

Planning Ethics in a Changing Environment



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Law Center Annual Conference**

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Agenda

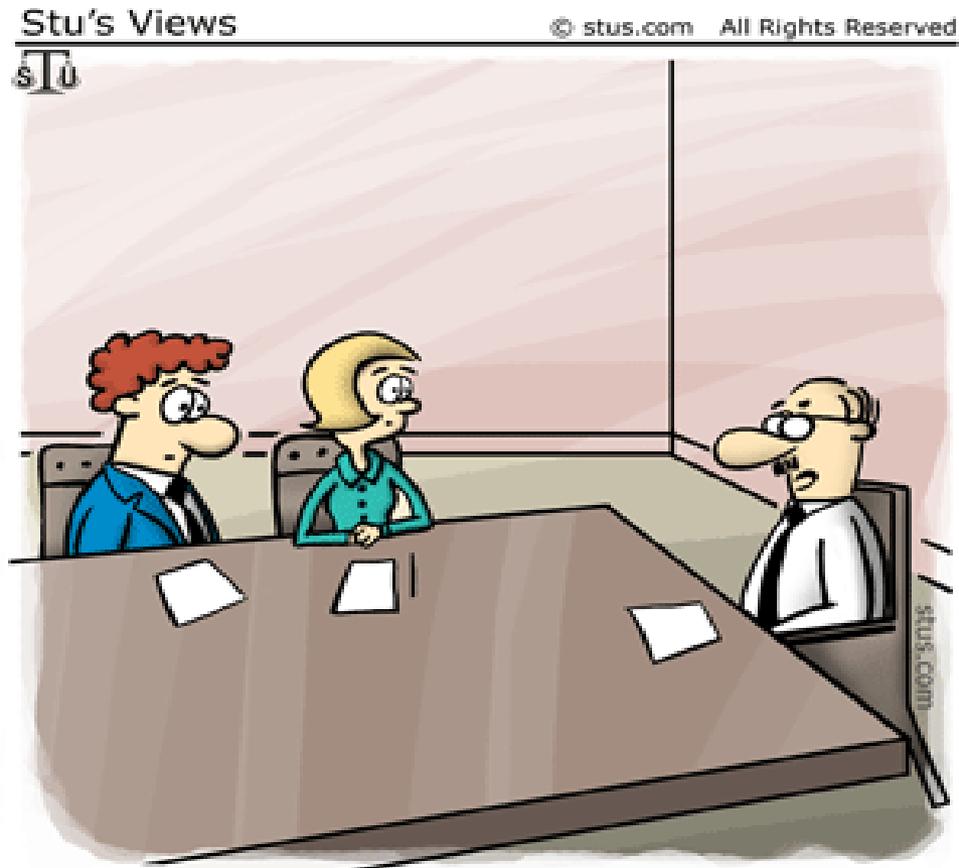
- Introduction
- AICP Code of Ethics
- Quick “Test” Questions
- Ethical Scenario
 - Discussion and Analysis
- Questions and Answers

First, a little ethical humor...



“John’s in charge of advising us on ethical matters, but to be honest, I’ve never had much confidence in him!”

A little more...



"Ethics" are all the craze.
Obviously, we'll just have to wait it out.

Other Professions with Ethical Codes

- Attorneys
- Engineers
- Architects
- Landscape Architects
- Social Workers
- Accountants
- City Managers

Why Should Planners Talk about Ethics?

- Planning involves public resources and planners interact with the public sector
- Citizens expect integrity
- Ethics calls on planners to evaluate alternatives and consequences before making decisions
- Ethical situations are rarely cut and dry—talking about them identifies nuances
- AICP Code of Ethics

How Do We Perceive Ethics?

- "Ethics is a system or code of morals of a particular person, group or profession." (Webster's)
- "Always do right. This will gratify some people and astonish the rest." (Mark Twain)
- "Ethics are what you have when no one is looking." (Unknown)

Potential Ethical Scenarios We All Face

- Conflict of interest – real or perceived
- Planner “role” with a board/commission ethics situation
- Day job vs. commissioner role
- Relatives involved with application
- Ex parte communications
- Electronic media use
- “Avoiding” difficult vote
- Decisions without findings
- Decisions that are made too soon/take too long/too little information
- Your neighbors/relatives are applicants
- Political pressure from above
- Your “public” demeanor
- Too “friendly” with applicant at meeting

AICP CODE OF ETHICS



General Information vs. Direct Advice

- This session has been created to provide general education regarding the AICP Code of Ethics.
- Though examples, sample problems, and question and answer sessions are an important part of illustrating application of the code's provisions, all certified planners should be aware that "Only the Ethics Officer [Chief Executive Officer of APA/AICP] is authorized to give formal advice on the propriety of a planner's proposed conduct." (AICP Code of Ethics, Section C3).
- If you have a specific question regarding a situation arising in your practice, you are encouraged to seek the opinion of the Ethics Officer.

APA Ethical Principles in Planning

- A guide to ethical conduct for all who participate in the planning process
- Pursue & faithfully serve the public interest (7 actions listed)
- Strive to achieve high standards of integrity & proficiency to maintain public respect for the planning process (13 actions listed)

AICP Code of Ethics and Professional Conduct

- New code effective as of June 1, 2005
- Revised in October 2009
- Three distinct categories
 - Principles to Which We Aspire
 - Rules of Conduct
 - Administrative Procedures

Principles to Which We Aspire

- Responsibility to the public
 - Serve the public interest
 - Be conscious of the rights of others
 - Have a special concern for the long-range consequences of actions
 - Pay attention to the interrelatedness of decisions
 - Seek social justice

Principles to Which We Aspire

- Responsibility to clients and employers
 - Exercise independent judgment
 - Accept decisions unless the course of action is illegal or plainly inconsistent with our primary obligation to the public interest
 - Avoid even the appearance of a conflict of interest

Principles to Which We Aspire

- Responsibility to our profession and colleagues
 - Protect and enhance the profession's integrity
 - Educate the public about planning issues
 - Describe and comment on the work of others in a fair and professional manner
 - Share the results of experience and research
 - Increase opportunities for underrepresented groups to enter the profession
 - Enhance professional education and training

Rules of Conduct

- 26 rules included in the code (samples)
 - Accept no assignment known to be illegal or in violation of these rules
 - Accept no other planning-related employment without disclosure and written permission
 - Accept no work that cannot be performed with the promptness required by the client
 - Do not misstate experience or qualifications
 - Do not use the power of any office to obtain special advantages
 - Do not accept work that is beyond our professional competence unless work can be performed by another competent professional acceptable to client or employer

Code Procedures

- Describes how to obtain an informal or formal advisory ethics ruling
- Details how a charge of misconduct is filed and handled
- Members are encouraged to seek informal ethics advice from the Ethics Officer
- The Ethics Officer is the Executive Director of APA/AICP

QUICK TEST QUESTIONS



Why did you decide to become a planner?

1. I am addicted to wealth and fame
2. I find nothing more interesting to read than a zoning code
3. I can color between the lines
4. I love occupying my evening hours in long, contentious public meetings
5. What is a planner anyway?

A planner has been asked by a private consultant to work for them and provide an opinion on a development that the planner previously oversaw from the public perspective. What is one thing the planner must do?

1. Decline the consulting assignment
2. Disclose the prior work and receive written permission from the public agency to proceed
3. Publish a statement of intent in the local newspaper
4. Discuss the issue with your colleagues
5. Other

Number 2 is correct

You are the planning director in a small town. Your spouse runs the local country club and is applying for construction of a new swimming pool. This application will be reviewed by the planning commission for approval. What will you do?

1. Invite the planning commission to tour the country club to see exactly where the pool will be built.
2. Ask your spouse to offer complimentary memberships to all commissioners.
3. Inform the commission about your connection to the situation and remove yourself from the review process.
4. Write an extensive staff report about the benefits of the pool for the community.
5. Other

Number 3 is correct

The planning director is asked to play in a charity golf tournament sponsored by the local Chamber of Commerce. The director should:

1. Decline the invitation
2. Ask the mayor for permission to play
3. Accept the invitation
4. Discuss the situation with the AICPA Ethics Officer
5. Other

Number 3 is correct

A private sector planner is preparing a site plan. He intends to secure local government approval for his client's development project since it could lead to additional work for him in the subsequent phases of the project. According to the AICP Code of Ethics:

1. This constitutes a conflict of interest
2. There is no conflict of interest in this case.
3. The Code has no provision for conflict of interest.
4. There is a conflict of interest only if the planner holds a law degree.
5. Other

Number 2 is correct

AICP 2014
CASE-OF-THE-YEAR



The Setup

- Town of Murphy Mountain (population 65,000) excitedly plans to celebrate town's 300th birthday in 18 months.
- Bucolic setting, tradition of good governance, new four-season tourism, recent growth.
- Fear of "unbridled" growth, becoming a suburb of nearby metro, diversity increasing.
- "Mountain Planning, Inc." has been on retainer many years.
- Now hiring their first full-time Town Planner with decision to create Murphy Mountain's first Master Plan with slow growth objective.

SCENARIO 1

RFP for Master Plan Services: Not Expecting any Problems

- Newly hired AICP planner, ICMA City Manager and Town Attorney (also AICP) in private practice (both law and planning).
- RFP to be issued June 1 for master plan to be approved on town birthday 15 months away.
- New Urbanist CPAT Team Leader at two-person NextVillage firm impressed a Town Councilor during the CPAT the previous winter.
- Town Attorney advises that Mountain Planning should not submit a proposal due to potential conflict of interest.
 - Current contract was "sole source".
 - Master plan may conflict with existing zoning code Mountain Planning is obligated to follow.

Discussion Question:

How might the AICP Code provide guidance to the Town Planner on all of these issues as she and the town move forward with its ambitious planning effort?

SCENARIO 2

Dog Fight

- Mountain Planning upset at consideration of NextVillage
 - Is the new urbanist bias by Town Planner and Councilor an issue?
- Is the contract “wired” for NextVillage?
- Is the Town Attorney’s recommendation that Mountain Planning not be allowed to submit appropriate?
- Has NextVillage founder got an accurate resume?

Discussion Question:

What are the ethical considerations for each of these three AICP planners and the ICMA Manager at this point in the process?

SCENARIO 3

Selection Process

- Town Manager rejects advice to preclude Mountain Planning (or any other firm) from submitting a proposal.
- Dozen proposals, including Mountain Planning, NextVillage, a national firm and Valley A+E, LLC (sometimes employs Town Attorney)
- Selection team: Town Planner (chair), Town Attorney, local college's Dean of Students. Final Decision: Town Manager.
- Town Councilors and Planning Board members invited to submit questions to selection team, with Town Planner developing final list.
- Interviews for the four firms listed above.

Discussion Question:

What questions might be appropriate in the interview, given the situation as well as the guidance and rules found in the Code of Ethics?

SCENARIO 4

Planning Process Begins

- Town Manager accepts recommendation to hire NextVillage to prepare the Town of Villages Master Plan. Italian hill town tour led by NextVillage principal creates delay.
- Planning process begins in September with paid students from local college facilitating meetings. NextVillage's principal, a full-time faculty member at a distant university, is using design studio he teaches for most of the analytical and planning work.
- Extensive use of social media for civic engagement through the fall.
- December stakeholder presentations by principal and his partner.
- Some tasks carried out by Mountain Planning as sub-contractor.

Discussion Question:

Are there Code provisions that should be of concern to any of the AICP planners involved in this process as it has been designed through the fall?

SCENARIO 5

Planning Process Hits Some Bumps

- NextVillage principal meets with stakeholders in December and January, moving toward form-based overlay approach for entire town.
- Town Planner adopts role of educator and advocate for form-based approach and civic engagement.
- Community factions question superficial technical analysis, down zoning, weak complete streets effort, environmental impact of new community proposal.
- Town Planner's answer to all: the design studio will figure it out.
- Town Manager confidentially discusses growing concerns with Mountain Planning's principal; Town Planner not invited to meeting.

Discussion Question:

Are these just the usual planning complexities or might there be ethical concerns as well?

SCENARIO 6

Tense Time, Contract Adjustments and No Vacations

- By May, project far behind schedule, with inadequate work from the design studio.
- Town Manager reaches out to Mountain Planning without telling Town Planner.
- The Town Planner/NextVillage's public meeting goes poorly.
- Town Manager in a tense meeting the following day announces that NextVillage's incomplete and unacceptable work is being assigned to Mountain Planning. Town Planner must work the entire summer to meet September deadline.

Discussion Question:

How might the Code have provided guidance to those involved in this ambitious effort with only 90 days to prevent a train wreck, damaging the credibility of planning in the community, leaving the community with its Town of Villages Master Plan that might be a partial plan at best, and putting a damper on a birthday celebration?

QUESTIONS & DISCUSSION



"AICP members support the principles and standards of good planning. They work to make sound decisions for their communities."

Ralph Becker, RAICP
Mayor, Salt Lake City

AICP=PRINCIPLED

www.planning.org/ethics

American Institute of Certified Planners



The American Planning Association
Professional Institute
American Institute
of Certified Planners

Making Good Communities Happen

Resources

- AICP Code of Ethics (www.planning.org/ethics/index.htm)
- American Planning Association – Ethical Principles of Planning (www.planning.org/ethics/ethicalprinciples.htm)
- Everyday Ethics for Practicing Planners, 2001, Carol D. Barrett, FACIP
- NY Joint Commission on Public Ethics (<http://www.jcope.ny.gov/>)