



DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642
(630)834-0100 Fax: (630)834-0120

AGENDA

**ADMINISTRATION COMMITTEE
THURSDAY, JULY 19, 2012
7:00 P.M.**

**600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126**

COMMITTEE MEMBERS

L. Crawford
T. Cullerton
W. Murphy
J. B. Webb

- I. Roll Call
- II. Approval of Minutes of June 21, 2012
- III. Discussion of By-Law Changes
- IV. Discussion of Credit Card Policy
- V. Discussion of Ethics Policy
- VI. Other
- VII. Adjournment

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**MINUTES OF A MEETING OF THE
ADMINISTRATION COMMITTEE
OF THE DUPAGE WATER COMMISSION
HELD ON JUNE 21, 2012**

The meeting was called to order at 6:32 P.M. at the Commission's office located at 600 East Butterfield Road, Elmhurst, Illinois.

Committee members in attendance: W. Murphy, J. B. Webb, and L. Crawford

Committee members absent: T. Cullerton and J. Zay (*ex officio*)

Also in attendance: J. Spatz, C. Johnson, and F. Frelka

Commissioner Murphy moved to approve the Minutes of the April 19, 2012, Administration Committee meeting. Seconded by Commissioner Webb and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

With regard to the Ethics Policy, General Manager Spatz distributed an ordinance amendment prepared by Chad Shaffer, Policy and Program Administrator for the County of DuPage entitled Proposed Ethics Ordinance Amendment (OFI-003C-04). The purpose of the ordinance was for the Board to review the County's proposed ordinance with an option to opt-in to the County's ethic policy. General Manager Spatz stated that overall he favored the ordinance and the idea of having an independent ethics officer, but suggested a few minor changes, such as:

- Personnel and Procurement Rules – to add the words County-appointed agency when referring to “complies with the DuPage County or County-appointed Agency Personnel or Procurement Policies”
- Multiple Jurisdictions - If an agency serves and resides in two different jurisdictions, than that agency would need to follow the rules for those jurisdictions
- Penalties and Fines - Any fines collected would stay within the County-appointed agency

General Manager Spatz noted that Mr. Shaffer was making the final amendments to the ordinance and once DuPage County adopts the ordinance, staff would be sending it to the Commissioners for their review and feedback.

With regards to the Credit Card Policy, Commissioner Crawford questioned why the By-Laws would not be including the cardholder spending limits. General Manager Spatz noted that by having the detailed cardholder total limits stated in the credit card policy it would be much easier to amend the policy, if needed, rather than to amend the By-Laws, to which all Committee members agreed.

Minutes 6/21/12 Administration Committee Meeting

Next General Manager Spatz reported that staff is working with consultants from the Hennessy Group, Inc. to possibly install SharePoint on the IPAD noting that the IPAD would have an area dedicated only to the Board members where they can view Board packet information, By-Laws, various policies, etc. General Manager Spatz further noted that staff is also looking into the access level; Wi-Fi verses a data service plan. Commissioner Murphy noted that the data service plan would probably be more convenient for most.

After Commissioner Crawford requested that staff obtain quotes relating to the cost of the IPADs as well as the monthly service charge, Commissioner Murphy moved to adjourn the meeting at 6:58 P.M. Seconded by Commissioner Webb and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

LAW OFFICES OF
GORSKI & GOOD, LLP

GERALD M. GORSKI
THOMAS W. GOOD
ROBIN N. JONES

211 SOUTH WHEATON AVENUE
SUITE 305
P.O. BOX 611
WHEATON, ILLINOIS 60187-0611
(630) 665-7500
FAX (630) 665-8670

DWC-County Ethics Ord.-Ltr.-Spatz.

Re: County Ethics Ordinance

Dear John:

You have requested comments on DuPage County's recently adopted ethics ordinance (OFI-003C-04, adopted June 26, 2012, the "Ethics Ordinance" or "Ordinance") and its application to, and potential adoption by, the Water Commission. The County Board is seeking to secure the adoption of the Ethics Ordinance by all "County-appointed agencies" and is further requesting that they enter into an intergovernmental agreement providing for the transfer of certain functions to the County Ethics Commission, Ethics Officer and Investigator General.

Section 2-400.7 extends the application of the Ethics Ordinance to County-appointed agencies which have adopted it. Section 2-401.7 defines a "County-appointed agency", in part, as one where "a majority of the members" (Commissioners) are appointed by the Chairman with the advice and consent of the County Board. Under this definition, the DuPage Water Commission is a "County-appointed agency".

Section 2-404.1 provides, in part, as follows:

"Any County-appointed agency may adopt this Ethics Ordinance or maintain an ethics policy that is more restrictive than those set forth in Section 2-403 and may continue to follow any existing policies, ordinances, rules or regulations that are more restrictive and are in addition to those set forth in this Section...Provisions of this Ordinance which set forth the duties of elected officers, appointees, and employees of DuPage County, including any prohibitions applicable to them, shall apply to all elected officers, appointees and employees of an agency adopting this Ordinance."

The adoption of the Ethics Ordinance is in the discretion of the Water Commission – “Any County-appointed agency may adopt this Ethics Ordinance”. Should the Commission adopt the Ethics Ordinance, it remains free to adopt more restrictive policies and continue to enforce more restrictive standards already contained in its By-laws and policies. The reference to Section 2-403 is confusing in that it only contains the exceptions permitted with respect to the limitations placed on political contributions and gifts which are contained in Section 2-402. Nonetheless, when Section 2-404.1 is considered in context, the intent is that the officers, appointees and employees of an agency adopting this Ordinance are required to abide by all of the provisions of the Ordinance.

The regulatory substance of the Ordinance parallels several State statutes and, in this regard, overlaps a number of provisions contained in the Commission’s By-laws and policies. To the extent that statutory provisions are directly applicable to the Commission, the regulations in the statutes control and create a minimum standard to which the Commission and the Commissioners must adhere. The Commission is free to adopt more restrictive standards either on its own or by the adoption of the Ordinance as requested by the County. In turn, even if the Commission adopts the County’s Ethics Ordinance, it remains free to adopt rules and regulations more restrictive than those contained in the Ordinance.

Staff has provided a comparison between the Water Commission’s present ethics policies as contained in the Water Commission Act of 1985, as amended; the By-laws and Personnel Manual and the County’s Ethics Ordinance. I have reviewed that comparison in the context of the State statutes to which both the Water Commission’s policies and the County’s Ethics Ordinance relate and would note the following:

1. Definitions: The definitions contained in the Ethics Ordinance parallel those set forth in the State Officials and Employees Ethics Act (5 ILCS 430/1 et seq.). The Commission’s By-laws contain some of the same definitions; the Ordinance contains a more complete list of the statutory definitions with some modifications to make the references more applicable to the County and the County-appointed agencies.
2. Prohibited Political Activity: 5 ILCS 430/5-10 organizes prohibited activities in six subsections that are converted into eight subsections in the Ordinance. The Ordinance includes some specific examples such as requiring financial contributions for fund raisers or the purchase or sale of tickets to same. The scope of prohibited activity in the Ordinance encompasses all of the State statutes provisions and overlaps the Commission while being more extensive.
3. Gift Ban: While the Commission’s By-laws contain the general prohibition contained in 5 ILCS 430/5-10 and a number of the exceptions contained in 5 ILCS 430/5-15, the Ordinance expands upon the prohibition to limit campaign contributions from

contractors, vendors, and individuals appointed or seeking appointment from an elected official and expands as well the exceptions. Nonetheless, the expanded exceptions contained in the Ordinance reduces the permissible value of food and beverages per day from the State statutes \$75 to the Ordinance's \$25. The same limitation is applied to total annual gifts.

4. Contractor Disclosure: Section 2-417 of the Ordinance requires that defined contractors seeking contracts in excess of the threshold amount therein specified disclose all political campaign contributions made within the last 12 months to any elected official who is in any way involved in the awarding of the contract. The disclosure extends to the lobbyists, agents and representatives of the contractor. The Commission has no similar provision. Other County-appointed agencies have a similar provision (DuPage Airport Authority).
5. Interests in Contracts & Disqualification: The Commission is bound by the prohibition contained in Section 2 of the Water Commission Act of 1985 as cited in the staff comparison. The Commission has incorporated similar provisions in its By-laws and Personnel Manual also as set forth in the staff comparison. These blanket prohibitions are more restrictive than the limitations contained in the Public Officer Prohibited Activities Act (50 ILCS 105/3).
6. Employee Ethics: Section 2-416 of the Ordinance would require employees to comply with the personnel policies adopted by a County-appointed agency. There is no conflict here.
7. Financial Interest Disclosure & Disqualification: Section 2-418 applies to elected officials but I believe that, given the language of Section 2-404.1 quoted above, it would be applied to appointees as well. With respect to any business seeking a relationship with the County or a County-appointed Agency and would require a Commissioner to disclose any ownership interest of 7 1/2% or greater and would further require the Commissioner to withdraw from any deliberation, discussion or voting on the matter. As noted in #5 above, the Ordinance is not as restrictive as the requirements of Section 2 of the Water Commission Act of 1985 or the Commission's own By-laws and Personnel Manual. The later would control.

A significant portion of the Ethics Ordinance is devoted to the creation of the Ethics Commission of DuPage County, the office of Ethics Officer for DuPage County and the office of Investigator General, together with their respective powers and duties (Sections 2-407.1 through 2-409.2). Additional provisions related to these functions outline complaint filing and review procedures as well as provisions related to hearings before the Ethics Commission and enforcement (Sections 2-410 through 2-414). The Ordinance further requires the cooperation employees and the failure to cooperate with the Ethics Commission and/or the Investigator

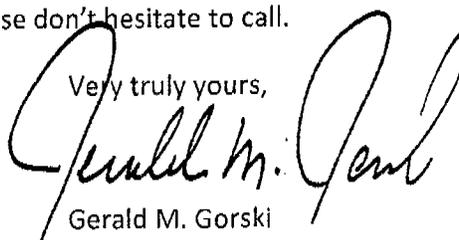
General "may" be considered by the Ultimate Jurisdictional Authority (the DWC) "as grounds for discipline consistent with the enforcement provisions of this Ordinance". (Section 2-413).

Section 2-414.1 provides that a County-appointed agency that has adopted the Ethics Ordinance may also "voluntarily" enter into an intergovernmental agreement with the County for the purpose of utilizing the County's Ethics Commission, its Ethics Officer and the Investigator General. Additional provisions related to these functions outline the filing of complaints and review procedures applicable to complaints as well as provisions related to hearings before the Ethics Commission.

No draft form of intergovernmental agreement has yet been developed. Chairman Cronin's office has indicated that the State's Attorney is working on that draft. The Ordinance would require that the costs associated with using the County's Ethics Commission, its Ethics Officer and the Investigator General are to be borne by the County-appointed agency although the chairman's office indicates that this may be adjusted in the intergovernmental agreement. One possible adjustment might be to charge for hearings and the services of the Investigator General while providing the services of the Ethics officer at no charge.

Should you have questions or comments, please don't hesitate to call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gerald M. Gorski". The signature is written in a cursive style with a large, looping initial "G".

Gerald M. Gorski