

Chris Wery

Alderman, City of Green Bay

RE: Ethics Complaint Objection

This is an objection to the findings of fact and conclusions of law that were approved by the Ethics Board on July 5, 2016. The actions of the Green Bay Ethics Board against myself are in direct conflict with the well established guidelines for local ethics ordinances. Below are numerous articles and opinions regarding the guidelines for local-ethics ordinances. This matter has no standing before the Green Bay Ethics Board and should be dismissed. A civil complaint was filed by Ms. Jacques against me on May 2, 2016 and is currently pending. Due to the erroneous decision of the Green Bay Ethics Board to proceed, personal and financial harm has been caused to myself. To avoid further damage, an immediate decision to dismiss this matter before the Ethics Board is requested.

#### **REVIEW OF LOCAL ETHICS ORDINANCES**

- I** Local Government Ethics Programs in a Nutshell -- City Ethics Inc
- II** Email from Carla Miller -- President of City Ethics
- III** 'Ethics and Conflict of Interest' -- University of Wisconsin Extension 'Local Government Center'
- IV** State of Wisconsin statutes regarding code of ethics for local elected officials
- V** Standards of Conduct -- Government Accountability Board/Wisconsin Ethics Commission
- VI** Email from Claire Silverman, Legal Counsel for the League of Wisconsin Municipalities
- VII** Green Bay Ordinance and Conclusion

# I

## Local Government Ethics Programs In a Nutshell by Robert Wechsler, Director of Research, City Ethics Inc

### A. The Basics of Government Ethics

Government ethics is not about *being* “good” or “a person of integrity.” It’s not something officials learn at home, at school, or in their house of worship. In fact, conduct that is praiseworthy outside of government, such as helping a family member get a job or returning a favor one has been given, is considered wrong in a government context.

Government ethics is about *acting* responsibly and professionally, as a government official or employee, under certain circumstances and following certain rules and procedures. It is about preserving *institutional* rather than *personal* integrity. Government ethics decision-making should be just another professional routine.

For the purpose of government ethics, “ethics” does not mean the field of study concerned with being or doing good (the word’s usual meaning). The word “ethics” means the area of decision-making involving conflicts between, on the one hand, the obligations government officials and employees have toward the public and, on the other hand, their obligations to themselves and their family, their business associates, and others with whom they have a special relationship (what are known as “conflicts of interest” or, simply, “conflicts”).

Government ethics involves not only the reality of these obligations, and of the underlying relationships, but also the appearance of these obligations and relationships.

Government ethics laws provide minimum, enforceable guidelines to facilitate the handling of conflict situations. Government ethics programs provide training and advice to further facilitate the handling of conflict situations. Government ethics programs also require financial and relationship disclosure, which provides information to help the public, as well as officials, better determine if conflicts might exist, so that they are more likely to be dealt with responsibly.

## II

From: [Carla.Miller@cityethics.org](mailto:Carla.Miller@cityethics.org)

To: [Chris.Wery](mailto:Chris.Wery)

Hello,

People misuse the term "ethics" in the government context.

What we deal with in government ethics are conflicts of interest and the ethics/integrity of the organization itself.

Do people think things are being done fairly? They are to ensure that no one is getting an unfair benefit.

Sometimes ethics groups veer off that and try to get into personal ethics--is the person good or bad? virtuous.

That is wrong.

They should be good people; but they should learn that in school/home/church. If they mess up, they should be fired if they violate civil service rules or not re-elected if people don't like them.

See the attached paper from Harvard professor Dennis Thompson on this concept. There is a section on government versus personal ethics.

Hope that helps.

Carla Miller

President, City Ethics

### About City Ethics

CITY ETHICS is a non-profit organization formed in 2000. Its purpose is to provide a centralized location for information and resources for all forms of local government ethics programs. City Ethics was started by attorney and former federal prosecutor Carla Miller and her husband, Don McClintock, who has a long career in the technology sector.

The idea for City Ethics was "hatched" at the 2000 national conference of **COGEL**, the **Council on Governmental Ethics Laws**. (See: [www.cogel.org](http://www.cogel.org)) It was felt that there was a real need to provide assistance to cities and counties that are trying to address ethical issues. Most could not afford to initially be members of COGEL, but needed assistance to get ethics programs up

and running. Although many local governments that participate in City Ethics are members of COGEL, that is not a requirement. We wanted to create a free flow of information that would be the catalyst for the creation and improvement of local government ethic programs.

Please help us by signing in as a member and by contributing your ideas as comments to our blog as well as in our [Forums](#), which are connected to the provisions of our [Model Code Project](#). *It is only with teamwork that we will be able to combat corruption and establish ethical local governments.*

The City Ethics team follows (click the name for a brief Bio):

- [\*\*Carla Miller\*\*](#)  
City Ethics *Founder*, former Federal Prosecutor, ethics officer for the City of Jacksonville, Florida.
- [\*\*Don McClintock\*\*](#)  
City Ethics *Vice President, Information Technology*, Networking Technology Specialist, former member, City of Jacksonville Ethics Commission.

Information obtained from [CityEthics.org](#) and an email from the Founder, Carla Miller

### III

## **University of Wisconsin Extension 'Local Government Center'**

'Ethics and Conflicts of Interest' - Document produced by the UW Local Government Center

"This paper is directed particularly at local governing body members because they are the primary decision-makers in a local governmental unit and therefore the ones most subject to conflicts."

### **1) What is the purpose of ethics and conflicts of interest laws?**

The purpose of these laws is to prevent self-dealing, undue influence and bias, and to preserve public confidence in local government by avoiding the appearance of impropriety.

### **9) Briefly, what is prohibited by the Code of Ethics for Local Officials?**

The Code generally prohibits a "local public official" from using his/her office of position to obtain gain for the private benefit of himself/herself, and "immediate family" member or for an "organization" with which the official is "associated". In addition, a recent provision prohibits a local public official from engaging in "pay to play" political agreements. The language of sec. 19.59 (1) contains the specific, lengthy wording of the prohibitions, which may be categorized as prohibitions on private gain, illegal influence or rewards, and involvement when the local official, a member of the official's immediate family, or an organization with which the official is associated has a substantial interest in the matter.

Information obtained from website <http://lgc.uwex.edu/>

## IV

### **State of Wisconsin Law**

#### **19.59 Codes of ethics for local government officials, employees and candidates.**

**(1)**

(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district created under subch. [III of ch. 229](#) or a local professional football stadium district created under subch. [IV of ch. 229](#). This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. [11](#).

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

(br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under ch. [11](#), or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

**(1m)** In addition to the requirements of sub. [\(1\)](#), any county, city, village or town may enact an ordinance establishing a code of ethics for public officials and employees of the county or municipality and candidates for county or municipal elective offices.

**(2)** An ordinance enacted under this section shall specify the positions to which it applies. The ordinance may apply to members of the immediate family of individuals who hold positions or who are candidates for positions to which the ordinance applies.

**(3) An ordinance enacted under this section may contain any of the following provisions:**

(a) A requirement for local public officials, other employees of the county or municipality and candidates for local public office to identify any of the economic interests specified in s. [19.44](#).

(b) A provision directing the county or municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(c) A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any local public official or other employee of the county or municipality who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and other employees of the county or municipality or on the part of former local public officials or former employees of the county or municipality.

(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.

# V

**State of Wisconsin Government Accountability Board which, as of June 2016, became the 'Wisconsin Ethics Commission'.**

## **Standards of Conduct -- Local Officials**

What are the rules?

In general, the ethics code contains two kinds of restrictions. The first restricts an official from personally profiting from holding public office, apart from the receipt of salary and expenses to which the official is entitled. The second restricts an official from participating in decisions in which the official has a personal financial interest. More specifically:

### **Accepting items**

- A local public official may not accept items or services of substantial value for private benefit, or for the benefit of the official's immediate family or associated organizations, if offered because of public position.
- A local public official may not accept (and no one may offer or give) anything of value that could reasonably be expected to influence the official's vote, official actions or judgment.
- A local public official may not accept (and no one may offer or give) anything of value that could reasonably be considered a reward for any official action or inaction.

### **Controlling conflicting interests**

- A local public official may not take official action substantially affecting a matter in which the official, the official's family, or associated organization has a substantial financial interest.
- A local public official may not use office or position to produce a substantial benefit for an official, immediate family member, or associated organization.

## VI

After a phone conversation with Claire Silverman, an email exchange occurred regarding the Green Bay Ethics Ordinance. Claire is the League Of Municipalities lead Legal Counsel

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----- Forwarded Message -----

**From:** Claire Silverman <cms@lwm-info.org>  
**To:** Chris Wery <chriswery@att.net>  
**Sent:** Wednesday, July 6, 2016 11:25 AM  
**Subject:** RE: Ethics Board - Findings of Fact and Conclusions of Law 7-5-16

If the common council requests the League's opinion, we would provide one. Again, I am not in the best position to interpret your local ordinance.

You can say that you spoke with me and that I agreed that sections 1, 2 and 3 did not appear to be sections of the ordinance containing any prohibitions.

However, please do not present my observation as a conclusion of law.

Claire Silverman, Legal Counsel  
League of Wisconsin Municipalities  
131 W. Wilson St. (Suite 505)  
Madison, WI 53703  
608-267-2380  
(fax) 608-267-0645  
[www.lwm-info.org](http://www.lwm-info.org)

**From:** Chris Wery [mailto:[chriswery@att.net](mailto:chriswery@att.net)]  
**Sent:** Wednesday, July 6, 2016 11:17 AM  
**To:** Claire Silverman <cms@lwm-info.org>  
**Subject:** Re: Ethics Board - Findings of Fact and Conclusions of Law 7-5-16

Hi Claire,

If our city council asked for your opinion would you provide one?

Can I share your general thoughts on the ordinance, per our conversation.  
My attorneys here in GB also believe they quoted the wrong sections...1,2,3 which is actually the 'preamble', if you will, to the 'meat' of the ordinance.

Alderman Chris Wery  
920-490-9282  
[chriswery@att.net](mailto:chriswery@att.net)  
**Facebook: Alderman Chris Wery, District 8 City of Green Bay**

## VII

### Quoted Sources:

City Ethics Inc, in cooperation with COGEL (Council on Governmental Ethics Laws)

University of Wisconsin Extension 'Local Government Center'

State of Wisconsin Statutes regarding Code of Ethics for Local Governments

Wisconsin Ethics Commission Guidelines

Consultation with League Of Municipalities Lawyer Claire Silverman

**Using the guidance and wisdom of these sources, any logical, reasonable person can conclude the purpose and scope of our local ordinance.**

### Green Bay Ordinance 1.90

(As pertains to elected officials, actions which are governed by this ordinance include:)

- 1) City owned equipment cannot be used for non-city business
- 2) Conflicts of Interest
- 3) Disclose Financial Interests
- 4) Campaign Contributions must follow state law.

**In conclusion, after reviewing the above sources, it is my opinion that the actions of the Green Bay Ethics board against myself are in direct conflict with well established guidelines for local ethics ordinances. The complaint filed by Ms. Jacques against me has no standing before the Ethics Board and as such should be dismissed immediately. Due to this erroneous decision, personal and financial harm has been caused to myself. Immediate relief and dismissal of this complaint is asked to avoid further damage.**