

# **For Planners: Planning Ethics in a Changing Environment**

**John Saccardi, AICP**  
*Vanasse Hangen Brustlin, Inc.*

**Ken A. Schwartz, AICP**  
*Vanasse Hangen Brustlin, Inc.*

**Ralph R. Willmer, FAICP**  
*Vanasse Hangen Brustlin, Inc.*



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## **AICP Ethics Case of the Year 2012–13 and Guidance on its Use by Chapters and Divisions**

The APA Ethics Committee and staff have developed the first in a planned series—the "Ethics Case of the Year." Each year, the Committee and staff will develop one ethics case that will present a series of ethical questions or dilemmas that relate to the AICP Code of Ethics and Professional Conduct. The case is offered to APA Chapters and Divisions so that they can consider using the case as the basis for sessions at conferences and workshops. Speakers involved in the sessions and workshops throughout the year will be considered for participation in one or more final "Ethics Case of the Year" sessions at the National Planning Conference in April. As cases are developed over several years, a library will be developed that could be useful to practitioners, faculty and students.

The initial case (below) includes events that occur over a period of months in the lives of several planners and is intentionally rich enough to illustrate a wide variety of ethical situations. This case and its six dilemmas implicate various aspirational principles of the Code as well as the enforceable Rules of Conduct. For each of the six dilemmas, facts can be changed slightly; leading to the obvious question each time—does this change the outcome?

The attached case does not involve just a planning director, but also other staff planners and private consultants. As a result, planners at various levels and in various roles can "see themselves" in the situation. This complex case also sets up an opportunity for each session organizer to decide how the six dilemmas might be used. One organizer might choose to spend 90 minutes on just a few of the six dilemmas, while another organizer might decide to discuss all of them.

There are several possible approaches for presenting the "Ethics Case of the Year". One classic and effective option is simply to present the scenario and then ask a series of questions relative to one or more of the dilemmas posed in the scenario. Another approach, which would provide both more complexity and a wider variety of issues, would be to have 4-6 people write 600-word essays on a particular aspect of one of the ethical dilemmas. If used in a session, these essays should be made available to the session participants in advance and presented at the session. Of course, the intent would not be to "solve" the dilemmas through the essays, but to create guided conversations to

help participants more finely develop their own moral compass. Sections and Divisions might also opt to create special half-day or all-day workshops to explore the various ethical dilemmas more thoroughly.

Moreover, the discussions need not be limited to conference sessions. They also could expand into online media, where the immediacy and excitement of real time, back-and-forth conversations could be captured. The essays discussed above could also be one component of an online discussion. Ultimately, we are looking for innovative approaches from the users to create a rich conversation on the ethical issues imbedded in the Ethics Case of the Year scenario.

National APA will be working on additional tools that can be used in this effort. These may include examples of the essays discussed above as well as an online tool that will provide "pop-up" commentary on the various aspects and possible permutations of the scenario. Chapters/Divisions could also use this tool very effectively in power point presentations. To receive additional information on the tools and additional guidance as they are developed, please contact APA staff at [getinvolved@planning.org](mailto:getinvolved@planning.org).

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W. Paul Farmer, FAICP

Chief Executive Officer and Ethics Officer

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### Ethics Case 2012–13

A planning director of a modest-sized city in her third year on the job has a staff of 40; her portfolio includes typical planning responsibilities as well as permit operations. An AICP member, she works in a strong mayor form of government with a very popular mayor who is in his second four-year term. He has made it clear to everyone that he is going to run for a third term, although the election is 15 months away and the filing window doesn't open for several more months. The city continues to experience a very modest amount of development—with both steady job growth and population growth.

The city retains a small-town feel and the mayor, as were most of the community's elected leaders, was born and raised in the city and operated a successful family-owned business before running for mayor. In fact, he also touts planning as essential to the city's future just as it is essential for any well-run business. In his first year in office, the mayor organized an event on July 4 as a fundraiser for disadvantaged children. This now annual, day-long event is held in a downtown city park. Admission is "donate what you can," with a well-known expectation that directors of city agencies plus their top two to five staff each donate at least \$100. Major sponsorships by two dozen or so businesses, including major design firms, are in the \$10-50,000 range. All of the food and soft drinks are donated for the event, with almost all of the work by volunteers, including some city employees. Of course, it is July 4, so elected officials of all parties give speeches throughout the day. Over \$1 million is raised for the charity.

The mayor's opponents have noted that the major sponsors plus those who donate food and services are also political supporters of the mayor, although no questions have been raised about improper use of funds—it is all done through a local community foundation. The foundation's board of directors also includes many political and business supporters of the mayor.

This has become the big event on July 4 for citizens, although there are also neighborhood events and private events throughout the city that elected officials, including the mayor, visit July 3–4. The event has grown each year, most recently through social media used by the city, businesses, neighborhood organizations, and others. Tweets throughout the day add to the sense that this event is the place to meet.

1. The planning director "encourages" her top four direct reports to attend and make the \$100 "suggested" donation. She makes a more substantial, tax-deductible donation. Other staff are encouraged to attend as well and make whatever donation they are comfortable with. Are there ethical concerns?

2. There is some political opposition and one candidate already has declared that she will file her papers as soon as the window for filing opens. She has raised concerns about the mayor's July 4 event, noting political/business ties and the well-known effort to get city staff to attend (and donate). Also, she has tweeted that no permits were taken out and the parks director has responded by tweeting that it is a city event, not a private one (although, technically, all money is run through the private foundation) so permits aren't required other than the county health permit that was secured.

The opponent, in order to prove that it is a political event, has announced a "3rd of July" event in another city park with money passed through a neighborhood not-for-profit that opposes the mayor. She has asked every city employee who donates to the event backed by the mayor to donate to her event that will help feral cats, a growing problem in many neighborhoods. What should the director do?

3. One of the \$50K "angel" supporters of the mayor's event is a developer who is on the foundation board executive committee. In the early fall, he proposes a new, big box store on land that includes a federally and locally designated wetland. He trumpets the fact that he will finance the project entirely through private means without the use of any public monies. Many permits in the city are discretionary and typically, the planning director plays a major role in all project reviews and permitting actions.

The city has its own "NEPA-like" process that includes an option for a city Finding of No Significant Impact (FONSI) that is a part of the conditional use permit process required for all disturbances of wetlands in the city. The planning director typically makes final recommendations to the city council after staff review; final action by the city council is required, typically by consent agenda although any member of council can request that an action be removed from the consent agenda and brought forward for a discussion before any vote.

Given the concerns about the political/business ties, the planning director informs the mayor—even before the developer has formally filed an application or the staff evaluation has begun—that she would like to turn project oversight on the wetlands issue over to an administrator from the state Department of Environmental Conservation (DEC) and that city council action on any environmental findings, including the possible Finding of No Sign of Impact (FONSI), would require a public hearing.

The mayor privately objects, raising questions of loyalty in a meeting with the city attorney and the planning director. "Don't you trust me or even your staff?" is a question posed by the mayor. What ethical issues must the director consider?

4. A senior environmental planner (also AICP) who has been working for the city for almost 10 years has become increasingly strict in his environmental reviews. The director trusts him but occasionally has had to overrule his recommendations based on technical evaluations from other professionals, who are both in the public sector and under contract to private entities.

Knowing the heated battle that is already beginning over the big box retail project, the director has now dropped the idea of the state administrator's oversight and has assured the mayor that she will, instead, hire a consulting firm as an independent third party to carry out this environmental review, with the consultant reporting directly to her chief environmental officer (not AICP), a position between the planning director and the senior environmental planner. This will effectively remove the senior environmental planner (AICP) from any influence on the project.

The senior environmental planner leaks this proposal to a close friend with an active environmental organization, which begins a social media campaign against the project, the director, and the mayor, while advocating in favor of the environmental review being conducted by the senior environmental planner, following the department's well-established standard operating procedure. What are the ethical issues and what steps should be taken?

5. The city has decided to follow the route of hiring an outside firm to handle the environmental review. The directors of planning, engineering, and economic development comprise the three-person selection team, with the RFP to be issued near the end of the year. Several local engineering and planning firms are known to be interested, including at least two that are major contributors to the mayor's July 4 event. One of them sponsors an annual holiday party that attracts community leaders, elected officials, public agency staff and many design professionals, including competitors of the sponsoring firm.

This is one of the "see and be seen" events of the holiday season. The planning director, along with the other directors and top staff, attend each year. There are not any fees or donations associated with the event. Should the director attend? Should the consulting firm (headed by an AICP planner) invite the three directors on the selection committee, or exclude them this year?

6. Early in the new year, the contract has been awarded to the firm that sponsors the holiday party, and the bypassed senior environmental planner has decided to explore other job options while still employed by the city. In one job interview with a rival to the firm that was awarded the environmental review for the big box project, he implies that he probably can secure a contract from a well-funded coalition that seeks both to block the big-box project and to strengthen the city's environmental standards.

Both the project and the standards have become political issues in this year's mayoral and city council elections. The job applicant touts his knowledge of the city, also noting that he has maintained his own file of city documents on his home computer. He also suggests that some of the anti-project information on the coalition's website came from him. The interviewer is also AICP. Ethical concerns?