

ADVISORY OPINION NO. 96-19

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON MAY 2, 1996

PUBLIC SERVANT SEEKING OPINION

A Town Clerk

OPINION SOUGHT

Is it a violation of the Ethics Act for a City Board of Parks to solicit donations from area businesses and corporations in order to maintain the local public pool?

FACTS RELIED UPON BY THE COMMISSION

The Board of Parks is a municipal Board which is responsible for maintaining recreational facilities such as a park with tennis courts, a volleyball court, picnic pavilions, a concession stand, playground equipment and a swimming pool.

The expense of operating the swimming pool is generally not offset by the revenue generated by pool admissions and activities. Consequently, fund raising activities must be implemented in order to make these facilities available for public use - especially by area children during the summer.

As part of these fund-raising activities, the board is considering soliciting donations from businesses and corporations, including large companies in the area.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that...a public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family...

ADVISORY OPINION

West Virginia Code 6B-2-5(c)(1) prohibits public servants from soliciting any gift unless the gift is for a charitable purpose. In the past, the Commission has established a broad definition of the term "charitable purpose". Programs which provide education, training, increased public awareness or other specific benefits to the general public have been found to be "charitable" in nature. However, each solicitation must be decided on its individual merits on a case by case basis.

In this instance, the City Board of Parks maintains recreational facilities such as a park with tennis courts, a volleyball court, picnic pavilions, a concession stand, playground equipment and a swimming pool. The expense of operating the swimming pool is generally not offset by the revenue generated by pool admissions and activities and consequently, fund raising activities must be implemented in order to make these facilities available for public use - especially by area children during the summer.

The Commission has determined that operation of municipal recreation facilities does benefit the public at large, especially the children of the area, and as such the project does constitute a "charitable purpose" as that term is used in the Ethics Act.

Therefore, it would not be a violation of the Ethics Act for the City Board of Parks members, the members of City Council, or anyone acting on their behalf, to solicit donations for such activities.

In all instances of solicitation, however, care should be taken that no gift is solicited or accepted under facts or circumstances which are improper, give the appearance of impropriety or the creation of a quid pro quo.


Chairman