

# PLANNING ETHICS IN PENNSYLVANIA

Elam Herr

Assistant Executive Director

PA State Association of Township Supervisors

Mark E. Stivers, AICP

Director of Planning and Development

East Hempfield Township

Treasurer, PA Chapter of the American Planning  
Association

# Two state laws

- **Sunshine Act**
- **Right-to-Know (Open Records)**

# Two state laws

Both laws are to make government transparent

- Citizens right to know of and attend meetings
- Ability to review and acquire “public” documents

# Sunshine Law

## Definitions:

Agency: A body and all committees created by the agency authorized to take official action or render advice

Official Action: Deliberations, decisions, votes or recommendations

Meeting: Prearranged gathering attended by a quorum of members

# Sunshine Law

Open meetings:

Properly advertised according to  
the enabling statute (MPC definitions)

# Sunshine Law

Minutes of meeting must be kept:

- Date, time and place
- Names of members present
- Substance of all official actions and votes taken
- Names of citizens and subject matter discussed
- Anything else included in minutes is up to individual agency

# Sunshine Law

Exclusions from open meetings

- Executive Sessions (six categories)
- Conferences

# Sunshine Law

## Public Participation:

- Agency allowed to establish rules of conduct
- Shall provide reasonable opportunity to public to comment prior to taking official action
- Public has right to use recording devices within established rules

# Sunshine Law

## Penalty

- Each member who participates with intent to violate law--\$100 fine
- The court may vacate action taken

## Remedy

- Retake action at properly advertised meeting

# Right-to-Know Law

- Law Amended in 2008
- Changed the “presumption” of what is a public record
- Changed the “burden of proof” for a record denial
- Requires an agency to have an “Open Records Officer”
- Created an Office of Open Records

# Right-to-Know Law

Each agency required to have an Open Records Officer

- County or municipality will decide how this office is created
- Responsible for receiving request, coordinating/directing responses, tracking progress and issuing responses
- Request may be verbal, written or even anonymous

# Right-to-Know Law

Five business days to fulfill request

- Provide the request
- Stipulate that additional time is needed (up to 30 days) to fulfill request. Law specific for reasons for extended time period

# Right-to-Know Law

Five business days to fulfill request

- Provide the request with exempted material redacted
- Deny the request based on exemptions or a specific provision in another statute.

# Right-to-Know Law

## Denials

- Must be in writing
- Must be specific in the denial response
- Must state the specific exclusion or law that gives the right to withhold the information and provide legal argument for applicability
- Must follow the procedures established in the law

# Right-to-Know Law

Office of Open Records created to be first round of appeals from decisions

- Requester has 15 days to file with the Office
- Office has 30 days to render a decision
- Requester or agency has 30 days to appeal to Court of Common Pleas

# Right-to-Know Law

## Penalties

- Civil penalty of not more than \$1,500 if access denied in bad faith
- Civil penalty of \$500 per day for failing to comply with court order to release public record

# Why talk about Ethics?



# ETHICS

When evaluating one's goals and objectives, a vital question must be asked:  
What is your motivation?

- A. Wealth
- B. Fame
- C. Knowledge
- D. Popularity
- E. Integrity

If **integrity** is second to any of the alternatives, then it is subject to sacrifice in situations where a choice must be made.

Such situations will inevitably occur in every person's life.

**"We Will Not Lie, Steal Or Cheat,**

**Nor**

**Tolerate Among Us Anyone  
Who Does"**

**U.S. Air Force Academy Code of Honor**

# Is there an ethics crisis in America?

One recent national election day poll indicated that 56 percent of voters thought that America's problems are "primarily moral and social." Only 36 percent thought that the nation's problems were "primarily economic."

A nation or a culture cannot endure for long unless it is undergirded by common values such as valor, public spiritedness, respect for others and for the law; It cannot stand unless it is populated by people who will act on the motives superior to their own immediate interest.



~ Chuck Colson, *Against the Night*



If it is not right do  
not do it; if it is not  
true do not say it.

~Marcus Aurelius

# AICP Code of Ethics

- ❖ A guide to the ethical conduct required of members of AICP
- ❖ Includes more than the minimum threshold of acceptable behavior
- ❖ Sets aspirational standards
- ❖ Principles of the Code sometimes compete
- ❖ Planners must exercise judgment when balancing among diverse interests
- ❖ Elevates our profession

# AICP Code of Ethics

But, why have a code?

- ✓ A code provides guidance.
- ✓ A code sets standards.
- ✓ A code embodies values, and those values define both the profession and the behavior of those who embrace it.

~ W. Paul Farmer, FAICP

# AICP Code of Ethics

New Code: Adopted March 19, 2005  
Effective June 1, 2005

The Code was reorganized to create three distinct categories:

1. Aspirational principles state ideals that are too subjective to form the basis for the finding of ethical misconduct.
2. Rules of conduct have been established and are intended to be enforceable with the potential for disciplinary action.
3. A new "Procedures" section clarifies complaint administration.

# 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
- ❖ Pay attention to the interrelatedness of decisions

# Principles to Which We Aspire

## Responsibility to the Public

- ❖ Provide opportunities for meaningful impact
- ❖ Seek social justice
- ❖ Promote excellence in design; endeavor to conserve and preserve the natural and built environment
- ❖ Deal fairly

# Principles to Which We Aspire

## Responsibility to our 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 conflict of interest or appearance of a conflict

# Principles to Which We Aspire

## Responsibility to our Clients and Employers

- ❖ Protect and enhance the profession's integrity
- ❖ Educate the public
- ❖ Describe and comment on the works of others
- ❖ Share the results and experiences
- ❖ Examine theory
- ❖ Contribute time and resources to professional development

# Rules of Conduct

## 25 Rules of Conduct such as:

- ❖ Accept no assignment we know to be illegal...
- ❖ Accept no other planning-related employment without disclosure and written permission
- ❖ Accept no outside compensation which may be perceived as related to our employment
- ❖ Do not perform work with the potential for direct financial gain to you, your family or those in your household without disclosure and employer consent
- ❖ Do not disclose confidential material unless (1) required by process of law; (2) required to prevent a violation of law; or (3) to prevent substantial injury to the public
- ❖ Do not work beyond your technical competence

# Procedures

1. Informal Advice
2. Formal Advice
3. Advisory Rulings
4. Administration of an Ethics Charge
  - a) Role of the Ethics Officer
  - b) Role of the Ethics Committee
  - c) Investigations
  - d) Hearings

# calvin and hobbes

by WATSON



GET WHAT YOU CAN WHILE THE GETTING'S GOOD - THAT'S WHAT I SAY! MIGHT MAKES RIGHT! THE WINNERS WRITE THE HISTORY BOOKS!

