



**ETHICS COMMISSION**  
c/o CITY OF ANNAPOLIS OFFICE OF LAW  
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February 20, 2019

Teresa Sutherland  
City Manager  
City of Annapolis

Re: Opinion Regarding Solicitation of Contributions for City Programs

On January 2, 2019, you requested by email an advisory opinion regarding the solicitation of gifts for City programs by City employees and the acceptance of such gifts on behalf of the City. Cited examples of such gifts included:

- "Pop-up camps": One-day programs designed to give every child in Annapolis the opportunity to participate in a summer enrichment program. City staff would like to solicit contributions from local business to cover lunch and transportation costs.
- Community Outreach programs run by the Police Department, such as:
  - o Harbour House movie night- Sam's club donated food and drinks. The movie equipment rental was paid for out of the general donation fund, at a deeply discounted rate by Ultimate movies.
  - o 1000 Madison St. cookout - Eastport United Methodist Church donated all food, drinks and bounce houses.
  - o Two fish camps during the summer. Some fishing equipment and most of the bait is donated by Anglers. Anglers also gives the City a discount on rods and reels for each child. Boatyard Bar & Grill hosts a fishing tournament each year and donates between \$1,500-\$2,000.00 towards the City's general donation account to fund the rods and reels, T-shirts, and meals for the two weeks of camp.
  - o APD's Annual Kickball tournament. Food and drinks donated by ASAP.

Additionally, by email on January 2<sup>nd</sup> you provided another example, the Day of the Dead event for which donations were received through the Center of Help and expenses were paid for by sponsorships of \$100 to \$500, and for other events, the City received used bicycles, donated money, food, restaurant gift certificates, and water bottles.

Two previous opinions, in 2014 and 2018, have been issued in response to similar questions regarding the acceptance of gifts or donations for non-profit organizations. In both cases it was

concluded "...the solicitation of gifts or donations for a non-profit third party is not prohibited by the City Ethics Code" with one "caveat being that the person soliciting the funds may not have any financial interest in the gift being solicited".

The question you asked regarding the appropriateness of the City soliciting and accepting gifts for City programs at first review is outside the purview of the Ethics Commission in that City policies and procedures are not regulated by the City Ethics Law, City Code 2.08. However, the City generally acts through their employees and the Ethics Law does regulate the conduct of individual officials and employees with respect to gifts. We therefore sought guidance from the State Ethics Commission and obtained their October 1, 2017, "Gift Law" memorandum which addressed the application of the State Ethics Code to State Agencies which is analogous to the application of our Ethics Code to Annapolis operations.

Our conclusion and opinion is that the City Ethics Law specifically prohibits City officials and employees from soliciting gifts and prohibits them from soliciting and accepting gifts in specific cases (City Code 2.08.040.F) but allows the acceptance of gifts in some situations (City Code 2.08.040.F.4). In interpreting the solicitation provisions we distinguish between soliciting gifts for the benefit of City officials and employees (prohibited) and the solicitation of gifts/donations for City programs which we find acceptable. In such cases the officials and employees may not be the beneficiaries of the solicited funds or gifts. It is the responsibility of Annapolis senior officials and managers to ensure applicable laws, policies, and procedures are followed by those involved in a fundraising activity. In carrying out a fundraising activity there are certain ethics concerns that must be satisfied, such as:

1. An employee or official should not solicit a gift on behalf of or for the City from an entity or person that the employee or official is regulating at the time of the solicitation pursuant to that official's or employee's duties.
2. It should be made clear to those solicited that a donation will not confer any special access or benefit in their dealings with the City;
3. The gifts solicited should not result in personal benefit to any employee or official; and
4. All funds and in-kind gifts should be solicited and accounted for in accordance with legal authority for acceptance of gifts and be processed in accordance with any applicable City fiscal, procurement or related accounting principles.

We recognize that not every situation can be envisioned or addressed in advance. The cited examples in your request are acceptable for employee solicitations.

Please note that City Code Section 2.08.030.C.2 requires the Ethics Commission to file advisory opinions with the City Attorney's Office. Section 2.08.030.C.2 also provides that advisory opinions may be made public at the discretion of the Ethics Commission. We have determined that this opinion will be publicly posted to the City's web site because of its usefulness to the public and officials/employees of the City.

We appreciate your sensitivity to the Ethics Law and commend you for seeking our advice.

With best regards,

  
James E. Dolezal  
Chairman