

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

REQUEST FOR ADVISORY OPINION # A-08-01

SUBJECT: CODE OF ETHICS § 3-6(b): SOLICITING GIFTS

By request dated January 24, 2008, a WSSC employee (“Requestor”) asked, on behalf of the WSSC Commissioners, for an advisory opinion regarding whether Commissioners or WSSC employees may solicit charitable donations from companies who do business with WSSC to support a fundraising event for the WSSC Water Fund. In response to a request from the Board of Ethics (Board) for additional information, Requestor provided additional information on May 5, 2008.

I. Background

The Commissioners are planning a fundraising event to raise money to support the WSSC Water Fund. The purpose of the Water Fund is to assist customers of limited financial means. According to WSSC Standard Procedure CUS 99-02 titled “Billing and Collecting Water/Sewer Use Charges and Related Fees”, WSSC “regularly solicits customer contributions to its Water Fund.” *Id.* at § 3.23. In addition “[n]eedy customers can contact their local Salvation Army Office which administers the Fund for WSSC to determine their eligibility for Fund assistance in paying water/sewer bills.” *Id.*

According to the information provided by the Requestor, the Commissioners intend to hire an event planner to manage all aspects of the event, including identifying companies to solicit for corporate sponsorship of the event, soliciting donations from corporations and philanthropic organizations, soliciting donations from businesses for a silent auction, creating and selling tickets for the event, and selling ads for a program book for the event. In addition, the event planner will create an event management committee to assist with the event. No Commissioners will serve on the event management committee.

II. Can WSSC employees solicit donations for the fundraising event from individuals and companies who do business with WSSC?

Section 3-6(a) of the WSSC Code of Ethics (Code) states, in part, that “[e]xcept as provided in subsection (b), an employee must not solicit a gift to the employee or another person or organization (1) from any business or individual who (A) Is registered or must register as a lobbyist; (B) does business with WSSC; or (C) is, or owns or operates a business that is, regulated by the WSSC. Section 3-6(b) then goes on to state several exceptions to the rule set forth in subsection (a). One of those exceptions, set forth in Section 3-6(b)(3), states that a WSSC employee may solicit a gift “from any individual, during official work hours, while identifiable as an employee, or at WSSC, for the benefit of WSSC or a non-profit organization formally cooperating on a program with WSSC if the solicitation is authorized by the Commission or the General Manager...”

The exception as set forth in Code Section 3-6(b)(3) is applicable here because the donations solicited by the employees will benefit the Water Fund, which is a WSSC owned fund. Therefore, pursuant to the Code language, as long as the "solicitation" is authorized by the Commission or the General Manager and is undertaken during work hours while the employee is identifiable as a WSSC employee, then it is acceptable.

What is absent from the Code language is exactly how much information regarding the "solicitation" must be submitted for approval to the General Manager or the Commission. Considering the fact that individuals who do business with WSSC and businesses that are regulated by WSSC may be solicited for donations for this fundraising event, we believe that there is the potential for at least the appearance of impropriety. Therefore, if any WSSC employees are to be involved in soliciting donations, we advise that a very detailed proposal outlining the solicitation be submitted for approval to either the General Manager or the Commission. This would include 1) a list of the employees by name and title who will be soliciting the donations, 2) the specific manner in which donations will be solicited from lobbyists, businesses who do business with WSSC, or businesses who are regulated by WSSC, 3) the purpose for which the donation is sought, and 4) a list, by category, of the persons or class of persons who may be solicited. In addition, we suggest that the solicitation proposal, once approved, be posted on the WSSC website.¹

III. Can WSSC Commissioners solicit donations for the fundraising event from individuals and companies who do business with WSSC?

As §1-1 of the WSSC Code of Ethics recognizes, WSSC Commissioners are generally subject to the Public Ethics Law, Md. Ann. Code, State Government Article, Title 15. Commissioners are subject to the WSSC Code of Ethics only as specifically provided in WSSC's Code. WSSC Code § 3-6 which covers "Soliciting or Accepting Gifts" does not specifically apply to Commissioners. Therefore, we advise that the issue of whether Commissioners may solicit donations for this fundraising event, either directly or through a third-party vendor, be submitted to the Maryland State Ethics Commission. The Maryland State Ethics Commission is the body that has the authority to issue advisory opinions regarding application of the Public Ethics Law. *See* Md. Ann. Code, State Government Article, § 15-301.

¹ Section 3-6(b)(3) is quite similar to to § 19A-16(b)(3) of the Montgomery County Code of Ethics and we believe that § 3-6(b)(3) was patterned after this section. Section 19A-16(b)(3) of the Montgomery County Code specifically requires that the details of the solicitation be authorized by the County Executive or the President of the County Council and then published in the County Register. Although we do not know why the publication requirement was not included in the WSSC Code of Ethics, we think that it is a good idea under these circumstances, especially since it is contemplated that WSSC contractors will be solicited.

The Board agreed at its meeting held on May 15, 2008 to adopt the foregoing advisory opinion.

William Walton
William Walton, Chair

June 3, 2008
Date