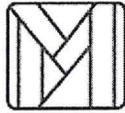




**City of Auburn
Ethics Committee Agenda
10/20/2016
5:30 P.M.**

5:30 P.M.

- City Employee Request for a Community Development Block Grant (CDBG) Loan



THE MALLOY FIRM

Attorney, Advisor, Advocate.

MEMORANDUM

To: Denis D'Auteuil, Acting City Manager
Yvette Bouttenot, Community Development Manager

From: Michael S. Malloy

RE: City Employee Request for CDBG Loan – Legal and Ethics Opinions

Date: October 4, 2016

I have been asked to provide a legal opinion in connection with the application of Charles DeAngelis, the City Electrician (the "Employee"), for assistance as part of the City's Community Development Block Grant loan program (the "Assistance"). It is a precondition to HUD approval that the City's attorney provide a legal opinion that the Assistance will not violate state or local law. Based upon my review of Title 30-A, the City Charter and Ordinances, and the City's personnel policies, I believe that the following procedures should be followed before this firm will be in a position to render such an opinion:

1. The Employee must submit a written notification to the Acting City Manager, formally notifying them of the request for Assistance.
2. The City Clerk must record the Employee's disclosure as part of the City records.
3. The Acting City Manager should refer the request for Assistance to the City Ethics Panel, and should request that the Employee and the CDBG Manager prepare and submit written materials documenting the requested Assistance.
4. The City should memorialize in a written agreement, its informal understanding under which Lewiston has agreed to provide electrical inspection services, if necessary, in connection with the Assistance or the work to be performed as a result of the Assistance.
5. Notice of the request for Assistance must be published on the City's website.
6. The Ethics Panel should meet and decide whether additional fact finding is warranted, or whether it will be in a position to render its written advisory opinion based upon the written materials submitted.

7. The Ethics Panel must render its written advisory opinion on the potential conflict within 2 weeks of the referral. This opinion should be presented to our firm and the City's HUD representative, prior to the CDBG Loan Committee voting on the Assistance request.
8. Upon our receipt and review of the advisory opinion of the Ethics Panel, and assuming that the Panel does not opine that an actual, irreconcilable, conflict of interest exists with respect to the Employee's request for the Assistance, this firm will render the requested legal opinion that providing the Assistance will not violate state or local law.

FACTUAL BACKGROUND

The Employee serves as City Electrician. I am informed by the CDBG office that he receives no remuneration for this service from CDBG funds. As City Electrician, he is responsible for supervising the enforcement of local, state, and federal electrical codes and the installation, maintenance, replacement and repair of all City electrical systems, including street lights, traffic signals, fire alarms, 9-1-1 Communications systems, and building wiring. He serves as an electrical inspector for the City, and issues permits and reviews plans for compliance with national electrical codes, fire codes, building and other codes. This may include conducting electrical inspections and maintaining records thereof, issuing stop work orders where necessary, and responding to and resolving citizen complaints regarding electrical problems, hazards, violations and dangers of an electrical nature.

The Employee owns real estate located at 38 Fifth Street in Auburn, which is more particularly described in Book 1838, Page 168 in the Androscoggin County Registry of Deeds, and in Tax Map 221, Parcel 028 (the "Property"). The Property is a 2-unit residential building owned jointly with the Employee's spouse (who I assume is not a City employee). I am told that this is an "income" property and it does not include the Employee's domicile. The Employee wishes to participate in the joint Lewiston-Auburn lead abatement program. According to the CDBG Manager, this program requires property owners to match a portion of the lead abatement costs with their own funds. To meet this obligation, the Employee requests assistance from the City in the form of a 0% interest loan, to be funded as part of the City's Community Development Block Grant (the "Loan"). The Loan request will be presented to the Community Development Block Grant Committee for consideration. If the Loan is approved, the Employee will grant a promissory note in favor of the City, as well as a mortgage on the Property.

DISCUSSION

HUD regulations at 24 C.F.R. Part 570.611, generally prohibit the City from providing CDBG assistance to City employees where there is an actual or potential conflict of the interests of the City and those of the employee:

*(b) Conflicts prohibited. The general rule is that **no persons . . . who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from CDBG-related activity, or have a financial interest in any contract, subcontract, or agreement with respect***

to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. . .

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies. . .

(d) Exceptions. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirement of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:

**(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.**

(emphasis added).

In addition to the CDBG regulations, we also reviewed the following materials in preparation for providing the requested legal opinion:

1. the Employee's job description, as provided by the City's Human Resources department;
2. Bylaws of the City's Community Development Loan Committee, as posted to the City's Website (last accessed 9/26/16);
3. the list of Members of the City's Community Development Loan Committee, as posted to the City's Website (last accessed 9/26/16);
4. a description of responsibilities of the City's Electrical Division, as posted to the City's Website (last accessed 9/26/16);
5. a description of the City's Lead Grant Program, as posted to the City's Website (last accessed 9/26/16);
6. a Lead Design Specifications and statement of the scope of work, prepared by Thom Walker of Community Concepts, dated July 14, 2016;
7. Title 30-A, Part 2, of the Maine Revised Statutes;
8. The City Charter, as adopted by the voters of the City of Auburn, dated November 8, 2005; and

9. Article III, Section 2 of the City's Ordinances;
10. the City's Employee Handbook; and
11. a proposed notice to be posted to the City's website, notifying the public of the Employee's request for assistance, and attached hereto (the "Website Notice").

In order for this firm to opine that the Assistance will not violate State and local law, the City must ensure that the Employee has not participated in or influenced any deliberation on the request for Assistance. As a practical matter, this is precisely the purpose for which the City's Ethics Panel was created.¹ The Employee is within the scope of the CDBG conflict regulation at 24 C.F.R. § 570.611(c), and regardless of whether an actual conflict exists, there is at least the potential that reasonable members of the public could perceive a conflict in connection with the requested Assistance. In addition, 30-A M.R.S. §§ 2606, 2607, contain disclosure and vetting obligations, which the City can fulfill by following its own ordinance that includes referral of the matter to the Ethics Panel.

Maine State Law

Title 30-A of the Maine Revised Statutes governs municipalities and counties. Sections 2605 and 2607 pertain to conflicts between the interests of municipal officials and those of the community they serve. These sections state as follows:

§2605. CONFLICTS OF INTEREST

Certain proceedings of municipalities, counties and quasi-municipal corporations and their officials are voidable and actionable according to the following provisions.

1. Voting. The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest.

2. Contracts. A contract, other than a contract obtained through properly advertised bid procedures, made by a municipality, county or quasi-municipal corporation during the term of an official of a body of the municipality, county or quasi-municipal corporation involved in the negotiation or award of the contract who has a direct or an indirect pecuniary interest in it is voidable, except as provided in subsection 4.

3. Restrain proceedings. The Superior Court may restrain proceedings in violation of this section on the application of at least 10 residents of the municipality, county or area served by the quasi-municipal corporation.

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question

¹ See Memorandum of Howard Kroll to Clint Deschene, 01/26/14, p.1: ("The purpose and intent of this division is to promote the objective or protecting the integrity of the government of the city against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.").

or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

...

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

§2607. NEGLECT OF OFFICIAL DUTY

A municipal official who neglects or refuses to perform a duty of office commits a civil violation for which a fine of not more than \$100 for each offense may be adjudged, when no other penalty is provided. The fine shall be recovered on complaint to the use of the municipality.

The Employee's request for Assistance implicates each of these sections. According to the Property deed, the Employee owns an undivided 100% interest, which he shares with his spouse, in the Property for which CDBG assistance is requested. As such, the Loan award would be "voidable and actionable" unless the Employee delivers a written notification and his abstention from performing any of his customary job duties, or exerting any influence or using any inside information in connection with his request for Assistance, to the City Clerk, which she must record on the books of the City.

Upon the City's receipt of this notification, the public disclosure requirement is triggered by both the above-quoted federal regulation, as well as State and local law. I understand that the CDBG manager has spoken to the City's HUD representative and developed a website posting form that is acceptable to HUD. In addition, I recommend that the City publish a notification of the conflict disclosure in connection with the notice of the Ethics Panel meeting that I recommend later in this memorandum, which is also required under the Freedom of Access Act.² Therefore, the City should publish notification of the potential conflict on the City website, as well as on any other platforms or media that the City customarily uses to provide notice of public meetings.

² 1 M.R.S. § 406.

City Ordinances

In addition to the State and federal laws cited above, Auburn has adopted its own additional conflict of interest rules. The City Charter addresses conflicts of interest as follows:

Sec. 10.5. - Conflicts of interest; ethics.

The city's policy is that the proper operation of government requires that public officials be independent, impartial, and responsible to the citizens; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. The city council shall maintain a comprehensive conflicts of interest or ethics ordinance to further the policy set forth in this section and to promote the objective of protecting the integrity of city government against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.

The City Council has promulgated the following ordinance pertaining to conflicts of interest between those of a City employee and the interests of the City:

Article III – Officers and Employees

...

“public official means: ...

(4) Directors of municipal and school system departments”

Section 2-110 – Policy; purpose and intent of division; adoption of additional standards.

- a. *It is the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the citizens, that public office not be used for personal gain, and that the public have confidence in the integrity of its municipal government. The purpose and intent of this division is to promote the objective of protecting the integrity of the government of the city against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.*

...

Section 2-112. – Conflicts of interest generally.

- a. *Standard of conduct. A public official shall refrain from participation in a matter when there exists an actual, potential or reasonably perceived conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.*
- b. *Referral of matters to ethics panel. When a public official does not voluntarily refrain from participation in a matter and there is a question as to the existence of a conflict of interest under the standard set forth in subsection (a) of this section, the matter may be referred to the ethics panel for its advisory opinion as follows:*

1. A public official may refer to the ethics panel the question of whether he has an actual, potential, or reasonably perceived conflict of interest;
 2. Two or more members of the city council, the school committee or other municipal board may refer to the ethics panel the question of whether another member of that body, or a public official who serves under the authority of that body, has an actual, potential or reasonably perceived conflict of interest; or
 3. A registered voter within the city may request an advisory opinion from the ethics panel regarding whether an elected or appointed public official who serves on a municipal board has an actual, potential or reasonably perceived conflict of interest. Such request shall be made on forms available from the city clerk and shall be endorsed by the signatures of 25 registered voters within the city [emphasis in original].
- C. Ethics panel determination. The ethics panel shall determine whether the public official should refrain from participation in a matter because of the actual, potential or reasonably perceived existence of a conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.

Section 2-115. – Procedure for determinations by ethics panel.

- (a) Referral of cases; notice of referral.
1. A referral to the ethics panel shall be in writing and shall describe with particularity the factual basis of the referral.
 2. The ethics panel promptly shall give notice of the referral to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the referral.
- (b) Fact-finding.
1. Upon receipt of a referral, the ethics panel shall determine the facts necessary to render an advisory opinion. The facts may be agreed upon and set forth in the referral. If additional fact-gathering is necessary, the ethics panel, or a person designated by it, may conduct informal interviews and solicit additional information. The ethics panel shall determine the facts through a formal hearing process only if so requested either by the public official who is the subject of a referral or by the public officials who submitted a referral.
- ...
- (c) Deliberation. Upon conclusion of its fact-finding, the ethics panel shall deliberate over the question referred to the panel. Any person may submit written comments to the ethics panel setting forth his position regarding the question under consideration.
- (d) Issuance of advisory opinion. Upon conclusion of fact-finding and deliberation, the ethics panel shall issue a written advisory opinion that includes findings of fact, application of the standards set forth in this division, and recommendations. The ethics panel shall furnish a

copy of its advisory opinion to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the opinion.

- (e) Time limits. The ethics panel shall attempt to issue its advisory opinion within two weeks of its receipt of a referral. The ethics panel may decline to consider referrals regarding conflict of interest questions relating to the final vote of a municipal board that occurred prior to the referral.*

Section 2-116. – Effect of recommendations of ethics panel.

The opinion and recommendations of the ethics panel shall be advisory only. The members of a municipal board may vote to adopt the recommendation of the ethics panel as it relates to the participation in a matter by a public official.

Employee Handbook

In addition to the foregoing authorities, the City maintains an employee handbook, to which the Employee is subject. Article V, Section A, contains the ethics policy, including the City's general approach to conflicts of interest that may arise, the relevant portions of which state as follows:

V. Conditions of Employment

A. Employee Conduct and Ethics –

- 1. General Statement of Ethics – Work in the public sector can allow employees to be exposed to many areas of ethical judgment. In order for the City, its employees, and its leadership to maintain a positive relationship with the public they serve, we must all abide by the policies and procedures that will protect the public trust and the trust we place in ourselves and co-workers.*

...
- 2. Conflicts of Interest – Employees must avoid situations where loyalties may be divided between the City's interests and their own personal and/or financial interests.*
 - a. Employees will place public interests above individual, group and special interests.*
 - b. Employees will not have any material financial interests in any private or professional activity which will be in conflict with their job responsibilities.*
 - c. Employees will not engage in any business activity or professional activity that would appear to be in conflict with job responsibilities or that would tend to impair independent judgment or action on performance of official duties.*
 - d. Employees will refrain from using their position for personal gain.*
 - e. Employees will keep confidential all information not available to all citizens that is acquired by virtue of their positions with the City.*

- f. Employees will not represent private interests which conflicts with City interests.*
- g. Employees shall treat all citizens and others doing business with the City alike – courteously and with respect. Employees will not grant any citizen any favor, benefit, or special privilege beyond what is provided to all citizens.*
- h. Employees shall handle all matters of personnel, including recruitment, selection, or promotion on the basis of qualification, ability and merit.*

Employees must disclose to their Department Director or to the City Manager, the nature and extent of any financial or personal interest in any City contract, agreement, purchase of goods or services or project.

The City Electrician, according to the job description we have been provided, qualifies as a public official within the scope of the City's conflict of interest ordinance, and the City's personnel policy empowers the City Manager to "carry out" City policies, including "the right to take such administrative action as he/she deems necessary or appropriate to direct the programs of various departments; direct the workforce . . . [and] take necessary and appropriate administrative action to uphold the rights and interests of the citizens, the City Council and employees." This is broad authority, and even though the City's conflict of interest ordinance does not expressly state that the city Manager may or must refer questions such as the one presented, to the Ethics Panel, I am of the opinion that the City Manager does have that authority, if he deems it is an appropriate way to direct the Employee and uphold the public interests. I therefore recommend that, upon receipt of the Employee's disclosure and the Clerks' publication of the same, the Acting City Manager should notify the Ethics Panel of its need to convene.

Assuming that all other notifications are followed as explained above, if the Acting City Manager makes this referral and the Ethics panel renders an opinion that no conflict of interest exists, this firm would at that point be prepared to render a legal opinion that providing the Assistance to the Employee would not violate State or local law, and this firm would support HUD's grant of an exception to the general conflict of interest prohibition found at 24 C.F.R. § 570.611.

City of Auburn, Maine
"Maine's City of Opportunity"
City Manager Department

TO: Clint Deschene, City Manager
FROM: Howard Kroll, Assistant City Manager
DATE: 01/26/14
SUBJECT: Ethics Panel

The following memo is intended to outline The City of Auburn, Maine's Code of Ordinances Part II entitled **Chapter 2. Administration, Article 3. Officers and Employees, Division 2. Ethics and Conflict of Interest**. Further consideration for amending the ordinance should be considered to eliminate confusion and yearly appointment to an entity that meets infrequently.

Why do we need an Ethics Panel?

(a) It is the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the citizens, that public office not be used for personal gain, and that the public have confidence in the integrity of its municipal government. The purpose and intent of this division is to promote the objective of protecting the integrity of the government of the city against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.

(b) This division shall not prevent the city council, the school committee, the city manager or the superintendent of schools from adopting additional procedures and employment standards intended to prevent the exercise or appearance of improper influence or bias in the conduct of government business.

Ethics Panel Established; Membership; Powers and Duties

(1) *Established; membership. **There shall be established an ethics panel consisting of three regular voting members and two alternate members.***

Two regular voting members and one alternate member of the ethics panel shall be appointed by the mayor with approval of a majority of the members of the city council, and one regular voting member and one alternate member of the ethics panel shall be appointed by the chair of the school committee with

approval of a majority of the members of the school committee. A regular voting member or alternate member of the ethics panel **may not hold any other city or school department office or position or be a member of any board or commission to which the city council or school committee has appointing authority.**

(2) *Term of members; chair.* The regular voting members of the ethics panel shall be appointed to **staggered three-year terms.** When the first appointments are made, **one member shall be appointed by the mayor to a three-year term, one member shall be appointed by the chair of the school committee to a two-year term, and one member shall be appointed by the mayor to a one-year term.** **The mayor annually shall appoint one of the regular voting members to serve as chair of the ethics panel.**

Alternate members shall be appointed to three-year terms.

(3) *Role of alternate members.* Alternate members of the ethics panel may participate and vote in ethics panel proceedings if a regular voting member is incapable or unavailable to serve in regard to a particular referral or is disqualified from participation because of a conflict of interest. **The alternate member designated shall be selected by the chair of the ethics panel.**

(4) *Powers and duties.* The ethics panel shall have the authority to issue advisory opinions on questions relating to conflicts of interest and the incompatibility of employment positions.

Duties of the Board

- (a) The Ethics Panel is responsible to ensure that public officials refrain from participation in a matter when there exists an actual, potential or reasonably perceived conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.
- (b) *Referral of matters to ethics panel.* When a public official does not voluntarily refrain from participation in a matter and there is a question as to the existence of a conflict of interest under the standard set forth in subsection (a) of this section, the matter may be referred to the ethics panel for its advisory opinion as follows:

- (1) **A public official may refer to the ethics panel the question of whether he has an actual, potential or reasonably perceived conflict of interest;**
- (2) **Two or more members of the city council, the school committee or other municipal board may refer to the ethics panel the question of**

whether another member of that body, or a public official who serves under the authority of that body, has an actual, potential or reasonably perceived conflict of interest; or

(3) A registered voter within the city may request an advisory opinion from the ethics panel regarding whether an elected or appointed public official who serves on a municipal board has an actual, potential or reasonably perceived conflict of interest. Such request shall be made on forms available from the city clerk and shall be endorsed by the signatures of 25 registered voters within the city.

(c) *Ethics panel determination.* The ethics panel shall determine whether the public official should refrain from participation in a matter because of the actual, potential or reasonably perceived existence of a conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.

Conduct relative to municipal contracts.

No municipal officer, employee or agent shall solicit or accept any gratuity or favor or anything of monetary value from any contractor or potential contractor with the city relative to the procurement of any supplies, equipment, construction or other services with municipal, state or federal grant funds. In addition to any other penalties which may be provided by law, any municipal officer, employee or agent who violates this section shall be subject to appropriate disciplinary action, including, in the case of an officer, removal from office; in the case of an employee, suspension or discharge from employment; and in the case of an agent, termination of such agency.

Incompatible employment positions.

(a) *Standard of conduct.*

(1) *Generally.* A public official, other than the city manager or the superintendent of schools, who is a municipal or school department employee shall not hold a supervisory position, or be senior in the chain of command, to an individual with whom he has a personal relationship or a financial involvement (other than the municipal or school system employment relationship), unless:

- a. The relationship is disclosed by the public official to the city manager or superintendent of schools, whoever is the appropriate senior administrative officer;
- b. The city manager or superintendent of schools approves a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person not subordinate to either of the individuals who have the personal relationship or financial involvement; and
- c. The city manager or superintendent of schools reports to the city council or the school committee, whichever is the appropriate legislative body, the existence of the potential incompatibility of employment positions and the establishment of a management plan to address the potential incompatibility.

(2) *City manager and superintendent of schools.* Neither the city manager nor the superintendent of schools shall hold a supervisory position, or be senior in the chain of command, to an individual with whom he has a personal relationship or financial involvement (other than the municipal or school system employment relationship), unless:

- a. The relationship is disclosed to the city council or school committee, whichever is the appropriate legislative body, by the city manager or superintendent of schools; and
- b. The legislative body establishes a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person not subordinate to the city manager or superintendent of schools.

(b) *Referral of matters to ethics panel.* The city manager, the superintendent of schools, or a majority of the members of the city council or the school committee may request an advisory opinion from the ethics panel relating to the incompatibility of employment positions and the formulation of a management plan.

Procedure for determinations by ethics panel.

(a) *Referral of cases; notice of referral.*

- (1) **A referral to the ethics panel shall be in writing and shall describe with particularity the factual basis of the referral.**

(2) The ethics panel promptly shall give notice of the referral to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the referral.

(b) Fact-finding.

(1) Upon receipt of a referral, the ethics panel shall determine the facts necessary to render an advisory opinion. The facts may be agreed upon and set forth in the referral. If additional fact-gathering is necessary, the ethics panel, or a person designated by it, may conduct informal interviews and solicit additional information. The ethics panel shall determine the facts through a formal hearing process only if so requested either by the public official who is the subject of a referral or by the public officials who submitted a referral.

(2) In regard to its gathering of facts relating to the existence and nature of a personal relationship, the ethics panel shall be limited to the voluntary statements and other information provided by the public official whose relationship is at issue.

(c) Deliberation. Upon conclusion of its fact-finding, the ethics panel shall deliberate over the question referred to the panel. Any person may submit written comments to the ethics panel setting forth his position regarding the question under consideration.

(d) Issuance of advisory opinion. Upon conclusion of fact-finding and deliberation, the ethics panel shall issue a written advisory opinion that includes findings of fact, application of the standards set forth in this division, and recommendations. The ethics panel shall furnish a copy of its advisory opinion to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the opinion.

(e) Time limits. **The ethics panel shall attempt to issue its advisory opinion within two weeks of its receipt of a referral.** The ethics panel may decline to consider referrals regarding conflict of interest questions relating to the final vote of a municipal board that occurred prior to the referral.

Effect of recommendations of ethics panel.

The opinion and recommendations of the ethics panel shall be advisory only. The members of a municipal board may vote to adopt the recommendation of the ethics panel as it relates to the participation in a matter by a public official.

City of Auburn Ethics Panel Overview

Position Title:	Ethics Panel
Membership:	3 Ethics Panel Members and 2 Alternates
Selection:	2 Panel Appointments and 1 Alternate made by Mayor subject to the approval of the Auburn City Council, 1 Panel Appointment and 1 Alternate made by the Chair of the Auburn School Committee subject to the approval of the Auburn School Committee
Term:	Staggered appointments. Mayor can appoint one member to a three year term and another to a one year term, School Board Chair can appoint one member to a two year term. Mayor shall, annually, appoint a Chair of the Ethics Panel.
Accountable to:	Auburn City Council, Auburn School Committee
Function:	<p>To advise the City Council and School Committee on referrals of matters pertaining to public officials participation in a matter when there exists an actual, potential or reasonably perceived conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.</p> <p>To make recommendations and or opinions to the City Council and or the School Committee on their findings of those referrals. Recommendations and or opinions are <u>advisory only</u>.</p>
Responsibilities:	<p>Accept any referral in writing and describe with particularity the factual basis of the referral.</p> <p>Promptly give notice of the referral to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the referral.</p> <p>Upon receipt of a referral, the ethics panel shall determine the facts necessary to render an advisory opinion. (3 types of referrals- self, 2 City Councilors/School Board Member or</p>

Citizen who has collected 25 signatures of Auburn Registered Voters for the referral to be considered by the Ethics Panel)

Be conscience of the gathering of facts relating to the existence and nature of a personal relationship. Limit to only voluntary statements and other information provided by the public official whose relationship is at issue.

Upon conclusion of its fact-finding, immediately deliberate over the question referred to the panel. Any person may submit written comments to the ethics panel setting forth his position regarding the question under consideration.

Upon conclusion of fact-finding and deliberation, issue a written advisory opinion that includes findings of fact, application of the standards set forth in this division, and recommendations. Furnish a copy of its advisory opinion to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the opinion.

Issue an advisory opinion within two weeks of its receipt of a referral.

Time Commitment:

As Needed

Qualifications:

Potential Members of the Ethics Panel should have general interest in sound government practices that are transparent and free of conflict or unfair practices. Members should also have the ability to take a broad view of the needs of the community as a whole. Above all, potential members need to possess time, a flexible schedule and willingness to be an engaged and active member.

**Desired Skill Sets/
Backgrounds:**

**Engineers
Attorneys
Local Business Owners
Law Enforcement Officials
Judicial System Professionals
Human Resource Professionals
Senior Military Officials (retired, active or reserve)**

Sec. 10.5. - Conflicts of interest; ethics.

The city's policy is that the proper operation of government requires that public officials be independent, impartial, and responsible to the citizens; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. The city council shall maintain a comprehensive conflicts of interest or ethics ordinance to further the policy set forth in this section and to promote the objective of protecting the integrity of city government against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.

From: Charlie DeAngelis <cdeangelis55@roadrunner.com>

Date: October 5, 2016 at 6:27:06 PM EDT

To: <ddaudeuil@auburnmaine.gov>

Subject: CDGB Loan application

Evening Dennis,

I am applying for a loan for my apartment building that my wife and I own at 38 5th street in New Auburn. This would be the third loan over the years for this property form CDGB. However Yvette Bouttenot has advised me that she needs to validate that there would be no conflict of interest if this load were awarded. Furthermore I was advised this afternoon in order for the process to begin I am required to notify you in writing. Please accept this e-mail as my official request for a loan through the CDBG program. I understand the need for this review and have discussed with Yvette as to how electrical inspections if necessary would be conducted to avoid a conflict of interest with my position. If you need additional information please contact me ASAP as time is of the essence for loan approval. I thank you in advance.

Regards,

Charlie DeAngelis

CITY OF AUBURN
PUBLIC NOTICE
September 26, 2016

The City of Auburn is the recipient of Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD).

The City of Auburn uses a portion of these funds to administer a Lead Loan Program to supplement Lead Abatement Projects funded by the Lewiston Auburn Lead Hazard Reduction Loan Program. The City assists approximately 5 property owners annually with 0% interest loans through this loan program. The loan is secured by a mortgage and is repaid on a monthly basis.

Charles DeAngelis, City of Auburn employee, has applied for assistance from the City's CDBG Lead Loan Program.

The City is seeking an exception to the Conflict of Interest provisions of 24 CFR 570.611, which state that no employees of the City "who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during the tenure or for one year thereafter."

Charles DeAngelis does not have, and has never had, any input in the administration of the City's CDBG allocation. As such, the City is posting this notice and informing HUD of the circumstances in this instance. The City is requesting that HUD provide an exception to its general conflict of interest rule in order to allow the City to provide assistance to this individual.

A TRUE COPY ATTEST

Susan Clements-Dallaire
CITY CLERK 9/26/16

Job Title: City Electrician
Grade: 7
Department: Planning and Permitting

Reports to: City Planner
Supervises: Electrician
Revised: 3/11/11

This job description does not constitute an employment agreement between the employer and the employee, and it is subject to change by the employer as the needs of the employer and requirements of the job change. The essential functions listed are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

I. Job Summary

The person in this position must possess all of the necessary skills, abilities, licenses, and certifications to fulfill the responsibilities and obligations of the City Electrician function as it relates to all local, state, and federal guidelines. The City Electrician is responsible for supervising the enforcement of local, state, and federal electrical codes and the installation, maintenance, replacement and repair of all City electrical systems including street lights, traffic signal systems, fire alarm systems, 9-1-1 Communications systems and building wiring. The City Electrician uses initiative and independent judgment in carrying out the responsibilities of the position. The City Electrician works a regular work week and in addition covers emergency calls on nights, weekends and holidays on a rotation basis with the Electrician. He may be required to attend evening meetings such as Council Budget Workshops and meetings. Overtime is required. In addition, this position requires adaptable skills and abilities, the use of independent judgment, and a supportive organizational attitude. Finally, work outcomes and outputs need to be consistent and supportive of departmental mission statements, administrative goals and objectives, and the overall corporate culture.

II. Essential Functions

- Supervises division employee to include assigning and planning work schedules, ordering materials, training personnel, updating inventories, teaching safety precautions and inspecting work in progress and at completion;
- Performs the duties of an electrical inspector and issues permits and reviews plans for compliance with the national electrical codes, fire codes, building and other codes;
- Conducts electrical inspections, maintains records of the inspections, issues stop work orders if necessary and orders correction of electrical code violations;
- Responds to and resolves citizen complaints regarding electrical problems, hazards, violations or dangers and responds immediately if necessary;
- Supervises and makes repairs to the municipal traffic signal system;
- Supervises the overhaul, serving and testing of fire alarm boxes, systems, batteries and all wiring for all emergency systems to all City Buildings;
- Supervises the cutting and trimming of tree branches around fire alarm boxes, wires and traffic signals;
- Assists with replacing poles and damaged wires after storms, accident and vandalism;
- Prepares, administers and monitors the Electrical Division budget;
- Supervises the testing, servicing and maintenance of emergency generators, 9-1-1 system, all City electrical equipment, street lights, parking lots and City Buildings;
- Maintains and completes all required departmental paperwork, forms and reports including timesheets, overtime reports, maintenance records and work schedules;
- Installs temporary power systems when necessary for special events;

- Monitors and inspects electrical work being done by outside contractors;
- Keeps informed of electrical needs and problems in all City facilities;
- Performs on-call duties;
- Communicates with the City's other departments when necessary to provide information, seek information and respond to inquiries;
- Assists with the installation of downtown holiday lights and other decorations;
- Assists the Fire Department in investigations where electricity is involved;
- Provides a safe work environment for the employee, co-workers, supervisors and the general public; adheres to all safety regulations, reports known safety hazards to supervisors and the Safety Coordinator;
- Works effectively and productively with supervisors, co-workers and the general public;
- Participates in City Teams and other events;
- Possesses cognitive ability for research, analysis, problem solving, and articulating findings;
- Differentiates between employing situational leadership or management skills to affect the greatest possible impact as it relates to productivity, corporate culture, and administrative goals and objectives;
- Follows all applicable administrative SOPs;
- Efficiently articulates, either verbally or in writing, financial and operational activities as necessary to other individuals or groups;
- Performs other duties as assigned;
- Performs the duties of the "Electrician" as necessary.

III. Duties and Responsibilities

- Advocates for the public, city employees, and administration in a manner that is consistent with corporate culture and administrative goals and objectives;
- Is present at group and team meetings, and participates and engages in group and team activities and behaviors;
- Upholds the Chain of Command in accord with administrative goals and objectives and local municipal code and charter;
- Maintains a workplace environment conducive to employee productivity, conveys a professional public image, and is organized in terms of computer/paper file management, document management, and information management;
- Offers suggestions as to how the organization can improve; identifies weaknesses and forwards said information to supervisor;
- Refrains from engaging in activities that are not commensurate with training, or outside the scope of one's authority;
- Possesses and continuously develops the knowledge necessary to fulfill the duties and responsibilities of this position and profession;
- Manages interpersonal dynamics; mediates; manages conflicts and issues; handles emotionally charged situations; initiates constructive conflict; identifies and solves problems; maintains a positive attitude; remains flexible to ever-changing situations; obtains and maintains a State of Maine Driver's license, and has a good driving record;
- Immediately reports to supervisor any activities witnessed, or made aware of, that violates city policies including, but not limited to, workplace violence, sexual harassment, as well as any waste, fraud or abuse of city property or equipment.

IV. Additional Knowledge, Skills, and Abilities

Minimum Qualifications include:

- Associates Degree or 2 year diploma or equivalent in the electrical field;
- Minimum of five years experience as an apprentice and as a journeyman electrician; or any equivalent combination of education and experience;
- Master's Electrician's License;
- National IAEI accreditation for electrical inspection and plan review, both general and residential;
- Maine Driver's License or ability to obtain a Maine Driver's License;
- Commercial Driver's License (CDL) or ability to obtain a CDL;
- Extensive knowledge of all areas of electrical work, including inspection techniques;
- Knowledge of safety training and procedures; Knowledge of equipment use, maintenance and repair; Knowledge of National and City electrical codes;
- The ability to read and understand blueprints and designs; The ability to troubleshoot, determine problem, understand resources to resolve problem; The ability to train others in electrical repair; The ability to work at heights above 30 feet; The ability to work in all kinds of weather conditions for extended periods of time; The ability to remain flexible to ever changing situations; The ability to repair potentially dangerous equipment;
- Compliance with Federal Department of Transportation Substance Abuse Testing Regulations and City Drug Testing policies;
- Proficiency with computer technology as it relates to this position and the organization's changing needs.

V. Working Conditions/ Physical Requirements

The work environment of this position includes:

- Sitting, standing, walking, reaching, twisting, turning, kneeling, bending, climbing and squatting in the performance of daily activities; also requires grasping, repetitive hand/finger movement, using keyboards and other office tools;
- Lifting objects in excess of 50 lbs. Must be able to communicate verbally and have good vision and hearing. Must be able to see color. This position requires the operation of vehicles covered by the Federal Department of Transportation Substance Abuse Testing Regulations for Commercial Vehicles and the employee must be able to obtain and maintain a Commercial Driver's license and pass any medically required tests and exams and be in compliance with the substance abuse testing regulations;
- Standard office equipment; city vehicles including electrical van and the bucket truck; outside environment including roadways, city-owned buildings, parking lots and garages. The work involves moderate to high risks that require use of personal protective equipment such as safety goggles, hardhat, rubber gloves, safety vests, tethering equipment, respirators, etc. Work is performed above ground and may be performed below ground. Work is performed in all weather conditions.