DO THE RIGHT THING

Ethical Challenges for Municipal Attorneys

The Client, Legal Opinions v. Advice, Unlawful use of public funds

- Council Member A emails City Attorney and request the Attorney issue a legal opinion on the donation of City funds to a certain charity
  - *Who can request a legal opinion?*
  - *Is there a difference between a legal opinion and legal advice under the City's charter and/or ordinances?*
  - *When can a donation to a charity be a legitimate use of City funds?*

Attorney-Client Privilege, Council Fiduciary Responsibilities

■ City Attorney prepares a privileged and confidential advise memo for City Council on an issue of public interest. Council Member A on receipt of the privileged memo provides a copy to the press.

– *Who holds the right to waive privilege?*

– *Is the release of the attorney memo, without the necessary waiver, a breach of the Council Member's fiduciary responsibilities as an elected official?*

– *Does it make a difference if the Council member only summarizes the advice for but doesn't actually give the reporter a copy of the document?*

– *How should the City Attorney respond to an assertion that the Council member has a 1st amendment right to communicate with the Press?*

Conflict of Interest

- Council person sits on the board of the local chamber of commerce. The chamber wants to contract with the city to do the city's economic development work.
    - *Can that council member participate in the vote on the contract?*
    - *Can a conflict be subjective?*

Gifts, Improper Use of Position, Transparency

■ Local developer proposed a public/private development opportunity to two Council members. To encourage the Council members to advocate for the project developer offers to fly the Council members to locations where similar public/private partnerships by developer have been built and host their visit to the site.

  – *Is this a gift?*

  – *If the suggestion came from the Council member rather than the developer is it still a gift?*

  – *If the Council members pay their own way should they take the trip?*