

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL MEETING**  
**OCTOBER 2, 2007 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
Proposed Ethical Standards – Ordinance Amendment	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">✓</div> <div> Resolution  Ordinance  Motion  Discussion Only </div> </div>	Cara Pavlicek Village Manager

**SYNOPSIS**

An ordinance has been prepared regarding proposed ethical standards. Staff has attempted to insert alternative comments provided by the Village Council to the proposed ethical standards that were requested at the Village Council Meeting.

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals for 2006-2011 identified *Exceptional Municipal Organization*. Supporting these goals are the objectives *Village Government Trusted and Respected by Residents*.

**FISCAL IMPACT**

The FY 08 budget will make available nominal funds to be used should the Village contract with a person or entity to perform the duties of Ethical Officer.

**RECOMMENDATION**

This item was discussed at the September 25, 2007 Workshop meeting. Based upon the discussion of the Council, the following changes have been made by the Village Attorney's Office:

- Section 7 of the ordinance amending the Village's Ethics Act has been modified to include specific penalty procedures.
- A separate motion has been prepared for consideration of Exhibit 2 of the Council Policy.
- Exhibit 2 of the Council Policy has been modified with the proposed language discussed at the September 25, 2007 Workshop meeting in addition it shows those changes subsequently proposed by Commissioner Tully.

Approval is recommended on the October 2, 2007 active agenda.

**BACKGROUND**

At the September 11 Council Meeting, the Mayor requested all comments regarding the proposed ethical standards be given to the Village Manager. Alternative and additional language have been added in the attached proposed ethical standards, when the proposed language was deemed legally permissible as an alternative by the Village Attorney's Office.

At the August 14 Council Workshop, the Mayor proposed changes to the Municipal Code and Village Council Policies regarding ethics:

- An ordinance amending the Municipal Code to adopt the State Official and Employees Ethics Act in its entirety, rather than by reference

- A resolution to establish an official Village Policy to include the following ethical standards:
  1. Standards of Village Governance (this document establishes new standards as well as incorporates standards from existing Village Policies that can be rescinded upon its adoption)
  2. Standards of Village Council Campaign Practices
  3. Standards for Village Council Participation in Outside Organizations (this document establishes new standards as well as incorporates standards from existing Village Policies that can be rescinded upon its adoption)
  4. Standards to Prohibit Interest in Contracts (this document establishes new standards as well as incorporates standards from existing Village Policies that can be rescinded upon its adoption)

The Mayor and Commissioners have discussed the need for changes to existing provisions of the Municipal Code as well as existing Village Council Policies in order to clarify and enhance the regulations that govern conduct to ensure that the activities of elected officials, board and commission members and Village employees meet generally accepted Ethical Standards as defined in the proposed ordinance amendment and Village Council Policies.

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Village Manager **DATE:** October 2, 2007  
(Name)

**RECOMMENDATION FROM:** \_\_\_\_\_ **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

☒ Ordinance  
☐ Resolution  
☐ Motion  
☐ Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt "AN ORDINANCE AMENDING THE VILLAGE'S ETHICS ACT", as presented.

**SUMMARY OF ITEM:**

Adoption of the attached ordinance shall amend the Village's Ethics Act.

**RECORD OF ACTION TAKEN:**

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE  
VILLAGE'S ETHICS ACT**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading**/underline; deletions by ~~strikeout~~):

**Section 1. That Section 1.1ART. is hereby added to read as follows:**

**1.1ART. In General.**

**Section 2. That Section 1.30ART. is hereby added to read as follows:**

**1.30ART. Article II. Village Officials and Employees Ethics Act.**

**Section 3. Section 1.30 is hereby repealed in its entirety**

**1.30 State Officials and Employees Ethics Act, Adopted.**

\_\_\_\_\_ a. The regulations of Sections ~~5-15~~ (5 ILCS 430/5-15) and Article 10 (~~5 ILCS 430/10-10 through 10-40~~) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq., (hereinafter referred to as the "Act" in this Section) are hereby adopted by reference and made applicable to the officers and employees of the Village to the extent required by 5 ILCS 430/70-5.

\_\_\_\_\_ b. The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the Village, is hereby prohibited.

\_\_\_\_\_ c. The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village under the Act, is hereby prohibited.

\_\_\_\_\_ d. The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.

\_\_\_\_\_ e. For purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5(e).

\_\_\_\_\_ f. The penalties for violations of this Section shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act to the extent allowed by law.

\_\_\_\_\_ g. This Section 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 Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).

\_\_\_\_\_ h. Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the Village.

\_\_\_\_\_ i. If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section 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 Section 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.~~

~~j. 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 Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village.~~

~~k. The Village Attorney shall be designated the Downers Grove Ethics Officer. It shall be the responsibility of the Ethics Officer to provide guidance to the officers and employees of the Village concerning the interpretation of and compliance with the provisions of this Ordinance and State law.~~

**Section 4. That Section 1.31 is hereby added to read as follows:**

**1.31 Definitions.**

For purposes of this Article, the following definitions shall apply:

*Appointee.* A person appointed to a position in or with the Village, regardless of whether the position is compensated.

*Campaign for elective office.* 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 (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

*Candidate.* 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 either a general primary election or general election.

*Compensated time.* Any time worked by or credited to any employee that counts toward any minimum work time requirement imposed as a condition of employment with an agency, but does not include any designated holidays or any period when the employee is on a leave of absence.

*Compensatory time off.* 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 with the Village.

*Contribution.* Has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

*Employee.* A full-time, part-time, or contractual employee.

*Gift.* 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 employee or officer.

*Leave of absence.* 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 Village.

*Officer.* An elected or appointed official, members of advisory panels, boards and commissions and members of non-governing boards and commissions, regardless of whether the official is compensated.

*Political.* 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 (as those terms are defined in Section 2 of the Lobbyist Registration Act 25 ILCS 170/1 et seq.), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties or governmental and public service functions.

*Political organization.* 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.

*Prohibited political activity:*

(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 any thing 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.

*Prohibited source. Any person or entity who:*

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

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

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

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act 25 ILCS 170/1 et seq., except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

**Section 5. That Section 1.32 is hereby added to read as follows:**

### **1.32 Prohibited Political Activities.**

(a) Village employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). Village employees shall not 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 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 Village duties, (ii) as a condition of Village employment, or (iii) during any time off that is compensated by the Village (such as vacation, personal, or compensatory time off).

(c) A Village employee shall not be required at any time to participate in any prohibited political activity in consideration for that Village 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) A Village employee shall not 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 Village employee's participation in any prohibited political activity.

(e) Nothing in this Section prohibits activities that are otherwise appropriate for a Village employee to engage in as a part of his or her official Village employment duties or activities that are undertaken by a Village employee on a voluntary basis as permitted by law.

(f) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of Village employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

### **Section 6. That Section 1.33 is hereby added to read as follows:**

#### **1.33 Gift Ban.**

(a) Except as otherwise provided in this Section no officer or employee shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation. This ban applies to and includes the spouse of and immediate family living with the officer or employee. No prohibited source shall intentionally offer or make a gift that violates this Section.

(b) 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 pays the market value.

(3) Any (i) contribution that is lawfully made under the Election Code or under this Article 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 municipal 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 fiance 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

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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:

- (i) 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;
  - (ii) 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
  - (iii) 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 Section, "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 Act, "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 State agency, of a federal agency, or of any 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 \$10.

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

(c) Disposition of gifts. An officer or employee does not violate this Act if the officer or employee promptly forwards the prohibited gift to the Ethics Officer who shall immediately return the prohibited gift to its source or give the gift 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.

### **Section 7. That Section 1.34 is hereby added to read as follows:**

#### **1.34 Penalties.**

(a) Any violation of this Article shall be reported to the DuPage County States Attorney's Office for criminal prosecution as required by law.

(b) The penalties for violation of this Article 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 to the extent allowed by law and stated as follows:

- (1) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision



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of Section 1.32 (Prohibited Political Activities).

(2) A person who intentionally violates any provision of Section 1.33 (Gift Ban) is guilty of a business offense and subject to a fine of at least \$1,001 and up to \$5,000.

(3) Any person who intentionally makes a false report alleging a violation of any provision of this Act to the Village's Ethics Officer, an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(4) In addition to any other penalty that may apply, whether criminal or civil, a Village employee who intentionally violates any provision of this Article II is subject to discipline or discharge by the municipal authorities.

### **Section 8. That Section 1.35 is hereby added to read as follows:**

#### **1.35 Ethics Officer.**

The Village Council shall designate an Ethics Officer. It shall be the responsibility of the Ethics Officer to provide guidance to the officers and employees of the Village concerning the interpretation of and compliance with the provisions of this Ordinance, State law and all other policies of the Village regarding ethics. The Village Council may contract with a person or entity to perform the duties of Ethics Officer.

**Section 9.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 10.** That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

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Mayor

Passed:

Published:

Attest: \_\_\_\_\_  
Village Clerk