

STUDY SESSION
WINNETKA VILLAGE COUNCIL
510 Green Bay Road
Winnetka, Illinois 60093
Tuesday, October 13, 2009
7:30 p.m.

AGENDA

- 1) Call to Order
- 2) WEFC Strategic Plan and 2009-2010 Implementation Plan.....2
- 3) Draft Ethics Ordinance19
- 4) Village President’s Core Objectives58
- 5) Reports
- 6) Executive Session
- 7) Adjournment

NOTICE

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Agenda Report

Subject: **Winnetka Environment and Forestry Commission – Strategic Plan**

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: October 8, 2009

The Winnetka Environmental and Forestry Commission (WEFC) was established in September, 2008, by the Village Council. As a way of setting forth goals and a work plan to guide its activities, the WEFC has developed a Strategic Plan detailing a number of goals and objectives to be accomplished over the next 12 to 24 months. The Commission adopted this strategic plan at its September 9, 2009 meeting.

Commission Chair David Abell will present the WEFC Strategic Plan to the Village Council and will discuss several of the initiatives contained in the plan at the October 13, 2009 Study Session. A copy of the plan is attached.

Recommendation:

Review Strategic Plan, provide policy guidance.

Winnetka Environmental and Forestry Commission

Strategic Plan

and

2009-2010 Implementation Plan

As adopted by the Commission on 9 September 2009

**Winnetka Environmental and Forestry
Commission
Strategic Plan
and
2009-2010 Implementation Plan
As adopted by the Commission on 9 September 2009**

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**Winnetka Environmental and Forestry Commission
Strategic Plan
and
2009-2010 Implementation Plan**

Executive Summary

The Winnetka Environmental and Forestry Commission is adopting its Strategic Plan and Implementation Plan for 2009-2010. The following is a short summary of the key elements of these plans.

Mission: To facilitate environmental and forestry stewardship, resource conservation and sustainability on a personal, local and regional level, to raise public awareness of environmental issues and best practices, and to bring about changes in public policy, where appropriate, through a collaborative, measurable, science-based process.

Goals: Using principles that define areas of focus and guide activities, the Strategic Plan is organized around seven guiding principles which are elaborated in full in the following pages. Using those principles, the Commission has set specific goals in the following areas for 2009-2010:

- Energy Conservation
- Forestry and Open Space
- Water Conservation
- Green Building
- Recycling
- Awareness and Collaboration

The specific goals for each of these areas are set forth in the Commission's 2009-2010 Implementation Plan elaborated on pages 12 and 13.

In all cases the goals are to be tested against the following questions:

1. What changes will be made?
2. What are the benefits and how will they be measured?
3. By what method will the change be implemented?
4. What will it cost?
5. What is the likely or anticipated response?

Winnetka Environmental and Forestry Commission

Strategic Plan

Overview

Mission:

To facilitate environmental and forestry stewardship, resource conservation and sustainability on a personal, local and regional level, to raise public awareness of environmental issues and best practices, and to bring about changes in public policy, where appropriate, through a collaborative, measurable, science-based process.

Commentary:

Encouragement and facilitation involve education and changes in life style through ordinance and/or pricing of services, as well as expenditure of Village funds to provide the high performance infrastructure that facilitate stewardship and conservation. Sustainability requires utilizing the minimum number of resources to protect the environment, while maximizing the benefit for the producer and community, without compromising future generations. Accomplishing this mission requires integrated activity with the Village staff, other Winnetka boards, and governing bodies that serve the greater Winnetka area and region.

Principles:

Principles that guide the Commission's work are divided into two groups: areas of focus and activities. Those that define the **areas of focus** include:

- Reduce energy consumption and increase use of renewable and/or low carbon energy sources
- Preserve and enhance the forest canopy and publicly accessible open and green space
- Encourage and facilitate construction of high performance (green) buildings, infrastructure, and neighborhoods.
- Reduce water and air pollution, water consumption, and solid waste

Principles that **guide activities** that span all four of the focus areas are:

- Educate and engage the public to increase awareness of the importance of environmental stewardship and resource and energy conservation
- Study and recommend Winnetka-centric changes in policy and expenditures through a measurable, data based process involving public input
- Collaborate with Winnetka and regional governmental bodies and environmental and conservation organizations

Context within which the Commission Operates:

The Village Council has given the Winnetka Environmental and Forestry Commission a very broad mandate to assist the Village in disseminating information about environmental and forestry matters and to make recommendations concerning policies the Village might adopt. The Commission will continue its historical functions in forestry and is adding environmental issues in an advisory role to the Village Council. The specific charges are contained in the enabling ordinance establishing the Commission.

The Commission is aware that the Village of Winnetka is a small municipality and many solutions to environmental issues may well be better handled at the national, regional, state or other levels of government. Accordingly, the Commission plans to focus its resources on local solutions which can have an impact and to take advantage of expertise available from many sources and the synergies which can be achieved through partnering with other organizations and municipalities.

Each of the four major areas of activity identified in the principles will be approached from three perspectives:

Public education and participation

Enhancement of Village's own operations and municipal incentive or regulation

Collaboration with other governmental bodies and environmental organizations

A review of the preferences of the members of our Commission and the answers to the 2008 Winnetka Caucus questionnaire clearly dictates that our major effort should be devoted toward education of our residents. By doing so, over a sustained period it is hoped that we can change the culture of our community and make it easy and popular to engage in environmentally friendly practices. We anticipate recommendations to the Village will be made only after a thorough, data based study.

Road Map of this Document

The elaboration of the strategic plan that follows is organized around the seven guiding principles, expanded by commentary. The elaborative comment is followed by possible study topics suggested by the Commission in its formative stage.

I. It's All about Energy - Reduce energy consumption and increase use of renewable and low carbon energy sources

Commentary on why this principle is important

Even if global climate change were not an issue of global strategic importance, the age of abundant liquid hydrocarbon energy is about to end. There is some evidence that the consumption of oil and natural gas now exceeds its discovery. The energy prices of 2008 will return and permanently increase the cost of powering our homes and automobiles in a dramatic fashion. Winnetka is uniquely positioned for this inevitability. Its walkable geometry and rapid transit service allow a life style that will be the envy of all and must be preserved. The Village is also uniquely positioned to take advantage of energy conservation initiatives because it owns its own electric distribution system and through the Illinois Municipal Electric Agency generates power.

Possible Projects

These projects are not listed in any order and will be studied with the assessment process described under the assessment principle. Those projects that leverage Winnetka's walkable, "Village" ambiance and address energy efficient buildings are listed under the "high performance environment" principle.

- Increase public awareness of environmental and energy issues
- Leverage the net metering ordinance that credits homeowner generated electricity through solar and wind power
- Review energy audits of Village, Park District and school district activities and set goals
- Partner with EPA's Energy Star Program
- Encourage other Winnetka organizations to adopt and promote this principle
- Provide Winnetkans with access to the many available resources and information
- Utilize the expertise of the Village electric staff to further energy efficiency and conservation strategies

II. Steward the Natural Environment - Preserve and enhance the forest canopy and publicly accessible open and green space

Commentary on why this principle is important:

This principle together with that for facilitating construction of high performance (green) built assets encompasses the visible environment that provides the Village-like ambiance. This focuses on the natural environment and the other on the built assets. This principle expands the Commission's consideration beyond trees in order to ensure that the natural environment receives sufficient attention. However the natural environment is defined, some form of ecologically balanced, publicly accessible open space will provide the foundation. This space is necessary for a multitude of needs that include but are not limited to visual and kinetic enjoyment, storm water management, maintenance of biodiversity, etc. Even though most of the larger, "green," open spaces are managed by the Winnetka Park District and schools, the Village manages more if streets, sidewalks and parkways are included.

Possible Projects

These projects are not listed in any order and will be studied with the process described under the assessment principle.

- Storm water management
- Bio-swales
- Rain gardens
- Maintain and expand the number of public access to beaches and forest preserve
- Determine the value of open space
- Increase biodiversity

III. Redirect the Built Environment - Encourage and facilitate construction of high performance (green) buildings, infrastructure, and neighborhoods.

Commentary on why this principle is important:

This principle together with that for preservation of the forest canopy and green and open space encompasses the visible environment that provides the Village-like ambiance. This focuses on the built environment and the other on the natural. One means of defining high performance buildings and neighborhoods is that provided by LEED (Leadership in Environmental and Energy Design) Building (B) and Neighborhood Development (ND). While LEED focuses on single buildings and neighborhoods, it is important to include the Village's line, pipe roadway and transit infrastructure systems that support the buildings and neighborhoods.

Possible Projects

These projects are not listed in any order and will be studied with the process described under the assessment principle.

- Foster adoption of USGBC (US Green Building Committee) LEED building and neighborhood certification strategies
- Green roofs
- Develop standards for buildings
- Recycle construction debris
- Low flush toilets, showers
- Illuminate with CFL bulbs, LEDs and other low energy consumption lighting
- Energy efficient appliances

IV. Reduce, Reuse, Recycle - Reduce water and air pollution, water consumption and solid waste

Commentary on why principal is important:

The overall objective is to reduce pollution of the air and water, and ground in, near and adjacent to Winnetka. One of the most valuable resources available to Winnetka is Lake Michigan water, which we drink and in which we recreate. As adjacent communities require more water, Winnetkans will be required to share more fully this resource. Winnetka reduces pollution of the ground in Winnetka by exporting its waste. However, this export will become increasingly difficult and costly. Pollution of water shed by Winnetka as waste or storm water runoff will become increasingly scrutinized and regulated. Thus with an eye to the future, it is important that the Commission recommend methods to enhance existing municipal mechanisms to reduce consumption of water, the export of solid waste and pollution of its runoff water. Air pollution is also important in heavily urbanized areas, but is less controllable locally, and the Commission will have a greater need to work with other and larger organizations to affect change.

Possible Projects

These projects will be subdivided by material: air, water, and ground. These projects are not listed in any order and will be studied with the assessment process described under the assessment principle.

Air

- Develop an air management plan
- Review green alternatives for Winnetka power plant
- Investigate mechanisms to reduce idling of vehicles

Water

- Reduce pollution of storm water shed to Skokie River
- Reduce use of nutrients that stress the Skokie River
- Recommend mechanisms to reduce disposal of chemicals in storm water
- Recommend mechanisms to conserve Lake Michigan water through Village and other Winnetka governmental bodies
- Audit sanitary sewer and water conveyance for leakage
- Recommend methods to enhance bluff protection and restoration

Land (waste reduction)

- Educate public of mechanisms to recycle items not currently picked up through curbside recycling (brochures, web sites, newspaper tidbits)
- Investigate feasibility of Village drop off center for expanded recycling
- Develop policy to increase recycling of business waste
- Place recycling containers in commercial districts, parks and schools
- Investigate mechanisms to facilitate recycling of construction waste

V. Educate and Inspire - Increase public awareness of the importance of environmental stewardship and resource and energy conservation.

Commentary on why this principle is important

This need of information is constant across all focus areas and has been identified by response to the caucus questionnaire as the most desirable activity of the Commission.

Education about the importance of environmental stewardship and resource conservation is the foundation for changing life style through ordinance and/or pricing of services. It is all the more necessary because all too often the negative effects of poor life styles and poor policy are not seen for many years if they are visible at all.

Possible Projects

These projects are not listed in any order and will be studied with the process described under the assessment principle.

- Development of the website
- Environmental tips
- Projects like the Green Bay Trail and beach cleanup
- Public lectures
- Demonstration of rain garden with park district and garden clubs
- Development of printed material for public distribution
- Presentation to schools and community organizations
- Articles in the Winnetka Report, Winnetka Talk and Tribune Local
- Develop community events such as sidewalk sale and parades

VI. Benefit-Cost - Study and recommend Winnetka-centric changes in policy and expenditures through a measurable, data based process involving public input.

Commentary on why this principle is important

Projects to induce a greener life style should be ranked according to their potential to produce the greatest change for Winnetka with the least effort. While focusing on this ratio of “Benefit-Cost” can lead to an over emphasis of small change with very small efforts, project choice should not ignore necessary large but difficult changes.

Any comparison is dependent upon same step: identification of a critical aspect of that desired, which can be measured. Measures may be multiple and complicated. Environmental issues are challenging because many involve complex, long-term economic transfers and complex chemical interaction. Thus they require detailed study that includes economics, chemistry and physics, as well as public behavior.

A simple form of determining benefit to cost ratio of changing or greening Winnetka life style can be summarized with a series of five questions:

- | | |
|------------------|---|
| Change: | What is the activity or resource to change? |
| Benefit: | What is the measureable benefit? |
| Method: | Are there mechanisms that can be adopted or expenditures made by the Village to alter the activity or resource? |
| Cost: | What is the identifiable cost? |
| Response: | What is the public response to the proposed mechanism or expenditure? |

These questions might be efficiently answered by citizen task forces chaired by a Commission member before submission to Village staff for confirmation.

VII. Think Globally - Collaborate with Winnetka’s neighbors and regional governmental bodies and environmental and conservation organizations.

Commentary on why this principle is important

It is important to leverage the environmental energy expended by others across the focus areas. By collaborating and interacting with similar committees in other locations it will be possible to determine best practices and identify model legislation. There may also be opportunities to work with other Winnetka governing bodies to become more sustainable. Many of the possible projects can be better addressed by creating county- and region-wide action plans and regulations. Thus collaboration with these over arching governmental bodies and environmental and conservation organizations will be necessary to affect changes in public policy beyond that of the “Village” board.

Possible Projects

These projects are not listed in any order and will be studied with the process described under the assessment principle.

- Identify and collaborate on issues of local concern at a regional and national level
- Join the regional partnership of the Chaddick Institute
- Consider ordinances that could become state laws

Demolition recycling

Elimination of plastic bags

Prohibition of phosphorous in fertilizer

Prohibition of plastic water bottles

Winnetka Environmental and Forestry Commission

2009-2010 Implementation Plan

The Environmental and Forestry Commission has adopted its Strategic Plan and identified five goals to be established for the near term. These were derived by taking some materials from the Plan's four areas of focus, and creating a separate water conservation goal. The Commission will advance its mission in the next twelve to twenty-four months by working toward achieving the following goals and objectives. The members of the Commission expressing interest in each of them are shown as "Champions" for those objectives.

1. Energy Conservation Goal: To reduce the Village's carbon footprint by reducing energy use and increasing the use of renewable and non-fossil fuels for energy. Objectives:

- Evaluate and, if warranted, recommend implementing improved electric distribution and metering technologies.
- Evaluate and, if warranted, implement energy-efficiency audits of public and private buildings;
- Work cooperatively with the Illinois Municipal Electric Agency to develop and offer energy efficiency programs;
- Work cooperatively with the Illinois Municipal Electric Agency to diversify its power supply portfolio to increase its use of renewable resources

Champions for the above are Chuck Dowding and Lawson Whitesides.

2. Forestry and Open Space Goal: To maintain the Village's ambience and quality of life by preserving and enhancing forestry and open space in the Village. Objectives:

- Enhance, when needed, the Village's successful forestry program to preserve and enhance the forest canopy.
- Suggest, when needed, changes in the forestry ordinance and regulation.
- Review the Village's Comprehensive Plan, *Winnetka 2020*, as it pertains to preserving and enhancing green/open space, and develop a policy and program to implement the *Winnetka 2020* recommendations concerning green spaces.
- Research possible avenues for elevating the value of open space conservation in reviews and decisions concerning planned or proposed development

Champion for the above is Katie Stevens

3. Water Conservation Goal: To conserve and enhance water resources in and around the Village by reducing water use and water pollution. Objectives:

- Engage the community in public education on strategies and techniques to conserve water and reduce water use;
- Engage the community in public education on strategies and techniques to reduce the amount of pollutants entering stormwater runoff;
- Evaluate and, if warranted, implement sustainable stormwater management techniques such as the use of rain barrels, rain gardens, and other stormwater Best Management Practices.

Champion for the above is Debbie Ross.

4. Green Building Goal: To provide a sustainable built environment in the Village by developing environmentally friendly building standards and development practices for development and redevelopment in the Village. Objectives:

- Engage the community in public education on sustainable building principles, practices, and programs;
- Research and develop sustainable building and site development recommendations, standards, guidelines, or ordinances.
- Research and, if warranted, implement a construction/demolition debris recycling program.

Champion for the above is Jan Bawden

5. Recycling Goal: To conserve natural resources and reduce waste by promoting sustainable purchasing, by maximizing recycling and reuse of materials, and by reducing the amount of material disposed of as refuse. Objectives:

- Explore with SWANCC the feasibility of providing a “one-stop” drop-off facility at the Village Yards for expanded collection of recyclable materials beyond the current curbside recycling program.
- Implement a commercial district recycling program.
- Recycling containers and collection throughout the public areas of the Village, Park District and schools.

Champion for the above is Dave Abell

6. Awareness and Collaboration Goal: To raise public awareness of environmental issues by promoting and advancing community dialogue and education concerning sustainable stewardship of the Village’s environmental resources. Objectives:

- Develop a recycling brochure for items not in the curbside recycling program.
- Develop a website for environmental information.
- Develop environmental tips for weekly public distribution.
- Hold community environmental events.
- Prepare presentations and articles of environmental information.
- Collaborate with other governmental and non-profit organizations to develop best practice

The Environmental & Forestry Commission will implement these goals by determining the benefit to cost ratio of each proposal by considering the five questions in the “Benefit-Cost” section of the Strategic Plan.

Initial Projects Being Undertaken for 2009-2010

- **Energy Conservation:**
 - Energy Audits Staff is considering
 - Energy Consumption Meter Staff is researching
- **Forestry and Open Space:** To come
- **Water Conservation:** To come
- **Green Building:**
 - Construction and Demolition Debris Staff is presenting
- **Recycling:**
 - One-Stop Recycling Center Staff is considering
 - Commercial Recycling Staff will propose
- **Awareness and Collaboration:**
 - Recycling Brochure Completed
 - Website Under development
 - Environmental Tips In process
 - Chaddick Institute collaboration To be proposed

AGENDA REPORT

SUBJECT: MC-7-2009 – Discussion Draft Ordinance
Amending the Village Code to Expand Ethics Regulations

PREPARED BY: Katherine S. Janega, Village Attorney

DATE: October 9, 2009

REFERENCE: July 14, 2009 Study Session pp. 31 – 51
August 18, 2009 Council Agenda, pp. 36 – 54

I. Introduction

This Agenda Report is intended to provide a framework for the Council’s discussion of the August 18, 2009, discussion draft of ordinance MC-7-2009. The Agenda Report first provides a review of the procedural background, including the request that gave rise to the discussions, Council discussions and public comments received. The background information is followed by an explanation of the Village’s current ethics provisions and of the draft ordinance MC-7-2009. The final section is a discussion covering key points to consider.

The Appendix to this Agenda Report contains the following attachments, which provide source materials and additional detail for the Council’s discussion:

- Attachment 1 Relevant excerpts of the minutes of the July 14, 2009, Study Session and the August 18, 2009 Council meeting.
- Attachment 2 Citizen e-mails.
- Attachment 3 A discussion guide containing an expanded list of factors and questions for consideration.
- Attachment 4 Village Code Chapter 2.40, in its current form.
- Attachment 5 Discussion Draft of Ordinance MC-7-2009, as presented at the August 17, 2009 meeting.

II. Procedural Background

A. July 14, 2009 Study Session

At the Council’s Study Session on July 14, 2009, the Council began an in-depth discussion of the Village’s ethics and conflict of interest ordinances, prompted by a request from the Winnetka Caucus. At that time, the Village Attorney gave an explanation of Illinois law on conflicts of interest and of the relevant Village Code provisions. Four residents also spoke on the issue, including the Chair of the Winnetka Caucus’ Village Platform Committee and another member of that committee, who recommended changing the Village Code to expand the scope of the regulations to include boards and commissions, and asked that existing committee members be grandfathered in. (Attachment 1)

Following some further explanation by the Village Manager and Village Attorney, the Council directed the Village Attorney to review the ethics and conflict of interest ordinances of other communities in the area and to report back to the Council.

The Village Attorney subsequently shared the preliminary results of that research with the Village President, who directed the Village Attorney to prepare an ordinance expanding the scope of the current Chapter 2.40 and to place it on the August 18th Council agenda for consideration.

B. August 18, 2009 Council Meeting

As directed by the Village President, the attached Ordinance MC-7-2009 was presented for consideration at the August 18, 2009, Council meeting. In addition to the four persons who spoke at the July Study Session, three other people commented on the issue and on the draft ordinance. The Council decided not to proceed with the ordinance at that time, so that there could be more discussion and public input. The Village President encouraged the audience members who had spoken to submit their comments in writing and set the matter for the October Study session. (Attachment 1)

C. Follow-up since August 18

Following the August 18th meeting, the Village Manager discussed the issue further with the Chair of the Village Platform Committee, who had spoken at the two Council meetings. He then sent the committee chair several follow-up questions and received responsive e-mails on August 31, 2009 and September 18, 2009. (Attachment 2) No other written comments have been received.

III. Current Village Code Provisions and Draft Amendments

A. Current Winnetka Village Code Chapter 2.40 – Ethics

Winnetka's ethics provisions are set out in Chapter 2.40 of the Village Code, which contains a general ethics statement in Section 2.40.020, followed by an extensive gift ban. (Attachment 4) Section 2.40.020 provides as follows:

Section 2.40.020 Prohibited interests in contracts

No officer or employee of the Village shall be directly or indirectly financially interested in any contract work or business of the Village, or in the sale of any article, the expense, price or consideration of which is paid from the Village treasury, or by any assessment levied by any act or ordinance of the Village, or in the purchase of any real estate or other property by the Village.

B. Discussion Draft Ordinance MC-7-2009

The Discussion Draft of Ordinance MC-7-2009 relocates and expands on the substance of Section 2.40.020, thereby reducing the scope of Chapter 2.40. The substance of Section 2.40.020 would be moved to a new Chapter 2.41. The scope of the single conflict of interest statement would be expanded in the new Chapter 2.41. The two resulting chapters are explained below. (Attachment 5)

C. Chapter 2.40 Ethics

The draft amendments to Chapter 2.40 redefine the scope of the Chapter. If amended as drafted, Chapter 2.40 would be limited to the gift ban and political activities prohibitions. Those provisions are the focus of the State Officials and Employees Ethics Act (“Ethics Act”), which would make it easier to track compliance with that law’s legislative requirements. In addition, the draft ordinance would expand the scope of Chapter to include members of boards, commissions and committees, with minor exceptions. This has been done by adding the term “appointee” to the definitions, and then inserting it throughout the Chapter.

Under the draft amendments, the current Section 2.40.020, “Prohibited interest in contracts,” has been moved to a new Chapter 2.41, which is discussed in the following section.

Some technical amendments have also been made, to clean up language and to make it clear that the Village Manager retains the authority to discipline employees directly, thereby removing an ambiguity that could imply that employees who violate the Village’s ethics laws are entitled to a hearing before the Council.

D. Chapter 2.41 Conflicts of Interest

This new Chapter includes the relocated prohibition against interests in contracts, a long-time, firmly established Code provision that is based on the Illinois Municipal Code’s conflict of interest provision. (65 ILCS 5/3/1-55-10) As with the amended Chapter 2.40, the scope of this new Chapter also extends to members of boards, commissions and committees, with minor exceptions, using the same definitions as in Chapter 2.40.

New Chapter 2.41 also adds definitions of the terms “interest” and “transaction,” fleshing out the substance of the Chapter, again based on 65 ILCS 5/3.1-55-10, to provide more clarity for the public, as well as those who are subject to the provisions of the Chapter, as to what interests are prohibited, and when.

Finally, the draft amendments expand the scope of the Chapter beyond interests in Village contracts, to interests in other matters, such as applications that may come before a board or commission, in which an official, appointee or employee may exercise discretionary authority.

III. Discussion

The draft amendments attempt to incorporate Illinois statutory and common law (*i.e.*, court decisions) on conflicts of interest and other ethical matters. They also draw from the broader ethics ordinances of the Villages of Glencoe, Glenview, Northbrook and Northfield and the City of Lake Forest. (Other communities whose ethics codes were reviewed in preparing the draft ordinances include the Village of Wilmette, which is not as broad as the others, and the City of Chicago, which covers more topics than any of the suburban codes, and has been the subject of analysis in one of the chapters in *Ethical Standards in the Public Sector, A Guide for Government Lawyers, Clients, and Public Officials*, Patricia A. Salkin, Editor (American Bar Association, 1999).)

It should be noted that, as it stands today, Chapter 2.40 exceeds the statutory standards of the Ethics Act and the Illinois Municipal Code. The draft amendments raise those standards further. Therefore, the Council's discussions should include a consideration of whether any proposed amendments will have unintended consequences. As explained during the initial discussion at the Study Session, it is possible for a provision to have such a broad application that it could limit the pool of candidates for boards, commissions or committees, particularly if the board, commission or committee serves only in an advisory capacity. It could also unintentionally narrow the Village's options when it comes to tapping uniquely qualified local professionals as a source of professional services for the Village. Or, as indicated in the e-mails sent to the Village Manager, they could force the Village to decide between changing law firms in the middle of litigation or eliminating a desirable candidate for a committee or board.

One other key issue that should be addressed is the extent, if any, to which exceptions to the prohibition against interests in contracts should be allowed. The Village's current prohibition against interests in contracts does not incorporate any of the statutory exceptions. However, based on provisions in other communities, some, but not all, of the statutory exceptions have been incorporated into the definitions in the draft of new Chapter 2.41.

The attached Discussion Guide (Attachment 3) provides further detail, in bullet form, of points to consider. It also contains a list of questions, some of which were raised directly by Council members, and others that arose from the discussion at the two previous meetings.

Recommendation:

Provide policy direction.

ATTACHMENT 1

Excerpts of Council Minutes
Ethics Ordinances and Conflicts of Interest

July 14, 2009 – Council Study Session

- 3) Ethics Ordinances and Conflicts of Interest. Attorney Janega reported that the Winnetka Caucus has raised a question about a possible conflict of interest in connection with a member of the Design Review Board, and it is asking the Council to expand the Village's ethics ordinance to include all members of Village boards and commissions. She explained direct and indirect conflicts, actual and apparent conflicts, and statutes that govern interests for Village officials. She added that the Village Code puts further limits on interests for Village officials and employees, but note that the Village's ordinances do not apply to members of boards and commissions. Attorney Janega observed that the current ethics provisions have served the Village well, and indicated that the current situation is more about appearances than with an actual conflict of interest.

Attorney Janega gave some examples of circumstances which would create a conflict, described other scenarios where no conflict would exist, and answered questions from the Council.

President Tucker called for comments from the audience.

Anne Wilder, 1096 Spruce, remarked that the Village's advisory bodies are significant and carry a lot of weight, and that an apparent conflict could easily be hidden if the participant with the interest just didn't attend the pertinent meeting.

Marc Hecht, 1096 Spruce, said the ethics rules for the Council and Village officials should be extended to include every member of every board and commission, and raised the issue of fairness with regard to resident contact with Council members on a given issue.

Irma Villarreal, 1045 Westmoor, recommended changing the Village Code to expand the scope of the regulations to include boards and commissions, and asked that existing committee members be grandfathered in.

Vicki Apatoff, 730 Ardsley, said the Village Code should be revised so it does not appear that anyone is getting special favors, and added that she had a statement from Edie Howell, 277 Ridge, who was unable to attend the meeting, to the effect that members of the audience who offer public comment should be asked whether they live in Winnetka and if they have a financial interest in the matter being discussed.

Attorney Janega said there are two separate issues to think about: i) members of boards and commissions who are issued contracts with the Village, which could be addressed by extending the provisions of Section 2.4 to include all members of boards and commissions; and ii) a member of a board or commission who has an interest in a matter being brought before that committee, which, for the Council, is currently covered by state statute.

Manager Williams asked Attorney Janega to comment on the appearance of fairness.

Attorney Janega explained that Illinois law treats special use requests as legislative determinations, so the Council's process is legislative process, while the proceedings of subordinate bodies that make their recommendations to the Council after hearings are quasi-

judicial. She noted that the Council has traditionally allowed citizens to talk to their elected officials both at formal meetings and outside of the Chambers in less formal, casual encounters. She observed that the specific issue of contacts between the Council and applicants and citizens was not raised prior to tonight's meeting and would not be addressed at this time, but is a future policy call for the Council to make.

Manager Williams said in his experience, land use issues being treated as judicial proceedings is a frustrating state of affairs, as the matter cannot be discussed outside the Council Chambers. He indicated that the Council should be available to communicate with the public it represents.

Mr. Hecht pointed out that he did not intend for his comments to be limited to land use issues.

President Tucker said the issue would be discussed again at a future meeting, and directed Attorney Janega to research what kinds of ethics laws comparable communities have enacted, and to bring that to the next discussion.

August 18, 2009 – Regular Council Meeting

6) Ordinances and Resolutions.

- d) Ordinance No. MC-7-2009 – Ethics Code Amendment – Introduction. Attorney Janega reported that at its July 14th Study Session, the Council directed her to review ethics ordinances from other municipalities in the area and that, after sharing the preliminary results of that research with the Village President, President Tucker directed her to prepare an ordinance expanding the scope of the Village Code's current ethics provisions contained in Chapter 2.40.

Attorney Janega reviewed a study guide she had prepared for the Council identifying the general policy issues to be decided, and gave a summary of the provisions contained in Ordinance MC-7-2009.

Trustee Greable asked why the issue of ethics is being addressed at the present time, and asked if there were any examples that would help to give context to the discussion.

President Tucker indicated that the Caucus had brought it to the Council's attention, citing instances over the years where questions have arisen. She observed that the Council has the prerogative to keep the current ethics provisions as they are, or to make any changes they feel are necessary.

Manager Williams said the only problem he could recall was during the recent approval process for the Fell Development project, where a committee member had done some work for the developers, and was also working on some projects for the Village. He noted that while nothing illegal occurred in either instance, a ban on appointees having contracts with the Village should not have many unintended consequences.

Attorney Janega elaborated upon that particular case, and also described one other time when a conflict was alleged but that at trial and on appeal, the courts agreed there had

been no conflict. She said from time to time she gets an inquiry from a Trustee or appointee, but that problems have been rare.

Dick Kates, 1326 Tower, said the examination of the ethics issue has been useful, and suggested that cases which are de minimis should be distinguished; spouses should be included in the prohibited interest category; and he disagreed with the idea that the public shouldn't be allowed to talk to Village officials ex parte.

Attorney Janega clarified that ex parte communications should be interpreted to mean communication with one party in a proceeding outside the presence of the other party, meaning that the average citizen could have contact if they weren't directly involved, and she noted that the provision needs to be made that clearer.

Katie Stevens, 211 Winnetka, supported tightening the ethics code and indicated that there is an appearance of impropriety when appointees of boards and committees have contracts with the Village. She expressed support for a prohibition on appointees doing business with the Village for the period that they are serving, and agreed that spouses should be included in the prohibited interest category.

Anne Wilder, 1096 Spruce, agreed with Ms. Stevens' points and stated that the issue is one of the most important the Council has to deal with. She observed that Winnetka was in the forefront in passing a hand-held cell phone ban, and is a leader on environmental issues, and she urged the Council to make Winnetka a leader in ethics reform as well.

Marc Hecht, 1096 Spruce, said he feels the draft ordinance is premature, and the new Chapter 2.41 unnecessarily complicates the statutory provisions and should be abandoned. He was in favor of simply including the Village's appointees in the current ethics code provisions, and said he supports a ban on any communications with the Council or appointees on any matter that is pending or going to be pending before any of the Village's bodies.

Irma Villarreal, 1045 Westmoor, said she thought the provisions in the draft ordinance were very good and she indicated that she liked how the issue of conflicts was dealt with separately in the new Chapter 2.41. She urged the Council to select an Ethics Commission that is made up of a separate group of residents, rather than using the Council in that capacity.

Vicki Apatoff, 730 Ardsley, observed that ad hoc committees should be added to the definitions for appointees and included in the prohibited interests, citing the ad hoc Streetscape Technical Committee as an example of an advisory body that has an impact on Village spending. She also said the Caucus is interested in expansion of the financial definitions.

Jeffrey Liss, 1364 Edgewood, pointed out that the Village shouldn't be prevented from getting the best people for their input and expertise, and said that a conflict with one particular issue can be cured with recusal. He indicated that he was against the prohibition on ex parte communications with Village staff, Council and appointees, unless a conflict was disclosed.

The Trustees agreed that the public comments had been very informative, and after a discussion about the proposals contained in the draft ordinance, the consensus was

reached that more time, conversation and public input was needed before they could make an informed decision.

President Tucker said the issue would be discussed again at the October Study Session, and encouraged the audience members who had made comments to put them in writing for the Trustees.

ATTACHMENT 2

Kathy Janega

From: Doug Williams
Sent: Tuesday, September 01, 2009 5:06 PM
To: Kathy Janega
Subject: FW: Ethics information per your request

This is a little easier to read.

From: Apatoff Vicki [mailto:vapatoff@gmail.com]
Sent: Monday, August 31, 2009 9:36 PM
To: Doug Williams
Cc: Tucker Jessica; George Conbeer; Dowding Jane; Villarreal Irma
Subject: Ethics information per your request

Hi Doug-

I reviewed your questions with the members of my committee as well as the Exec Committee of the Caucus who have been involved in the ethics discussion from the start and attended the meetings where the issue was discussed. In addition, I spoke with an expert in corporate governance who deals extensively with ethics issues and she concurred that the changes we have asked to be made to the Winnetka ordinance is standard procedure in most SEC and corporate ethics codes. Please let me know if you need any additional information or have any other questions for the Caucus. We are very appreciative of the time and effort the Village is putting into this important issue. I left your questions in black and put our answers in blue. Have a good week. Vicki

I would like to follow up our recent discussion regarding a possible amendment to the Village's ethics ordinance. As I understood our conversation, the Caucus would like the Village to amend its ethics ordinance so that any committee or commission member could not have a contract with the Village. By "any" I mean standing committee members (i.e., ZBA, PC, DRB, etc) and ad hoc committee members (i.e., Post Office, Streetscape, etc). Correct? [This would be a comprehensive prohibition that would include any standing or ad hoc committee member as well as "members of a task force, blue ribbon committee, or similar group that is established solely for the purpose of advising the Council on policy issues" and "members of advisory boards or commissions whose duties do not include recommending or voting to approve such matters". Those and other references to "minor exceptions" were found in the MC-7-2009-Ethics Amendments documents presented at the August 18th study session and would not be considered appropriate in a valid ethics ordinance.](#)

If my understanding is correct, I have a couple of follow up questions: What about spouses of any committee member? [The ethics ordinance should cover spouses, as well.](#) For example, Maureen Mitchell's husband is an attorney for a law firm that the Village has used from time to time. The Village has not used Maureen's husband for legal work but has used his partner. Would Maureen be allowed to serve as Chair of the Plan Commission? [No. Because Maureen's husband is a partner, his compensation is directly tied to revenue earned by the firm from all work, including Village work.](#)

Finally, what about immediate family members? For example, let's pretend that Committee member X has a child who graduates from law school and starts working for Schiff Hardin, a law firm that has represented the Village in major civil rights litigation in the last ten years. Would the committee member be required to resign? [The same ordinance that covers spouses would include immediate family members.](#) If the committee member does not resign, would the Village be required to terminate the services of Schiff Hardin? [Yes.](#)

Kathy Janega

From: Doug Williams
Sent: Tuesday, September 15, 2009 4:39 PM
To: Apatoff Vicki
Cc: George Conbeer; Dowding Jane; Villarreal Irma; Doug Williams; Jessica Tucker; Kathy Janega; Doug Williams
Subject: RE: Ethics information per your request

Vicki,

Thank you for the response and guidance. I have one follow up item: If I understand your email correctly, when a partner in a law or consulting firm is performing work for the Village, then his/her spouse or family member can not serve on any Village committee. However, if a firm is performing services for the Village and a partner is not working directly or indirectly for the Village, then his/her spouse can serve on a Village committee. Do I have this right? I assume this same ethics principle would apply to a general employee of the firm. Correct?

I apologize for the tardy response. Things have been a bit hectic at 510 Green Bay Road.

For your planning purposes, Kathy and I hope to place possible amendments to the Village's Ethics Code on the October 13th Council meeting for additional discussion and policy direction. The Council is also developing a questionnaire for potential committee members in order to determine if there could be any Ethics conflicts.

Thanks,

doug

From: Apatoff Vicki [mailto:vapatoff@gmail.com]
Sent: Monday, August 31, 2009 9:36 PM
To: Doug Williams
Cc: Tucker Jessica; George Conbeer; Dowding Jane; Villarreal Irma
Subject: Ethics information per your request

Hi Doug-

I reviewed your questions with the members of my committee as well as the Exec Committee of the Caucus who have been involved in the ethics discussion from the start and attended the meetings where the issue was discussed. In addition, I spoke with an expert in corporate governance who deals extensively with ethics issues and she concurred that the changes we have asked to be made to the Winnetka ordinance is standard procedure in most SEC and corporate ethics codes. Please let me know if you need any additional information or have any other questions for the Caucus. We are very appreciative of the time and effort the Village is putting into this important issue. I left your questions in black and put our answers in blue. Have a good week. Vicki

I would like to follow up our recent discussion regarding a possible amendment to the Village's ethics ordinance. As I understood our conversation, the Caucus would like the Village to amend its ethics ordinance so that any committee or commission member could not have a contract with the Village. By "any" I mean standing committee members (i.e., ZBA, PC, DRB, etc) and ad hoc committee members (i.e., Post Office, Streetscape, etc). Correct? This would be a comprehensive prohibition that would include any standing or ad hoc committee member as well as "members of a task force, blue ribbon committee, or similar group that is established solely for the purpose of advising the Council on policy issues" and "members of advisory boards or commissions whose duties do not include recommending or voting to approve such matters". Those and other references to "minor exceptions" were found in the MC-7-2009-Ethics Amendments documents presented at the August 18th study session and would not be considered appropriate in a valid ethics ordinance.

Doug Williams

From: Vicki Apatoff [vapatoff@gmail.com]
Sent: Friday, September 18, 2009 9:38 AM
To: Doug Williams; Jessica Tucker
Cc: jane dowding; gconbeer@gmail.com; Irma.Villarreal@Kraft.com
Subject: Ethics question

HI Doug -

The ethics code change would mean the Village may not engage any firm that employs in any capacity, a board member, or the spouse and family members of that board member. The Village would be required to engage a different firm, or the board member must resign if the Village feels it must use that particular firm. Given the vast amount of law firms and consulting firms available in the Chicago metropolitan area, that should not cause any undue hardship on the Village and, more importantly, avoid any question of impropriety or favoritism toward a particular firm. I hope that better clarifies this issue for you. Please let me know if there are any other concerns you have about this matter. Have a good weekend. Vicki

ATTACHMENT 3

DISCUSSION GUIDE TO ETHICS and CONFLICTS of INTEREST

FACTS and FACTORS

PURCHASING and CONTRACTS

I. Facts and factors to consider

A. Characteristics of conflict of interests and prohibited interests

- The two key components of the draft ordinance are the prohibition against actual conflicts of interest and the definition and prohibition against other interests. Because actual conflicts of interest are easily identified and are prohibited by both statute and common law, they can be easily defined and incorporated into an ordinance.
- There is a distinction between actual conflicts of interests and the appearance of a conflict of interest. The draft ordinance attempts to identify and define other “interests” that would become prohibited interests, although they might not be considered actual conflicts of interest under statutory or common law. The difficulty in determining how to identify and define the scope of such prohibited interests stems from the many variables in individual factual situations. It is generally accepted that it is extremely difficult, if not impossible, to come up with a universally applicable standard for dealing with the appearance of a conflict.

B. Circumstances unique to Village governance and decision-making

- No member of the Village Council, or of any Board or Commission, is compensated for that work.
- Professional services tend to be specialized, *e.g.*, legal, accounting, auditing, financial advisors, engineering, consulting
- Many professional services are further specialized by the unique nature of local government practice and by laws that are unique to Illinois. For example, though there are similarities, municipal contracting procedures are different from both federal contracting and private contracting procedures. Similarly, government finance standards are different from standards that apply to publicly held corporations.
- Many professions have their own specific rules of conduct aimed at avoiding and preventing conflicts of interest.
- The need for specialized knowledge and experience in municipal matters reduces the number of firms available to provide professional services.
- The pool of volunteers for Village boards and commissions is limited. Requiring individuals to disclose personal finances and, in some cases, to give up business activities to qualify for appointment could further reduce the size of the pool.
- Passing an ordinance that eliminates the Council’s contracting discretion, without room for exception, could leave the Village without the ability to address unique needs or emergency situations.

C. Persons with authority to spend Village money and enter into contracts:

- Village Council
 - Village Manager (limits are set by Village Council)
 - Department Heads (limits are set by Village Council)
- Board of Fire and Police Commissioners
 - General authorizations via annual budget process (Human resources)
 - Individual expenditures on tests, testing agency, etc.
- Police and Firefighter Pension Boards (Fiduciary funds)
 - Expenditures are from pension funds, not general corporate fund
 - Investment advisers, fund managers
- Foreign Fire Insurance Board (WVC 3.24)
 - Fire Chief plus 6 firefighters
 - Funds controlled by Board, but subject to Budget process
 - Follows Village purchasing policies

D. Persons with NO authority to spend Village money or enter into contracts:

- Members of the Plan Commission
- Members of the Design Review Board
- Members of the Business Community Development Commission
- Members of the Landmark Preservation Commission
- Members of the Zoning Board of Appeals
- Ad hoc committees
- All subcommittees

E. The Village's purchasing and contracting procedures

- Subject to statutory conflict of interest provisions.
 - Violating state conflict of interest laws renders nullifies the purchase or contract.
 - Violating state conflict of interest laws is a felony.
- Competitive process
- Public notice
- Solicitation of bids and proposals
- Public opening of bids and proposals
 - Council review and approval
- Public authorizations

II. Questions and Policy Issues for discussion

A. Define the scope of the issue

- How widespread a problem are conflicts of interest?
- How often have conflicts of interest arisen?

B. Consider the nature and extent of the interests to be prohibited

- Should there be a threshold amount before an interest is considered a prohibited financial interest?
- Should there be a “zero-tolerance” policy?
- Should prohibited interests be related to the subject matter before the decision maker?
- Should there be a higher standard for persons who have authority to spend Village funds or should all members of boards and commissions be subject to the same standard? For example, should advisory boards with no contracting or spending powers be subject to the same types and levels of prohibited interests as Council members who make the ultimate decisions and control Village spending decisions?
- Should the policy allow the Council to retain the discretion to make exceptions in certain circumstances, or should there be a fixed, “one-size-fits-all” standard for prohibited interests?
- Should the scope of prohibited interests extend to adult family members not living with the Village official, appointee or employee, regardless of whether the official, appointee, employee or family member has any decision-making authority over the matter in question?
- Can an identified interest be small enough or remote enough from the relevant decision makers that it would not disqualify a candidate from serving and would merely require disclosure and recusal, or disclosure and abstention?

ATTACHMENT 4

Chapter 2.40

ETHICS

Sections:

2.40.010	Definitions.
2.40.020	Prohibited interests in contracts
2.40.030	Gift Ban
2.40.040	Prohibited political activities.
2.40.050	Penalties.
2.40.060	Ethics Adviser
2.40.070	Ethics Commission
2.40.080	Interpretation.
2.40.090	Constitutionality.

Section 2.40.010 Definitions.

Whenever the following terms are used in this Chapter, they shall be defined as provided in this section.

A. "Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

B. "Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regulation election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

C. "Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

D. "Compensated time" means any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of employment, but, for purposes of this Chapter, does not include any designated holidays or any period when the employee is on a leave of absence.

E. "Compensatory time off" means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment.

F. "Contribution" has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

G. "Employee" means any full-time, part-time, or contractual employee of the Village, whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

H. "Employer" means the Village of Winnetka.

I. "Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

J. "Leave of absence" means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

K. "Officer" means any elected or appointed official of the Village, regardless of whether the official is compensated.

L. "Political" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

M. "Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

N. "Prohibited political activity" means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event;
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event;
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution;
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
6. Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question;
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;
10. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes;

11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question;
12. Campaigning for any elective office or for or against any referendum question;
13. Managing or working on a campaign for elective office or for or against any referendum question;
14. Serving as a delegate, alternate, or proxy to a political party convention;
15. Participating in any recount or challenge to the outcome of any election.

O. "Prohibited source" means any person or entity who:

1. is seeking official action (i) by an officer or (ii) in the case of an employee, by the employee or an officer, or other employee directing that employee;
2. does business or seeks to do business (i) with the officer or (ii) in the case of an employee, with the employee or with an officer, or other employee directing that employee;
3. conducts activities regulated (i) by the officer or (ii) in the case of an employee, by the employee or an officer, or other employee directing that employee; or
4. has interests that may be substantially affected by the performance or non- performance of the official duties of the officer, or employee.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.020 Prohibited interests in contracts

No officer or employee of the Village shall be directly or indirectly financially interested in any contract work or business of the Village, or in the sale of any article, the expense, price or consideration of which is paid from the Village treasury, or by any assessment levied by any act or ordinance of the Village, or in the purchase of any real estate or other property by the Village. (Ord. MC-228-99 § 1 (part), 1999: prior code § 3.11)

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.030 Gift Ban

A. Except as otherwise provided in this section, no officer, or employee of the Village, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as " recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined in this Chapter, or in violation of any Village ordinance or other law, rule or regulation.

B. Exceptions. The restriction in subsection A does not apply to the following:

1. Opportunities, benefits, and services that are available on the same conditions as for the general public;
2. Anything for which the officer, or employee or other recipient pays the market value;
3. Any (i) contribution that is lawfully made under the Election Code or under this Chapter or (ii) activities associated with a fundraising event in support of a political organization or candidate;
4. Educational materials and missions;
5. Travel expenses for a meeting to discuss Village business;
6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister,

half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée;

7. Anything provided by an individual on the basis of a personal friendship unless the officer or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the officer or employee and not because of the personal friendship;

In determining whether a gift is provided on the basis of personal friendship, the officer, or employee shall consider the circumstances under which the gift was offered, such as:

a. the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

b. whether to the actual knowledge of the officer or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

c. whether to the actual knowledge of the officer or employee the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Chapter, "catered" means food or refreshments that are purchased ready to eat and delivered by any means;

9. Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances;

10. Intra-governmental and inter-governmental gifts. For the purpose of this Chapter, "intra-governmental gift" means any gift given to an officer or employee of the Village from another officer or employee of the Village; and "inter-governmental gift" means any gift given to an officer or employee of the Village by an officer or employee of another governmental entity.

11. Bequests, inheritances, and other transfers at death;

12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100;

Each of the exceptions listed in this subsection is mutually exclusive and independent of one another.

C. Disposition of gifts. An officer or employee does not violate this Chapter if the officer or employee promptly takes reasonable action to return the prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) of 1986, as now or hereafter amended, renumbered, or succeeded.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.040 Prohibited political activities.

A. No officer or employee shall intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). No officer or employee shall intentionally misappropriate any Village property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.

B. At no time shall any officer or employee intentionally misappropriate the services of any Village employee by requiring that employee to perform any prohibited political activity (i) as part of that employee's duties, (ii) as a condition of employment, or (iii) during any time off that is compensated by the Village (such as vacation, personal, or compensatory time off).

C. No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise.

D. No officer or employee shall be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the officer's or employee's participation in any prohibited political activity.

E. Nothing in this Chapter prohibits activities that are otherwise appropriate for a Village officer or employee to engage in as a part of his or her official duties or activities that are undertaken by a Village officer or employee on a voluntary basis as permitted by law.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.050 Penalties.

A. The penalties for violations of this Chapter shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the State Officials and Employees Ethics Act. (5 ILCS 430/1-1, *et seq.*)

B. In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of this Chapter is subject to discipline, or removal from office.

C. It is a violation of this Chapter to knowingly file a false charge against an officer or employee. Any person who knowingly files such a charge shall be subject to the penalties provided in this Section.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.060 Ethics Adviser

The Village Manager is hereby designated as the Ethics Advisor for the Village. The Ethics Advisor shall provide guidance to officers and employees in the interpretation and implementation of this Chapter and State ethics laws and shall perform such other duties as may be delegated by the Village Council.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.070 Ethics Commission

There is hereby created an Ethics Commission for the Village. The Ethics Commission shall consist of the President of the Village and the Village Trustees. The Commission shall have the following powers and duties:

A. To process written complaints alleging violations of this Chapter.

B. Upon determining that an officer or employee has violated this Chapter, to take any or all of the following courses of action:

1. Issue a reprimand;
2. Order the officer or employee to cease and desist the offensive action;
3. Order the return or refund of money or other items, or an amount of restitution for services received in violation of this Chapter;

4. To recommend to the Board of Fire and Police Commissioners that a member of the Police Department or Fire Department be dismissed, and as to all other employees and officers, to dismiss the employee or remove the officer from office;

5. To order that the officer or employee make a donation to a charity in an amount equal to the prohibited gift;

6. To impose a fine of up to one thousand dollars (\$1,000.00) per violation, to be deposited into the Village's General Fund; and

7. To refer violations to the Village Prosecutor or Cook County State' s Attorney for prosecution and the imposition of fines and or incarceration in accordance with 5 ILCS 430/5-5 of the State Officials and Employees Ethics Act.

C. If after a hearing the Commission finds no violation of this Section 2.40.020, the Commission shall dismiss the complaint;

D. Any decision by the Commission to dismiss a complaint, to refer a matter for prosecution or to make a recommendation to the Board of Police and Fire Commissioners is not a final decision. All other decisions of the Commission are final and are not subject to further review, either administratively or judicially, except that a decision by the Commission to impose a fine is subject to judicial review under the Administrative Review Law of the Illinois Code of Civil Procedure (735 ILCS 5/3-101, *et seq.*).

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.080 Interpretation.

A. Interpretation. It is the intent of the Village that the provisions of this Chapter shall be in accordance with the requirements of the State Officials and Employees Ethics Act (“ Act”), 5 ILCS 430/1-1 *et seq.* To the extent that the Act may, from time to time, be more restrictive than the requirements of this Chapter, the provisions of that Act shall control.

B. This Chapter does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of Village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Chapter, however, the provisions of this Chapter shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.090 Constitutionality.

A. This Chapter is enacted in accordance with the State Officials and Employees Ethics Act, (“Act”), 5 ILCS 430/1-1 *et. seq.*

B. If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Chapter shall be repealed as of the date that the Illinois Supreme Court’ s decision becomes final and not subject to any further appeals or rehearings. This Chapter shall be deemed repealed without further action by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

C. If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Chapter shall remain in full force and effect; however, that part of this Chapter relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village.

(MC-08-2004, Amended, 05/18/2004)

ATTACHMENT 5

ORDINANCE NO. MC-7-2009

**AN ORDINANCE
AMENDING THE WINNETKA VILLAGE CODE
REGARDING ETHICS AND CONFLICT OF INTEREST REGULATIONS
FOR ELECTED AND APPOINTED VILLAGE OFFICIALS, EMPLOYEES AND
MEMBERS OF BOARDS, COMMISSIONS AND COMMITTEES**

WHEREAS, the State Officials and Employees Ethics Act (the “Act”), which is a comprehensive package of ethics legislation that amends previously enacted gift ban laws, prohibits certain political activities by public officials and public employees, provides protections for employees who report violations, sets penalties for violations, and establishes an administrative mechanism for implementing the legislative requirements; and

WHEREAS, on May 18, 2004, the Council of the Village of Winnetka (“Village Council”) enacted ordinance MC-8-2004, which amended Chapter 2.40 of the Winnetka Village Code to establish regulations for the political activities of Village officers and employees and to prohibit the solicitation and acceptance of gifts from prohibited sources as required by the Act; and

WHEREAS, in addition to the meeting the requirements of the Act, Chapter 2.40 also contains a general conflict of interest provision that prohibits officers and employees from having a direct or indirect interest in Village contracts; and

WHEREAS, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

WHEREAS, the Council of the Village of Winnetka find and determine that establishing higher ethical standards both for the Village’s officers and employees and for members of the Village’s boards, commissions and committees, is a matter pertaining to the government and affairs of the Village.

NOW, THEREFORE, Council of the Village of Winnetka do ordain as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka as if fully set forth herein.

SECTION 2: That Chapter 2.40 of the Winnetka Village Code, “Ethics,” is hereby amended in its entirety, to provide as follows:

Chapter 2.40

ETHICS

Sections:

- 2.40.010** **Definitions.**
- 2.40.020** **~~[Reserved.] Prohibited interests in contracts~~**
- 2.40.030** **Gift Ban**
- 2.40.040** **Prohibited political activities.**
- 2.40.050** **Penalties.**
- 2.40.060** **Ethics Adviser**
- 2.40.070** **Ethics Commission**
- 2.40.080** **Interpretation.**
- 2.40.090** **Constitutionality.**

Section 2.40.010 **Definitions.**

Whenever the following terms are used in this Chapter, they shall be defined as provided in this section.

A. “Campaign for elective office” means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

B. “Candidate” means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regulation election, as defined in Section 1-3 of the Election Code (10 ILCS 5/1-3).

C. “Collective bargaining” has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

D. “Compensated time” means any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of employment, but, for purposes of this Chapter, does not include any designated holidays or any period when the employee is on a leave of absence.

E. “Compensatory time off” means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment.

F. “Contribution” has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

G. “Employee” means any full-time, part-time, or contractual employee of the Village, whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

H. “Employer” means the Village of Winnetka.

I. “Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

J. “Leave of absence” means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

K. “Officer” means any elected or appointed official of the Village, regardless of whether the official is compensated.

L. “Political” means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

M. “Political organization” means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

N. “Prohibited political activity” means and includes any or all of the following:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
6. Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

10. Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

12. Campaigning for any elective office or for or against any referendum question.

13. Managing or working on a campaign for elective office or for or against any referendum question.

14. Serving as a delegate, alternate, or proxy to a political party convention.

15. Participating in any recount or challenge to the outcome of any election.

O. "Prohibited source" means any person or entity who:

1. is seeking official action (i) by an officer or appointee, or(ii) in the case of an employee, by the employee or by an officer, appointee or other employee directing that employee;

2. does business or seeks to do business (i) with the officer or appointee, or (ii) in the case of an employee, with the employee or with an officer, appointee or other employee directing that employee;

3. conducts activities regulated (i) by the officer or appointee, or (ii) in the case of an employee, by the employee or by an officer, appointee or other employee directing that employee; or

4. has interests that may be substantially affected by the performance or non-performance of the official duties of the officer, appointee or employee.

(MC-08-2004, Amended, 05/18/2004)

P. "Appointee" means all appointed members of any board, commission or committee created by this Code and of any subcommittee thereof; provided, however, that a member of a task force, blue ribbon committee, or similar group that is established solely for the purpose of advising the Council on policy issues shall not be considered an appointee.

Section 2.40.020 ~~[Reserved.]~~ **Prohibited interests in contracts**

~~No officer or employee of the Village shall be directly or indirectly financially interested in any contract work or business of the Village, or in the sale of any article, the expense, price or consideration of which is paid from the Village treasury, or by any assessment levied by any act or ordinance of the Village, or in the purchase of any real estate or other property by the Village.~~

~~(Ord. MC-228-99 § 1 (part), 1999; prior code § 3.11)~~

~~(MC-08-2004, Amended, 05/18/2004)~~

Section 2.40.030 **Gift Ban**

A. Except as otherwise provided in this section, no officer, appointee or employee of the Village, and no spouse of or immediate family member living with any officer, appointee or employee (collectively referred to herein as " recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined in this Chapter, or in violation of any Village ordinance or other law, rule or regulation.

B. Exceptions. The restriction in subsection A does not apply to any of the following:

1. Opportunities, benefits, and services that are available on the same conditions as for the general public.

2. Anything for which the officer, appointee, ~~or~~ employee or other recipient pays the market value.

3. Any (i) contribution that is lawfully made under the Election Code or under this Chapter or (ii) activities associated with a fundraising event in support of a political organization or candidate.

4. Educational materials and missions.

5. Travel expenses for a meeting to discuss Village business.

6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

7. Anything provided by an individual on the basis of a personal friendship unless the officer, appointee or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the officer, appointee or employee and not because of the personal friendship. =

—In determining whether a gift is provided on the basis of personal friendship, the officer, appointee or employee shall consider the circumstances under which the gift was offered, such as:

a. the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

b. whether to the actual knowledge of the officer, appointee or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

c. whether to the actual knowledge of the officer, appointee or employee the individual who gave the gift also at the same time gave the same or similar gifts to other officers, appointees or employees.

8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments ~~either are~~ (i) are consumed on the premises from which they were purchased or prepared, or (ii) are catered. For the purposes of this Chapter, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

9. Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer, appointee or employee as an office holder, member of a board, commission or committee, or employee) of the officer, appointee or employee, or the spouse of the officer, appointee or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer, appointee or employee, and are customarily provided to others in similar circumstances.

10. Intra-governmental and inter-governmental gifts. For the purpose of this Chapter, "intra-governmental gift" means any gift given to an officer, appointee or employee of the Village from another officer, appointee or employee of the Village; and "inter-governmental gift"

means any gift given to an officer, appointee or employee of the Village by an officer or employee of another governmental entity.

11. Bequests, inheritances, and other transfers at death.

12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

~~Each of the exceptions listed in this subsection is mutually exclusive and independent of one another.~~

C. Disposition of gifts. An officer, appointee or employee does not violate this Chapter if the officer or employee promptly takes reasonable action to return the prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.040 Prohibited political activities.

A. No officer, appointee or employee shall intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off).

~~B.~~ No officer, appointee or employee shall intentionally ~~misappropriate-use~~ any Village property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.

~~C. B.~~—At no time shall any officer, appointee or employee intentionally ~~misappropriate use~~ the services of any Village employee by requiring that employee to perform any prohibited political activity (i) as part of that employee's duties, (ii) as a condition of employment, or (iii) during any time off that is compensated by the Village (such as vacation, personal, or compensatory time off).

~~D. C.~~—No officer, appointee or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer, appointee or employee being awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise.

~~E. D.~~—No officer, appointee or employee shall be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the officer' s or employee's participation in any prohibited political activity.

~~F. Rewards For Political Activity. No official shall promise an appointment to any remunerated municipal position as a reward for any political activity or cause or require any village employee to contribute to or perform services for any political party as a condition of continued employment or under threat of detriment to employment~~

~~G. E.~~—Nothing in this Chapter prohibits activities that are otherwise appropriate for a Village officer, appointee or employee to engage in as a part of his or her official duties or activities that are undertaken by a Village officer or employee on a voluntary basis as permitted by law.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.050 Penalties.

A. The penalties for violations of this Chapter shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the State Officials and Employees Ethics Act. (5 ILCS 430/1-1, *et seq.*)

B. In addition to any other penalty that may be applicable, whether criminal or civil, an officer, appointee or employee who intentionally violates any provision of this Chapter is subject to discipline, or removal from office.

C. It is a violation of this Chapter to knowingly file a false charge against an officer, appointee or employee. Any person who knowingly files such a charge shall be subject to the penalties provided in this Section.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.060 Ethics Adviser

The Village Manager or his or her designee is hereby designated as the Ethics Advisor for the Village. The Ethics Advisor shall provide guidance to officers, appointees and employees in the interpretation and implementation of this Chapter and State ethics laws and shall perform such other duties as may be delegated by the Village Council.

(MC-08-2004, Amended, 05/18/2004)

Section 2.40.070 Ethics Commission

There is hereby created an Ethics Commission for the Village. The Ethics Commission shall consist of the President of the Village and the Village Trustees. The Commission shall have the following powers and duties:

A. To process written complaints alleging violations of this Chapter.

B. Upon determining that an officer, appointee or employee has violated this Chapter, to take any or all of the following courses of action:

1. Issue a reprimand;
2. Order the officer, appointee or employee to cease and desist the offensive action;
3. Order the return or refund of money or other items, or an amount of restitution for services received in violation of this Chapter;
4. To recommend to the Board of Fire and Police Commissioners that a member of the Police Department or Fire Department be dismissed, and as to all other employees, appointees and officers, to dismiss the employee, appointee or remove the officer from office;
5. To order that the officer, appointee or employee make a donation to a charity in an amount equal to the prohibited gift;
6. To impose a fine of up to one thousand dollars (\$1,000.00) per violation, to be deposited into the Village's General Fund; and
7. To refer violations to the Village Prosecutor or Cook County State's Attorney for prosecution and the imposition of fines and or incarceration in accordance with Section 5-5.5 ILCS 430/5-5 of the State Officials and Employees Ethics Act (5 ILCS 430/5-5).

C. If, after a hearing the Commission finds no violation of this Chapter, the Commission shall dismiss the complaint;

D. Any decision by the Commission to dismiss a complaint, to refer a matter for prosecution or to make a recommendation to the Board of Police and Fire Commissioners is not a final decision. All other decisions of the Commission are final and are not subject to further review, either administratively or judicially, except that a decision by the Commission to impose a fine is subject to judicial review under the Administrative Review Law of the Illinois Code of Civil Procedure (735 ILCS 5/3-101, *et seq.*).
(MC-08-2004, Amended, 05/18/2004)

Section 2.40.080 Interpretation.

A. ~~Interpretation-Applicable Statutes.~~ It is the intent of the Village that the provisions of this Chapter shall be in accordance with the requirements of the State Officials and Employees Ethics Act (“ Act”), 5 ILCS 430/1-1 *et seq.* To the extent that the Act may, from time to time, be more restrictive than the requirements of this Chapter, the provisions of that Act shall control.

B. Ordinance and Policies. This Chapter does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of Village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Chapter, however, the provisions of this Chapter shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).
(MC-08-2004, Amended, 05/18/2004)

C. Authority of Village Manager. This Chapter does not repeal or otherwise amend or modify the authority of the Village Manager granted pursuant to Section 2.12.050 of this Code. The Village Manager shall have and retain the authority to appoint, remove or discipline any employee as provided in said Section 2.12.050 and any other applicable statute or ordinance, without being required to initiate a complaint for consideration of the Ethics Commission under this Chapter.

Section 2.40.090 Constitutionality.

A. This Chapter is enacted in accordance with the State Officials and Employees Ethics Act, (“Act”), 5 ILCS 430/1-1 *et. seq.*

B. If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Chapter shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Chapter shall be deemed repealed without further action by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

C. If the Illinois Supreme Court declares part of the Act unconstitutional, but either upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Chapter shall remain in full force and effect; however, that part of this Chapter relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village.
(MC-08-2004, Amended, 05/18/2004)

SECTION 3: That Title 2 of the Winnetka Village Code, “Administration and Personnel,” is hereby amended by adding a new Chapter 2.41, which shall be titled “Conflicts of Interest” and shall provide as follows:

Chapter 2.41

CONFLICTS OF INTEREST

Sections:

- 2.41.010 Definitions.**
- 2.41.020 Interests in Village business prohibited.**
- 2.41.030 Conflicts of interest prohibited.**
- 2.41.040 Incompatible interests prohibited.**
- 2.40.050 Representation of persons in certain matters prohibited.**
- 2.40.060 Other prohibited acts.**
- 2.40.070 Competing interests.**
- 2.40.080 Disclosure of interests required.**
- 2.40.090 Penalties.**
- 2.40.100 Ethics Adviser.**
- 2.40.110 Ethics Commission.**
- 2.40.120 Interpretation.**
- 2.40.130 Defense of good faith.**

Section 2.40.010 Definitions.

Whenever the following terms are used in this Chapter, they shall be defined as provided in this section.

A. “Appointee” means all appointed members of any board, commission or committee created by this Code and of any subcommittee thereof; provided, however, that a member of a task force, blue ribbon committee, or similar group that is established solely for the purpose of advising the Council on policy issues shall not be considered an appointee.

B. “Employee” means any full-time, part-time, or contractual employee of the Village, whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

C. “Financial interest” means any economic interest or relationship, whether by ownership, trust, purchase, sale, lease, contract, option, investment, employment, gift, fee or otherwise; whether present, promised or reasonably expected; whether direct or indirect; whether or not legally enforceable; whether in the person or in a parent or subsidiary corporation, or in another subsidiary of the same parent corporation. A financial interest shall include, but is expressly not limited to, any economic interest, as set forth above, of a spouse or minor child, as well as any economic interest held by an agent on behalf of an official, appointee or employee, his spouse or minor child, by a business entity managed or controlled by, or by a trust in which an official,

appointee or employee has a substantial interest. A business entity is controlled by an official, appointee or employee when that person's spouse or minor child, singly or in the aggregate, possess a majority ownership interest in the entity. An official, appointee or employee has a substantial interest in a trust when that person, the spouse or minor child, singly or in the aggregate, have a present or future interest worth more than one thousand dollars (\$1,000.00). "Financial Interest" shall not include ownership through purchase at fair market value of less than one percent (1%) of the share of a parent, subsidiary or other affiliated corporation whose shares are registered and traded on a nationally recognized securities market. "Financial Interest" shall also not include authorized compensation or salary paid to an official, appointee or employee for services rendered to the village of Northfield, or any economic benefit generally available to the residents of the village of Northfield.

D. "Officer" means any elected or appointed official of the Village, regardless of whether the official is compensated.

E. "Recuse" means to refrain from participation in any official discussion or deliberation regarding a transaction and to abstain from any vote on such transaction.

Section 2.41.020 Interests in Village business prohibited

A. No officer or employee of the Village shall be directly or indirectly financially interested in any contract work or business of the Village, or in the sale of any article, if the expense, price or consideration of ~~which such work, business or sale~~ is paid from the Village treasury, or by any assessment levied by any act or ordinance of the Village, ~~or~~ No officer, appointee or employee of the Village shall be directly or indirectly interested in the purchase of any real estate or other property by the Village.

(Ord. MC-228-99 § 1 (part), 1999; prior code § 3.11)
(MC-08-2004, Amended, 05/18/2004)

B. No officer, appointee or department head shall do any business of any kind or nature with the village except for the performance of those duties specified for the particular office holder by statute, ordinance or other regulation or order. This shall not prevent an entity in which one of those officials has an ownership interest from doing business with the village so long as the conflicting ownership interest is one percent (1%) or less or the affected official complies with the disclosure requirements of Section 2.41.080 of this Chapter.

Section 2.41.030 Conflicts of interest prohibited

No officer, appointee or employee shall participate in any official action that would constitute a conflict of interest under the statutes or common law of the State of Illinois.

Section 2.41.040 Incompatible interests prohibited

No officer, appointee or employee shall have an interest in, or have a family relationship with a person having an interest in, a transaction that is incompatible with the proper discharge of his or her official duties in the public interest or that may impair his or her independence of judgment or action in the performance of his or her official duties.

Section 2.41.050 Representation of persons in certain matters prohibited

A. No officer or appointee shall personally represent any person in any transaction before any board on which such officer or appointee serves, other than to represent (i) the Village, (ii) another officer, appointee or employee of the Village in their official capacity, or (iii) the officer or appointee himself or herself, or the spouse of such officer or appointee, with respect to the personal residence of such officer or appointee.

B. No employee shall personally represent any person other than (i) to represent an officer, appointee or employee of the Village in their official capacity, or (ii) to represent the employee himself or herself, or the employee's spouse, with respect to the personal residence of such employee, in any transaction before any board on which the employee serves as a member, or for which the employee serves as an advisor or staff liaison. Notwithstanding the foregoing, any employee who is a member of the Firefighters Pension Board or the Police Pension Board shall be entitled to appear before such board on his or her own behalf; provided the employee recuses himself or herself from the consideration of the transaction.

Section 2.41.060 Other prohibited acts

A. Use of position to obtain employment for others. No officer or appointee shall, directly or indirectly obtain or seek to obtain preferential treatment for any person seeking employment or other consideration from the village for any purpose other than the betterment, advantage or best interests of the village. Nothing shall preclude the corporate authorities from exercising the full authority vested in them in the hiring of the village manager or other official which it has a duty to hire.

B. Discrimination on account of race, religion, national origin or sex. No officer or shall appoint or remove from, or in any way favor or discriminate against any other person with respect to any appointive office because of his or her race, religion, national origin or sex. However, this provision does not impair the appointing authority's discretion in determining the requirements for a position or in specifying a job assignment for a person already employed. Neither shall this provision affect any right or obligation of the village to function as an affirmative action employer.

C. Disclosure of information. No officer, appointee or employee with respect to any transaction which is or which is reasonably expected to become the subject of an official act or action, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the village or use such information to advance the interest of such public official or employee or his family members.

D. Ex parte communications. No officer or appointee shall encourage, make or accept *ex parte* or unilateral application or communication on any matter which is the subject of an application or petition pending before the Village and upon which a public hearing is required to be held and where a determination is to be made after such public hearing unless such public official shall make the contents of such communication a part of the public record prior to such determination.

Section 2.41.070 Competing interests

An officer shall comply with the Section 2.41.080 and 2.41.090 when the officer: 1) has actual knowledge that an entity is seeking consideration from or attempting to establish a business relationship with the village; and 2) has actual knowledge that the same entity is in direct business competition with another entity in which the same official has or is about to acquire more than a one percent (1%) interest in or is about to become an officer, director, management official, employee, attorney or other professional consultant.

Section 2.41.070 Disclosure of interests required

A. Disclosure by corporate authorities and appointees. If a member of the corporate authorities develops a conflict of interest, that member or appointee shall be permitted to issue written statements with respect to or participate in public meeting discussions of the issue involved in the conflict; provided, however, that the member does the following:

1. Make full written or other public disclosure of the conflict.
2. Refrain from voting on the issue involved in the conflict.
3. Refrain from private discussions with other members of the corporate authorities, Village staff members or Village consultants with respect to the issue involved in the conflict.

B. Disclosure by other officers. If the Village Manager, Finance Director or Village Attorney develops a conflict of interest with respect to a Village matter or if any other employee or consultant develops such a conflict of interest and may reasonably be expected to advise or participate in the discussion of the issue that is the subject of the conflict, that person shall:

1. Make full written or other public disclosure of the conflict; and
2. Abide by any prohibitions or restrictions issued by either the corporate authorities or the village manager, with respect to participation in the resolution of the issue that is the subject of the conflict.

3. If the conflict involves numerous issues or is so pervasive that it would render the person unable to properly carry out his or her obligations to the village, the person should resign the office or position.

Section 2.41.080 Recusal required

Any officer, appointee or employee shall recuse himself or herself in connection with any transaction that comes before such officer, appointee or employee in the course of his or her official duties, whenever such employee or officer has actual knowledge that he or she has (i) any interest in the transaction, (ii) a family relationship with a person having an interest in such transaction, or (iii) any interest in an applicant appearing before the officer, appointee or employee in an official capacity, even if the officer, appointee or employee does not have an interest in the transaction itself.

Section 2.41.090 Penalties

A. Any person who violates this Chapter shall be subject to a fine of not less than \$1,000.

B. In addition to fines and any other penalty that may be applicable, whether criminal or civil, an officer, appointee or employee who intentionally violates any provision of this Chapter is subject to discipline, or removal from office.

C. It is a violation of this Chapter to knowingly file a false charge against an officer or employee. Any person who knowingly files such a charge shall be subject to the penalties provided in this Section.

Section 2.41.100 Ethics Adviser

The Ethics Advisor designated pursuant to Section 2.40.060 of this Code shall provide guidance to officers and employees in the interpretation and implementation of this Chapter and State conflict of interest laws and shall perform such other duties as may be delegated by the Village Council.

Section 2.41.110 Ethics Commission

The Ethics Commission created pursuant to Section 2.40.070 of this Code shall have following powers and duties, in regard to this Chapter:

- A. To process written complaints alleging violations of this Chapter.
- B. Upon determining that an officer, appointee or employee has violated this Chapter, to take any or all of the following courses of action:
 - 1. Issue a reprimand;
 - 2. Order the officer, appointee or employee to cease and desist the offensive action;
 - 3. Order the return or refund of money or other items, or an amount of restitution for services received in violation of this Chapter;
 - 4. To recommend to the Board of Fire and Police Commissioners that a member of the Police Department or Fire Department be dismissed, and as to all other employees, appointees and officers, to dismiss the employee, appointee or remove the officer from office;
 - 5. To order that the officer, appointee or employee make a donation to a charity in an amount equal to the prohibited gift;
 - 6. To impose a fine of up to one thousand dollars (\$1,000.00) per violation, to be deposited into the Village's General Fund; and
 - 7. To refer violations to the Village Prosecutor or Cook County State's Attorney for prosecution and the imposition of fines and or incarceration in accordance with Section 3.1-55-10 of the Illinois Municipal Code. (65 ILCS 5/3.1-55-10)
- C. If after a hearing the Commission finds no violation of this Chapter, the Commission shall dismiss the complaint;
- D. Any decision by the Commission to dismiss a complaint, to refer a matter for prosecution or to make a recommendation to the Board of Police and Fire Commissioners is not a final decision. All other decisions of the Commission are final and are not subject to further review, either administratively or judicially, except that a decision imposing a fine or a decision that removes an officer from office or that suspends or terminates the employment of an employee shall be subject to judicial review as provided by law.

Section 2.41.120 Interpretation

A. Nothing in this Chapter shall be deemed to or in any way restrict the application of any State statute or any common law provision with respect to conflict of interest, malfeasance, misfeasance, nonfeasance in office which would otherwise be applicable to any person subject to

the provisions of this article. The provisions of this Chapter shall be deemed additional requirements and shall in no way be construed to be in derogation of present statutory penalties and other local remedies for acts prohibited in this article.

B. Authority of Village Manager. This Chapter does not repeal or otherwise amend or modify the authority of the Village Manager granted pursuant to Section 2.12.050 of this Code. The Village Manager shall have and retain the authority to appoint, remove or discipline any employee as provided in said Section 2.12.050 and any other applicable statute or ordinance, without being required to initiate a complaint for consideration of the Ethics Commission under this Chapter.

Section 4.12.130 Defense of good faith

It shall be an absolute defense to any action brought against any officer, appointee, employee or agent that, prior to acting, the person received in writing and in good faith from the Village Attorney or ethics Adviser an opinion that the action is not a violation of this Chapter.

SECTION 4: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 5: This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this ___ day of _____, 2009, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2009.

Signed:

Village President

Countersigned:

Village Clerk

1. Ensure long-term fiscal responsibility of Village government:

- Maintain tax cap limitations despite Home Rule status.
- Seek economies of scale/consolidation of services (within Village gov't and among various taxing bodies/municipalities) to provide high level of service without necessarily increasing fees, assessing new fees or raising property taxes.
- Warrants: Review purchasing policies and spending philosophies.

2. Assess and evaluate personnel compensation and benefit practices:

- Follow up: Hewitt Consulting, April 2008 Report: Compensation Assessment for Village Manager and Directors, The Village of Winnetka re: compensation philosophy, objectives and recommendations.

3. Encourage pension reform and discourage further enhancements by the General Assembly. Review cost impact of pension liabilities in light of recent market losses and current amortization schedule.

4. Establish a long-term strategy for Commercial Improvement/Enhancement:

- Streetscape Master Plan Implementation.
- Planned Development Ordinance review. (ht, bulk, public benefits, size of first floor commercial space and parking requirements.)
- Property Maintenance Code.
- Post Office Redevelopment planning – relocation of distribution facility.
- Support staff to VC and BCDC: Part-time position/consultant.
- Marketing, communication and activities.

5. Assess and establish an appropriate long-term strategy and comprehensive plan for storm water management and mitigation throughout the Village that is fiscally responsible and financially feasible.

6. Assess and establish an Administrative Hearing process within the Village.

Environmental consideration should be a continuing priority for all land use planning.

Continue follow-up with pending, major agenda items such as: Streetscape, Village Hall renovations, voluntary residential design review guidelines, and an affordable housing plan.