

# City of Bozeman Ethics Training 2012 *Elected and Appointed Officials*



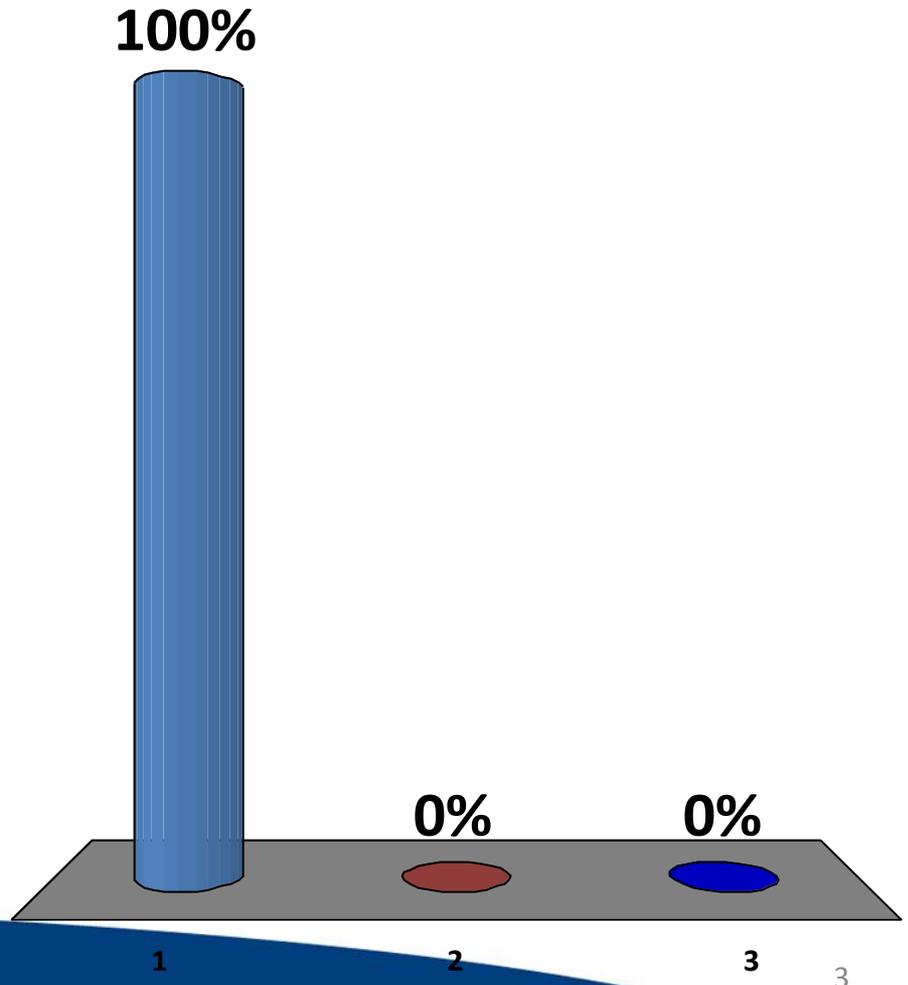
*Local Government Center  
Montana State University*  
[www.msulocalgov.org](http://www.msulocalgov.org)

# *2012 Ethics Training Agenda – 90 minutes*

- I. Research Results from Fall 2011  
Qualitative Research Spring 2012
  
- II. Ethics Scenarios and Discussion
  
- III. Small group discussion and Report out

# *Which of these statements best reflect how you feel about being part of this Ethics Training today?*

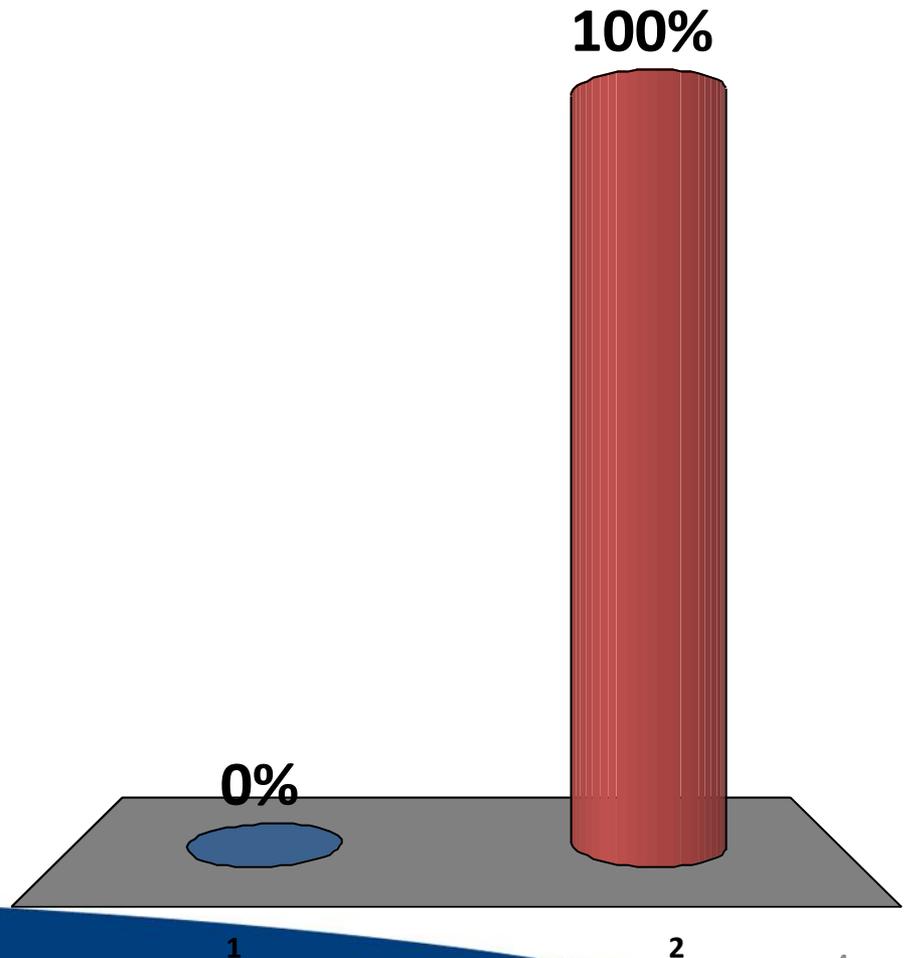
1. I'm happy to be here; I like attending the ethics trainings
2. I'm here because I have to come, but I usually learn something and it's not so bad
3. I'm here because I have to come and I'm not looking forward to it



# *Were you honest in your response to the previous question?*

1. YES!

2. NO!



# *Quantitative Research from Fall 2011*

## **2008 City Charter, Bozeman, MT**

The city commission shall ...establish an **independent board of ethics** ...(and) provide **annual training** and education of city officials, city boards, and employees regarding the state and city ethics codes.

Art. VII Sec. 7.01(a)(b) Jan. 1, 2008

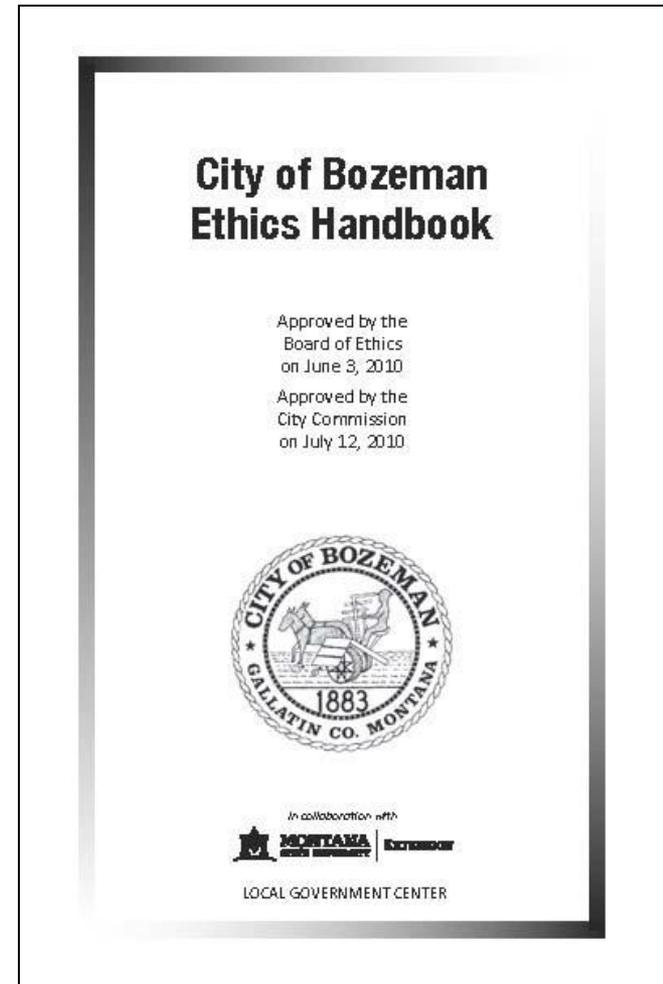
## *By the close of 2011*

Two series of trainings have taken place

- 2009 – “Live” in-person trainings to all employees, elected and appointed officials
- 2010/2011 – “On-line” training related to Bozeman’s specific Code of Ethics and the Montana State Code of Ethics

# *Ethics Handbook*

- 600 City employees, elected and appointed officials (City Council and Boards)



# *Independent Board of Ethics established*



**What are Ethics and Why are They Important for Local Governments?**

Ethics are commonly defined as the rules of conduct that govern how a society differentiates between good and bad, right and wrong. In practice, ethics guide individuals in identifying the correct course of action in how decisions are made.



In local government, the role of ethics is significant in maintaining public trust, fairness, and the appearance of fairness in all government action. Many local governments, including Bozeman, have created laws that outline a Code of Ethics that specify the conduct of all government actions, be it employees, elected or appointed officials, to ensure that all dealings are conducted fairly and in an unbiased manner in both appearance and fact. In general, a Code of Ethics, as is the case for Bozeman, is designed to guarantee that procedural requirements are followed so that all government actions are not only fair, but also appear to be fair.

The goal of any ethics-related statute and program is to preserve the public's confidence and trust in government.

**City of Bozeman Code of Ethics Handbook**

An Ethics Handbook is now available for the public, employees, public officials and staff. (See link below.) This ethics handbook was produced by the city of Bozeman Board of Ethics in conjunction with the Local Government Center to educate citizens and train employees and public officials in best practices and legal requirements. In addition, this handbook details specific ethical requirements and provides guidance on obtaining information and filing complaints. The City Code of Ethics provides legal requirements outlining conduct and best practices as detailed in the Code of Ethics within the Bozeman Municipal Code.

**What is the Process to Seek Advice About the City Code of Ethics?**

If a city employee or official has a question about a potential ethics issue, impropriety, or violation, depending on the employee's or official's position and the nature of the issue, he/she should consult with his/her supervisor, Human Resources Department, or seek the advice of the City Attorney. Any member of the public may also request a formal or informal City Attorney opinion with respect to the ethical conduct of an employee or official. In some circumstances, the City Attorney may exercise discretion regarding whether to issue such an opinion.

**What is the Board of Ethics and What Are its Responsibilities?**

The City Code of Ethics details the responsibilities of a three-member Board of Ethics. The Board is made up of individuals who are residents of the city but not "elected officials of the city, full-time appointed city officials whether exempt or non-exempt, or city employees". Board members are appointed by the City Commission to staggered terms and do not receive compensation. The responsibilities of the Board are to:

- Evaluate all aspects of the City Code of Ethics to ensure the public and all public servants have a reasonable opportunity and are encouraged to participate;
- Develop 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 board members; and
- Conduct hearings as needed.
- The Board does not have authority to reverse or modify a prior action of the Mayor, governing body or an officer or employee of the City but may refer a matter to the City Attorney for review and consideration for appropriate action. The Board was created to ensure the public and all public servants have a reasonable opportunity and are encouraged to participate in any process for regularly evaluating the City Code of Ethics.



**Additional Links**

- 2010-2011 Board of Ethics Report
- City of Bozeman Ethics Handbook (code citations to be updated shortly)
- City Code of Ethics
- Bozeman City Charter
- Financial Disclosure Form (fillable)
- Resource - Local Government Center, Montana State University
- Resource - Ethics Resource Center (ERC)
- National Government Ethics Survey from ERC
- National Business Ethics Survey from ERC

Research Paper: *What is Good and What is Right: Ethics in Montana Municipal Government* by Elizabeth J. Webb, Montana State University, Doctorate student  
2/13/12 Presentation from Ms. Webb on the results of her research

Research Paper: *The Effectiveness of Online Ethics Training Programs: A Case Study of the City of Bozeman Ethics Program* by Joseph Piro, Montana State University Graduate student



*Has it made any difference?*



## **Bozeman: 37,280 population**

- ✓ Annual ethics training for employees, elected, appointed officials
- ✓ Code of Ethics – State and City-specific
- ✓ Ethics Handbook
- ✓ Evaluation of ethical behavior (city core values) as part of performance evaluation
- ✓ Whistle-blower policy defined; mechanism to report ethical violations defined
- ✓ Mechanism to discipline employees and independent Board of Ethics established
- ✓ Ethics resource staff identified for guidance

## **Kalispell: 19, 927 population**

- ✓ Periodic training as needed. Group discussions in work areas as impacted.
- ✓ Code of Ethics – State
- ✓ Ethics covered in personnel handbook
- ✓ As part of performance evaluation if issues are present
  
- ✓ Mechanism to discipline employees

# *After 2+ years...*

## **Significant differences between Bozeman and Kalispell in:**

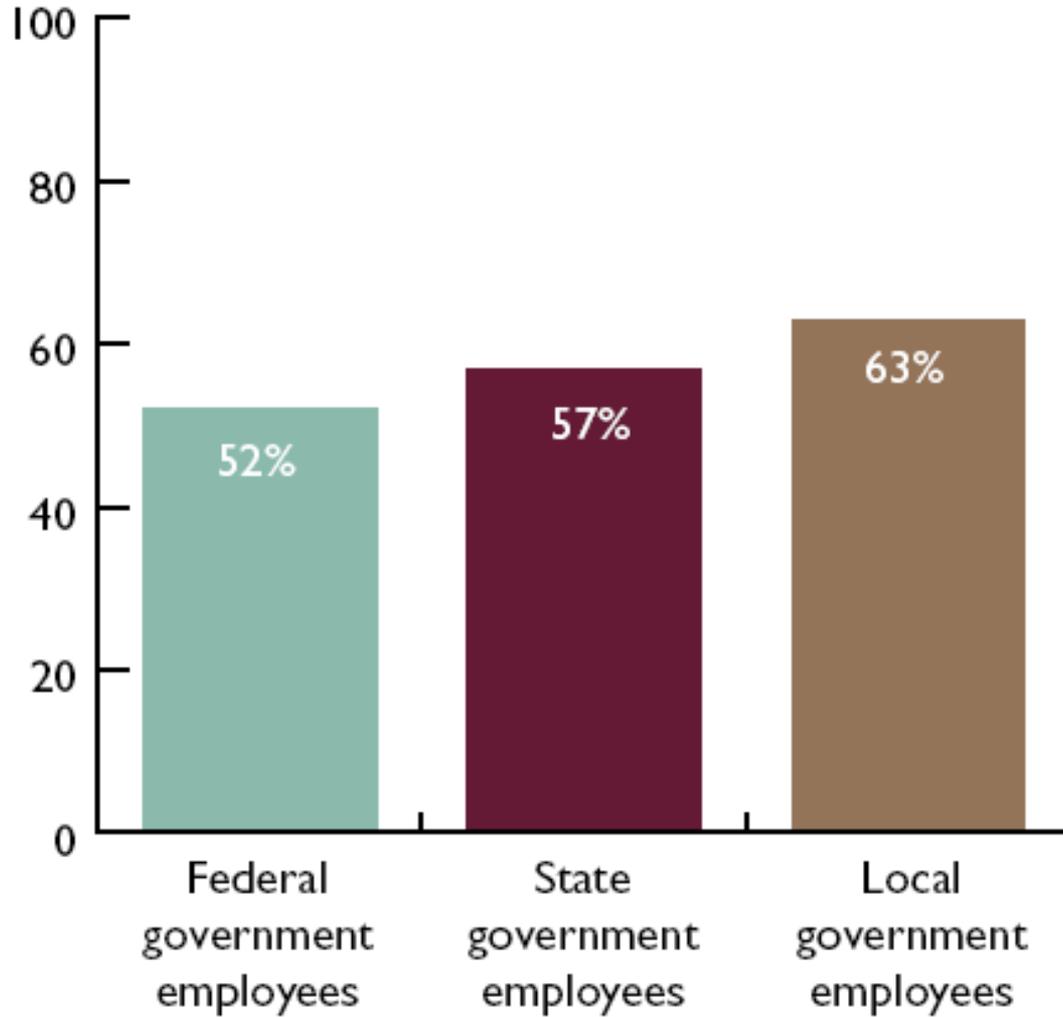
- **Ethics Code Awareness** (policy guides employees in decision-making; have read the code; understand the code; know the city's ethical expectations; know that policies exist)
- **Ethics Resources** (resources are available; easy to get help; staff are available)
- **Ethics Program Effectiveness** (program is effective; confidential manner; increased trust in city; city concerned about ethical standards)

## *After 2+ years...*

### **No significant difference between Bozeman and Kalispell in:**

- Observations of misconduct
- Reporting of misconduct
- Other measures of perceptions of ethical culture (ethical decision-making process, informal ethical norms, ethical leadership)

## More State and Local Government Employees Observe Misconduct



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**Bozeman 36%**  
**Kalispell 31%**

## *Results – lowest mean scores*

- Bozeman Employees **leaned negative** about whether the city is willing to do the right thing no matter the financial costs
- Bozeman Employees also **leaned negative** about whether the city rewards employees for ethical behavior
- Employees from both cities were close to **neutral** about personnel decisions (hiring and promotions) reflecting ethical principles.
- Bozeman Employees were **neutral** about whether the Ethics Program is effective
- Bozeman Employees were **neutral** about whether moral concerns are given top priority by the City's top leaders
- If I were to have an ethical concern, I know I would be supported by the City; Bozeman rated this as close to **neutral**

# *Bozeman Ethics Trainings*

## **2009:**

Live trainings on City Specific Code and State Code of Ethics

## **2010/2011:**

On line training specific to the Code of Ethics (City and State)

## **2012:**

Move away from the Code alone (defines what you cannot do) towards decision-making and City culture

How do I make the right decision in this case?

Who should I involve?

How do we strengthen ethics within the City of Bozeman?

What do we want from our Ethics Program?

# *Ethics Scenario Warm-ups*

## *Green Light/Red Light*

For the following slides:

1 = Green

2 = Red

- Green means “go,” it’s OK, this is not an ethical issue.
- Red means “stop,” this is not ethical behavior!

A member of the City Planning Board serves as a coach for a local little league team. To raise funds to purchase new equipment and uniforms, she solicits donations from local developers.

1. Green Light

2. Red Light



# P4-5 Ethics Handbook

## 2.03.490.D – Standard of Conduct

### 2.03.470.A.10 – Definition of Personal Interest

No official or employee shall improperly use, **directly or indirectly**, the **official or employee's city position to secure any financial interest or personal interest** for said official employee, or others.

**"Personal interest"** means any interest in the matter which would **affect the action of the official or employee** other than a financial interest, and other than an interest because of membership in, or affiliation with, but not employment by a social, fraternal, charitable, service, educational, religious, governmental, health service, philanthropic, cultural, or similar nonprofit institution or organization.

A member of the Recreation and Parks Board owns a small piece of property along a creek currently for sale that is on the list for potential purchase by the City for green space. As the Board moves to make recommendations for park land purchase, this board member votes along with other members of the board.

1. Green Light

2. Red Light



# P5 Ethics Handbook

## 2.03.520 – Conflict of Interest

No official or employee shall have a **financial or personal interest**, tangibly or intangibly, in any transaction with the city as to which such official or employee has the power to take or **influence official action unless full public disclosure** is made. If an official or employee has any tangible or intangible financial or personal interest in the outcome of any matter coming before the agency of which the official or employee is a member or by which the official or employee is employed, such official or employee shall **publicly disclose** on the record of the agency, or to a superior or other appropriate authority, the existence of such financial or personal interest. An official or employee having such a financial or personal interest **shall not engage in deliberations concerning the matter**, shall disqualify himself/herself from acting on the matter, and shall not communicate about such matter with any person who will participate in the action to be taken on such matter.

Robert, the owner of a construction company from Colorado is visiting Bozeman. He is looking at Bozeman as a possible area for growth of his company. You and your spouse are out for dinner and drinks with friends who have invited Robert along. After a delicious meal at Boodles, Robert announces that he is picking up the tab. You are a member of the Fire Code Board of Appeals and your Board membership came up during discussion at dinner.

1. Green Light

2. Red Light



# P 6 Ethics Handbook

## 2.03.540

- Gifts are undeniably a major topic of discussion for employees and officials. Questions invariably arise as to whether it is a violation of the City Code of Ethics to accept a tin of holiday cookies or even a free cup of coffee. **No official or employee shall accept a gift, gratuity, or favor from any person or entity.**
- Conflict of Interest

You serve on the Library Board of Trustees. In preparation for the next meeting, you are using the Library copier to prepare hand-outs of information for board members and the public on an agenda item. You have a few personal papers that need to be copied and mailed today. The meeting will be starting soon and you do not have time to run to Kinkos for your personal copies. You make 5 personal copies on the Library machine.

# 1. Green Light

# 2. Red Light



# P. 5 Ethics Handbook

## 2.03.500

City officials and employees are entrusted with public resources including equipment and access to information. The temptation to use resources and knowledge for personal gain can be significant, especially when equipment, such as a vehicle, is entrusted to an employee. The City Code of Ethics clearly states employees and officials are **not permitted the use of city-owned vehicles, equipment, material, or the use of other city resources for personal use.**

At the previous very lengthy meeting of the City-County Board of Health, the Board Chair made a spontaneous decision to not allow public comment in the interest of time. At least two citizens were in attendance and had planned to give public comment. An appointed board member expressed concerns but was not listened to. The next day he brought his concerns to the City's Board of Ethics. This week when he attended the next Board Meeting, no one on the Board would look at him or talk to him. Is this an ethical issue?

1. Green Light

2. Red Light



# P 10 Ethics Handbook

## 2.03.510 – Treatment of the Public

## 2.03.470.A.8 – Definition of Improper Governmental Action

## 2.03.590 – Reporting of Improper Governmental Action

The City refers to “whistle blowing” as the “reporting of improper governmental conduct or action.” Every official or employee must refrain from improper governmental action. An improper governmental action includes any action taken by an official or employee during the performance of their duties that **violates the standards of conduct in the City Code of Ethics or Montana state law**, or is intended to harass, intimidate, or **retaliate** against any other employee, official, or any member of the public. This principle is critical: No official or employee shall **retaliate** against any employee, official or member of the public regarding an allegation of improper governmental action.

A Bozeman citizen attends Planning Board meetings on a regular basis. During public comment, this citizen asks trivial questions, demands to review Planning Board documents, and drones on and on about the same issues. This evening, you have had it as a sitting Board member, and declare, “you may not come back here for the next 3 meetings and then only if you have a specific issue we can help you with! You have wasted too much of our time!”

1. Green Light

2. Red Light



# P 10 Ethics Handbook

## 2.03.510

The City Code of Ethics further states that “**each member of the public shall be treated courteously, impartially and fairly.** All employees and officials shall in the exercise of their official duties refrain from taking any **action**, making of any **statement**, or authoring any **document** that is intended to **harass, intimidate, or retaliate** against any member of the public”.

# *First Scenario*

When a restaurant chain inquired about opening a location in a vacant building downtown, the good news spread fast – nothing new had opened since the beginning of the recession.

As soon as the identity of the restaurant was revealed, the celebration ended. The restaurant, *Wild & Crazy*, has a reputation for scantily clad wait staff, loud music, dancers on a center stage, and free flowing alcohol.

Some residents think *Wild & Crazy* will bring energy back to downtown and revitalize other businesses there. Other residents are opposed to the values reflected by *Wild & Crazy* and do not want this restaurant chain in their City.

The City Manager states, “we cannot let individual opinions jeopardize the revitalization of our downtown.”

If *Wild & Crazy* meets all the zoning, parking, and other land-use planning requirements, can the City Council deny their application?

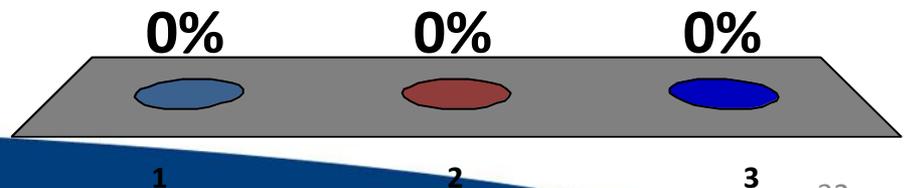
1. YES

2. NO



# What weight should Council members give the moral values/objections of some of the community versus the support of others?

1. Moral values should outweigh the legal planning requirements
2. Both should be considered when making the final decision
3. Moral values should not be considered if the application meets all the planning requirements



# *Small Group Discussion*

Talk about this scenario in a group of 4-5 people. Feel free to refer to the Ethics Handbook for guidance.

- If *Wild & Crazy* meets all the zoning, parking, and other land-use planning requirements, can the City Council deny their application?
- What weight should Council members give the moral values/objections of some in the community versus the support of others?
- Should the Chair of the Planning Commission recuse herself from discussion and abstain from voting if she shared her opinion about *Wild & Crazy* before the application was filed?
- If the restaurant is approved, what could be done to repair the rift in the community?

## P 4-5 Ethics Handbook

### 2.03.490 – Standards of Conduct

### 2.03.520 – Conflict of Interest

Officials and employees have an obligation to act **morally and honestly** in discharging their responsibilities.

Officials and employees shall conduct themselves with propriety, discharge their duties **impartially and fairly**, and make continuing efforts toward attaining and maintaining high standards of conduct.

An official or employee having such a financial or personal interest **shall not engage in deliberations** concerning the matter, **shall disqualify himself/herself from acting on the matter**, and shall not communicate about such matter with any person who will participate in the action to be taken on such matter.

# *Second Scenario*

An October snow storm reeked havoc on the City – there were numerous fallen trees and branches obstructing City streets.

Authorization for the rental of a wood chipper to help residents clean up after the storm was made by Council, but there was a 7-week wait for any wood chipper in the area.

The mayor, a farmer and owner of a tree service company, owned an industrial wood chipper and offered to rent it to the City so the City would not have to wait 7 weeks. He recused himself from the discussion and vote.

A month later, the mayor's tree service business submitted a \$10,000 bill, "provided at a lesser price than the rental business" so that the City could get through the crisis.

The Commission later commented, "No way are we paying that bill."

# Is there an ethical issue involved with the Mayor offering to rent his wood chipper to the City?

1. YES

2. NO



Does it matter that the Mayor offered to rent the wood chipper at a lower price than the going rental rate for other chippers in the area?

1. YES

2. NO



# Does it matter that the City was experiencing an emergency situation with obstructed streets?

1. YES

2. NO



# *Small Group Discussion*

Talk about this scenario in a group of 4-5 people. Feel free to refer to the Ethics Handbook for guidance.

- Should the Mayor have rented his business property to the City?
- How could the City have worked with this situation to prevent a conflict of interest?
- What should the City do now about the \$10,000 bill?

# P 4-5 Ethics Handbook

## 2.03.490 – Standards of Conduct

## 2.03.520 – Conflict of Interest

No official or employee shall improperly use, directly or indirectly, the official or employee's city position **to secure any financial interest** or personal interest for said official employee, or others.

No official or employee shall engage in any employment or business which conflicts with the proper discharge of such official or employee's official duties.

No official or employee shall have a **financial or personal interest**, tangibly or intangibly, **in any transaction with the city** as to which such official or employee has the power to take or influence official action unless **full public disclosure** is made. If an official or employee has any tangible or intangible financial or personal interest in the outcome of any matter coming before the agency of which the official or employee is a member or by which the official or employee is employed, such official or employee **shall publicly disclose on the record of the agency**, or to a superior or other appropriate authority, the existence of such financial or personal interest. An official or employee having such a financial or personal interest **shall not engage in deliberations** concerning the matter, **shall disqualify himself/herself from acting on the matter**, and shall not communicate about such matter with any person who will participate in the action to be taken on such matter.

# *Third Scenario*

Tom volunteers on the City Planning Board and just learned that a developer from Colorado plans to develop a top of the line subdivision, zoned residential, on 200 acres near the edge of town. The developer indicated that he will petition to have the property annexed to the City. He gives Tom a \$50 gift certificate to the Bistro, saying he knows that volunteer board members don't get many thanks for the hard work they do.

Abutting the property are 20 acres of vacant parcel zoned commercial. The value will skyrocket once the proposal for development becomes public knowledge. Tom's wife works as a realtor. The 20 acre parcel has been on the market for a year. The next day, Tom receives an email from a reliable source that the developer has defaulted on 3 commercial loans in Colorado.

# Is it ethical for Tom to tell his wife about the developer's plans?

1. YES

2. NO



Is there an ethical issue if Tom's wife purchases the commercial property if she heard about it from a source other than Tom?

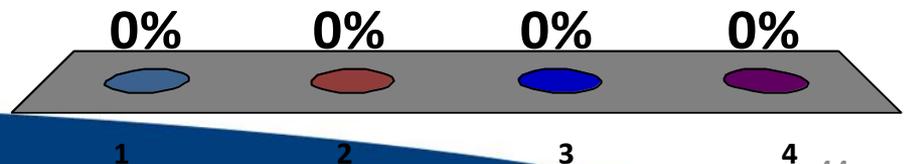
1. YES

2. NO



# What should Tom do about the information he received in the email?

1. Tell his supervisor
2. Tell his wife
3. Do nothing, it isn't relevant
4. Do something else that isn't listed here



# *Small Group Discussion*

Talk about this scenario in a group of 4-5 people. Feel free to refer to the Ethics Handbook for guidance.

- Is it ethical for Tom to tell his wife about his meeting with the developer?
- Can Tom's wife purchase the property? Does it matter who she heard about it from?
- What should Tom do with the information in the email?
- What would you do?

# P 5 Ethics Handbook

## 2.03.520 - Conflict of Interest

### 2.03.470.A.6 – Definition of Financial Interest

In general, no city official or employee shall have any **financial or personal interest in any transaction with the City** without full public disclosure.

A financial interest is defined as any interest (such as ownership, a contractual relationship, or a business relationship), which will result in a monetary or other material benefit that has a value of more than fifteen dollars, other than salary or compensation, for services to the city.

# *Final Small Group Discussion*

Choose someone from your group as a spokesperson to report back to the larger group. Use the flip chart paper to log your group responses.

1. Talk about how your group perceives the ethics “culture” within the City of Bozeman. Do you see it as weak, strong, or somewhere in between? Why?
2. What steps would you take to strengthen ethical behavior within the City of Bozeman?
3. What do you think the role of City Leadership should be in strengthening the ethical culture?
4. What suggestions do you have for the Ethics Program in the City – Board of Ethics, Ethics Policies, Ethics Trainings?

# Today's ethics training was a good use of my time

1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree

I learned something today about ethics that I will be able to use in my service on a City Board.

1. Strongly Agree
2. Agree
3. Neutral
4. Disagree
5. Strongly Disagree

*Thank you!*

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