

# **Planning Ethics for a Changing Environment**

**Anna Breinich, AICP**

**Ben Frost, AICP**

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# Roadmap for Today

- **AICP Code of Ethics and Professional Conduct**
- **Scenarios**
- **Questions (welcome throughout)**

**“Always do right. This will gratify some people and astonish the rest.”**

**-Mark Twain**

**“Ethics are what you do when no one is looking.”**

**-George Bernard Shaw**

**"Whenever you do a thing, act as if all the world were watching."**

**-Thomas Jefferson**

**“The standards that govern the conduct of a person, especially a member of a profession.”**

**-[www.wiktionary.com](http://www.wiktionary.com)**

# **Ethics *for Planners***

**Planners should just apply common sense**

**Ethical problems are seldom clear cut – rich in ambiguity**

**Planners must be aware of local ethics standards**

**“Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.”**

***Ethical Principles in Planning***

# The AICPA Code

## Code of Ethics and Professional Conduct

- **2005 Update; similar to previous code**
- **Three sections**
  - **Aspirational Standards**
  - **Rules of Conduct**
  - **Procedures**

# Our Overall Responsibility to the Public

**“Our primary obligation is to serve the public interest and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest that is formulated through continuous and open debate.”**

# Code A.1.f

**“We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.”**

# **Our Responsibility to Our Clients and Employers**

**“We owe diligent, creative, and competent performance of the work we do in pursuit of our client or employer’s interest. Such performance, however, shall always be consistent with our faithful service to the public interest.”**



# Code A.2.c

**“We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.”**

# **Our Responsibility to Our Profession and Colleagues**

**“We shall contribute to the development of, and respect for, our profession by improving knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.”**

# Code A.3.c

**“We shall describe and comment on the work and views of other professionals in a fair and professional manner.”**

# Code A.3.j

**“We shall contribute time and effort to groups lacking in adequate planning resources and to voluntary professional activities.”**

# Rules of Conduct

**“We adhere to the following Rules of Conduct, and we understand that our Institute will enforce compliance with them. If we fail to adhere to these Rules, we could receive sanctions, the ultimate being the loss of our certification.”**

# Code B.6

**“We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation from our client or employer, there is a possibility for direct personal or financial gain to us, our family members, or persons living in our household, unless our client or employer, after full written disclosure from us, consents in writing to the arrangement.”**

# Code B.10

**“We shall neither deliberately, nor with reckless indifference, misrepresent the qualifications, views and findings of other professionals.”**

# Code Procedures

In brief, our Code Procedures

1. Describe the way that one may obtain either a formal or informal advisory ethics ruling, and
2. Detail how a charge of misconduct can be filed, and how charges are investigated, prosecuted, and adjudicated.



# Code Procedures

## Informal and Formal Advice

- Only the Ethics Officer, who is the APA Executive Director
- Binding
- Formal Advice: Findings within 21 days
- Forwarded to the Ethics Committee

**...and principles for everyone!**

**Available at:**

**[http://www.planning.org/ethics/  
ethicalprinciples.htm](http://www.planning.org/ethics/ethicalprinciples.htm)**

**Ethical Principles in Planning  
(As Adopted May 1992)**

# Do you want to friend me?

Facebook, Twitter, LinkedIn, MySpace,  
FriendFeed, Plaxo...and the list goes on...

What are the ethical issues with social  
networking?

Patricia Salkin, “Social Networking and Land Use Planning  
Regulation: Practical Benefits, Pitfalls and Ethical  
Considerations”

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1690835](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1690835)

# Ethics Scenarios and Questions



# ***NIMBYism* versus sustainability**

***A real life scenario.....***

# ***NIMBYism versus sustainability***

Real train service is FINALLY being extended to your community and everyone is excited about the possibilities. A maintenance facility is proposed to be built in same community on a former rail yard that has sprung up neighbors. It's an allowed use and people very supportive of the service expansion are now saying "not in my back yard." The new facility will allow for additional train service. *What do you do??*

# What Happens Now?

**The site has been chosen.**

**How do we protect the public interest?**

**What is the public interest?**

**Serving the public interest may not necessarily be what the public is interested in.**

# Pillow talk

**Is there an ethics problem where a city council enters into a development agreement with a developer where a council member is married to a lawyer who represents the developer on unrelated matters?**

**NO: 78 Ops. Cal. Atty. Gen. 230 (No. 95-110) (July 27, 1995)**



# Did she say that?

Is it unethical for the board chairperson to write a letter to the Mayor supporting both the rezoning and the project, noting that she “would really like to see new housing available to her should she decide to sell her home and move into something maintenance free.”?

**YES:** *Schweichler v. Village of Caledonia*, 45 A.D.3d 1281, 1283-1284 (N.Y.App.Div. 2007); See also, *NASHA, LLC v. City of Los Angeles*, 22 Cal. Rptr.3d 772 (Cal. Ct. App. 2004).

# Just hope this isn't your board

Does the following exchange create any ethics problems? A member of a Commission engages in the following dialogue with an applicant's engineer: "[s]ome Italians are wopsided." The engineer replied "Lopsided?" and the commissioner said "Wopsided." The engineer replied: "Wopsided, yes, O.K. got you."

YES: *Pirozzilo v. Berlin Inland Wetlands and Water Courses Com'n*, 32 Conn. L. Rptr. 103 (Conn. Super. Ct. 2002).

# Big Box Blunder

A previously denied Big Box applicant is before your board again with a new proposal. Opposition is fierce, some of it from an out-of-town organization. Your board chair denigrates the group as intermeddling outsiders, asserting that it is comprised of “a bunch of elitists with nothing invested in the community, who are devoted to their personal ideals rather than to the realities of growth.” *Has his statement irreversibly harmed the process?*

Harm, YES; but not irreversible: *In re JLD Properties of St. Albans*, 2011 WL 3370401 (Vt. 8/5/2011) <sup>27</sup>

# All in the family

Is it a conflict of interest for a board member to vote on an application involving a shopping center to be located in close proximity to where his/her parents live?

**NO: *Lincoln Heights Ass'n v. Township of Cranford Planning Board*, 714 A.2d 995 (N.J. Super. Ct. Law Div. 1998). But, see *Care of Tenafly v. Tenafly Zoning Bd. of Adjustment*, 704 A.2d 1032 (N.J. Super. A.D., 1998)**

# The honeymoon is over

**Is it ethical for a council member to cast the deciding vote to reappoint her recently wed spouse to a new term on the planning board, where he served for 15 years prior to the marriage?**

**NO: Shapiro v Mertz, et. al., 368 N.J. Super. 46, 845 A.2d 186 (2004)**

# Spousal privilege?

May Village Trustee vote on a special use permit and variance application to allow a historical society to locate their new office in a residential district where the spouse of the trustee had represented the society in the sale of the residential property in question, and received a commission as a result of her involvement?

**YES: Lapp v Village of Winnetka, 359 Ill. App. 3d 152, 833 N.E.2d 983 (2005)**

# Dollars and Sense?

**Is it a prohibited conflict of interest where a member of a local Board of Commissioners, which had voted to rezone a tract of land, was also a vice president of a local bank that had participated in financing the acquisition of the land by the county redevelopment authority?**

**NO: White v Board of Commissioners on McDuffie County, 252 Ga. App. 120, 555 S.E.2d 45 (2001), cert<sub>31</sub> denied (March 25, 2002).**

**More hypotheticals...**



# Ethics and Office Politics

A planning director of good standing is being targeted by a fellow department head. The director begins to suspect that he is being watched. The City Manager emails him a reprimand regarding mismanagement. This accusation is based on information provided the Director's staff directly requested by the City Manager. The Director is asked to resign. *Is there anything wrong here?*

# Game Tickets

**You are a planner for a jurisdiction home to a popular college football team. The university offers several members of the planning staff hard to get tickets to a sold out game. Recognizing the conflict, your boss and colleagues decide to pay for their tickets outright, thus absolving the question of whether or not the tickets were a gift. Is there still an ethical conflict?**

# Fencing with the neighbors

**You are a planner with responsibility for code enforcement. You own a home in a planned unit development (PUD) and notice that several of your neighbors have erected fences that extend their backyard into the shared greenway – essentially privatizing public land. How would you handle this situation? Do conflicts arise between your roles as property owner, neighbor, and public servant?**

# **An offer you can't refuse?**

**You are a public sector planner working with a consulting firm in your community on a redevelopment plan. After several weeks, based on the quality of your work, the head of the firm offers you a position within the firm. Are there ethical considerations that would prevent you from accepting this position?**

# Consulting on consultants

**A developer asks you, as a public sector planner, to help him select the team of lawyers and architects that you would recommend, since you are familiar with who is good in your community. How do you respond? If you decide that giving advice on a team is not ethical, are there other ways you can assist?**

# RFP redux

**You are working for a consulting firm that completes a master plan for a new community airport. After the master plan is completed, the community releases an RFP for engineering services based on recommendations from the plan. Do you foresee any conflicts?**

# Flash cards

Michael Schuler and Amon Browning have created sets of AICP ethics flash cards, very clever, available at:

<http://www.studystack.com/flashcard-280610> and

<http://www.studystack.com/flashcard-14636>

# Resources for Information on Ethics

American Planning Association (APA) Ethical Principles of Planning [www.planning.org/ethics/ethicalprinciples.htm](http://www.planning.org/ethics/ethicalprinciples.htm)

American Institute of Certified Planners (AICP) Code of Ethics & Professional Conduct [www.planning.org/ethics/](http://www.planning.org/ethics/)

Massachusetts Commission on Ethics [www.mass.gov/ethics](http://www.mass.gov/ethics)

Institute for Local Self Government – Developing a Local Agency Ethics Code [www.ca-ilg.org/trust](http://www.ca-ilg.org/trust)

Vermont Land Use Education & Training Collaborative – Rules of Procedure & Ethics Manual [www.vpic.info/pubs/rules\\_proc.pdf](http://www.vpic.info/pubs/rules_proc.pdf)