- Have you violated the Ethics Ordinance?
Question 5

- Yes. It is a violation of the Ethics Ordinance to campaign for elective office on County Property.
- Maybe.
- No. There is no prohibition on Elected Officials campaigning as long as public property or resources are not used.
- Yes. Even an elected official cannot campaign while on government property.
Follow-Up

• Would the there be a violation of the Ethics Ordinance if this same Election Commission Clerk who accepted your petitions informed you that he/she was in fact also running for office and hoped that he/she could count on your vote?
Follow-Up

• No. There is no prohibition on County Employees campaigning as long as public property or resources are not used.
• Yes. County Employees are never allowed to perform political activities while on County property.
• Yes. The Ethics Ordinance prohibits employees from performing prohibited political activity during compensated time.
• Maybe.
Section 2-478 of the Ethics Ordinance prohibits employees from performing any prohibited political activity during compensated time.

Due to the nature of an elected official’s position they are presumed to always be representing the People of DuPage County and, therefore, it would be impossible to define what is considered to be compensated time.
Question 6

- When not performing the duties of a County Board Member, you are a highly successful widget salesperson.
- A former County Vendor, who happens to also sell widgets, approaches you while you are at a restaurant and tells you that he is impressed with your sales record and wants to hire you.
- You invite him to sit down and you discuss the terms of your possible future employment?
- Have you violated the Ethics Ordinance.
Question 6

- No. You are free to discuss future employment with any prospective employer as long as you do not accept it without confirming it would not be a conflict.
- No. Since the vendor does not currently have a contract with the County, no violation exists.
- Yes. Since you are a County Board Member you are never allowed to discuss future employment with any potential County vendor.
- Maybe.
Section 2-481, provides that no person may accept or discuss an offer of future employment with any individual or business entity doing or seeking to do business with the governmental entity such person serves if either:

- The person knows or has reason to believe that the offer of employment was intended as compensation or reward or to influence official action pertaining to the business entity; or

- The person has decision-making responsibility for a matter and that individual or business entity is offering employment to the decision maker unless that person has disclosed in writing to his or her ultimate jurisdictional authority that the employee intends to discuss future employment with this person or business entity. In this case, the person shall be removed from any decision-making relative to this person or business entity. This section shall apply to persons with approval authority, or input on approval or selection, but shall not include those persons who fill a review or compliance function in the approval/selection process.
Explanation

• In the situation where a Board Member is offered future employment by an individual doing business with DuPage County, the Board Member shall promptly, disclose to the ethics adviser, in writing, the intention of discussing future employment and such Member shall withdraw from discussion and shall not vote on any contract with the business entity.
In this case, the answer is a maybe because we do not know if the vendor is seeking to do business again with DuPage County.

In situations such as this where you are uncertain whether the individual or entity is currently doing or seeking to do business with the County, you should immediately inform the individual that you cannot discuss the potential for future employment until you determine if you have to disclose the plan to have a discussion to the Board and/or the Ethics Adviser before continuing the discussion. Then be sure to make the disclosures prior to resuming the discussion.
Question 7

- You (or your campaign) create and maintain a personal political website.
- You include video from a County Board meeting which was recorded by the County’s IT personnel and published on the County’s official website.
- Have you violated the Ethics Ordinance?
Question 7

- No. The material used by you was available for use by the public.
- Yes. The video was produced using government time and resources.
- Yes. Use of video from the Board meeting is tantamount to campaigning during a public meeting.
- Yes. Use of the video constitutes theft of the County’s intellectual property.
Explanation

- In this case you are merely taking advantage of something offered by the County to the general public.
- The recording itself constitutes a public record and could be obtained through a FOIA request.
- The recording was not created at your request for political purposes.
- You are not making improper use of your office to obtain the recording.
Generally speaking, if something can be obtained from the County’s website or through a FOIA request, its use for political purposes is probably OK.

A person subject to the Ordinance should take care not to request that a particular record be created primarily for political purposes.

A person subject to the Ordinance should not use public resources or information not available to the general public on the same terms for political purposes.
ANY QUESTIONS?