

1 By Supervisor Jursik

2 File No. 13-

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4
5 **A RESOLUTION/ORDINANCE**

6
7 amending Chapter 9 of the Milwaukee County Code of General Ordinances, clarifying
8 the use of County funds to pay for Public Service Announcements and video or air time
9

10 WHEREAS, elected officials adhere to a standard of ethics delineated in Chapter
11 9 (Code of Ethics) of the Milwaukee County Code of General Ordinances, wherein the
12 following policy directive is declared in section 9.01 (1):
13

14 *It is declared that high moral and ethical standards among county public officials*
15 *and county employees are essential to the conduct of free government; that the*
16 *county believes that a code of ethics for the guidance of county public officials*
17 *and county employees will help them avoid conflicts between their personal*
18 *interests and their public responsibilities, will improve standards of public service*
19 *and will promote and strengthen the faith and confidence of the people of this*
20 *county in their county public officials and county employees. It is the intent of the*
21 *county that in its operations the board shall protect to the fullest extent possible*
22 *the rights of individuals affected.*
23

24 ; and
25

26 WHEREAS, elected officials often have responsibility for oversight of budget and
27 budgetary directives with regard to the entire county budget or separate departmental
28 budgets and can direct spending related to the purchase of commercials,
29 advertisements, paid public service announcements and others; and
30

31 WHEREAS, the purpose of this resolution/ordinance is to amend the Milwaukee
32 County Code of Ethics to specifically define the policy for appropriate public
33 communications that are paid for with public dollars whether obtained through property
34 taxes, other sales or use taxes, state and federal revenues, grant funding, fees,
35 contributions/donations, or other revenue of county government; and
36

37 WHEREAS, using county funds to pay for such paid communications can give
38 the appearance of promoting an elected official prior to re-election campaigns or
39 otherwise suggest that incumbents obtain other advantages through the use of paid
40 advertisements whether or not actual campaigns are in progress; and
41

42 WHEREAS, the intent of this policy is not to prohibit county departments from
43 using county funds for official county business such as issuing a request for proposal
44 which may require paid advertisements or to prevent the use of a photo or likeness of
45 an elected official; now, therefore,
46

47 BE IT RESOLVED, that an elected county official may not use county funds to
48 purchase or direct others on his/her behalf to purchase media commercial time or space
49 to place paid advertisements, paid public service announcements or otherwise
50 purchase video or air time that features the elected official whether in video format or
51 with an audio recording of the voice of the elected official; and
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53 BE IT FURTHER RESOLVED, that notwithstanding this revised policy, there
54 shall be no prohibition against departments using such funds for official county business
55 that require paid advertisements or other public service announcements as long as such
56 purchase does not feature video or voice recording of an elected official; the prohibition
57 shall not apply to the use of merely a photo or likeness of an elected official as long as it
58 is not used with a voice overlay of the official making extended statements; and
59

60 BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors
61 hereby amends Sections 9.02 and 9.05, *General Ordinances of Milwaukee County*, by
62 adopting the following:
63

64 **AN ORDINANCE**
65

66 The County Board of Supervisors of the County of Milwaukee does ordain as
67 follows:
68

69 **SECTION 1:** Section 9.02 of the General Ordinances of Milwaukee County is amended
70 as follows:
71

72 9.05. – Definitions.

73 (1) "Anything of value" means any money or property, favor, service,
74 payment, advance, forbearance, loan, or promise of future employment,
75 business, or other consideration having a value greater than twenty five
76 dollars (\$25.00), but does not include compensation and expenses paid by
77 the county, fees and expenses which are permitted and reported under
78 section 9.14 of the Code, political contributions which are reported under
79 ch. 11, Wis. Stats., or hospitality extended for a purpose unrelated to
80 county business by a person other than an organization.

81 (1m) "Appointed official" means any member appointed to a county commission
82 or board.

83 (2) "Associated," when used with reference to an organization, includes any
84 organization in which an individual or a member of his/her immediate
85 family is a director, officer, or trustee, or who has a significant fiduciary
86 relationship or an individual who owns or controls, directly or indirectly,
87 and severally or in the aggregate, at least ten (10) percent of the
88 outstanding equity.

- 89 (3) "Board" means the ethics board.
- 90 (4) "Business" means any corporation, partnership, proprietorship, firm,
91 enterprise, franchise, association, organization, self-employed individual,
92 or any other legal entity that engages in profit-making activities.
- 93 (5) "Conflict of interest" means a public official's or employee's action or
94 failure to act in the discharge of his or her official duties which could
95 reasonably be expected to produce or assist in producing a substantial
96 economic or personal benefit for such official, his or her immediate family
97 or an organization with which he or she is associated.
- 98 (6) "County funds" means all funds received by the county, which flow through
99 the county's financial system, for the purposes of supporting the county's
100 operations, including federal and state revenue, property taxes, other
101 sales and use taxes, fees, grant revenue, contributions/donations and any
102 other revenue sources of county government.
- 103 (67) "Elected official" means any person holding an elected county office.
- 104 (78) "Employee" means any person holding an office or position in the
105 classified service of the county or any person holding a non-classified
106 office or position, except elected officials and appointed officials.
- 107 (89) "Gift" means the payment or receipt of anything of value without valuable
108 and sufficient consideration.
- 109 (910) "Immediate family" means an individual's:
- 110 (a) Spouse; and
- 111 (b) Child, parent or sibling or in-law or step-relative of the same degree
112 who receives, directly or indirectly, more than one-half ($\frac{1}{2}$) of
113 his/her support from the individual or from whom the individual
114 receives, directly or indirectly, more than one-half ($\frac{1}{2}$) of his /her
115 support.
- 116 (110) "Investigation request" means a written and signed statement from a
117 person stating that there are specific acts or omissions by an identified
118 person subject to the Code from unverified sources which appear prima
119 facie to constitute a violation of the Code and for which the requestor is
120 seeking that an investigation be undertaken to determine whether a matter
121 should be pursued under the verified complaint proceedings. The
122 investigation request must remain confidential until disclosure is permitted
123 or required by the Code unless the subject of the complaint requests in
124 writing that it be made part of the public record.

- 125 (124) "Lobbying" means the practice of attempting to influence legislative or
126 administrative action by oral or written communication with any public
127 official.
- 128 (132) "Ministerial action" means an action that an individual performs in a given
129 state of facts in a prescribed manner in obedience to the mandate of legal
130 authority, without regard to the exercise of the individual's own judgment
131 as to the propriety of the action being taken.
- 132 (143) "Organization" means any stock or non-stock corporation, partnership,
133 proprietorship, firm, enterprise, franchise, incorporated or unincorporated
134 association, trust or other legal entity other than an individual or body
135 politic.
- 136 (154) "Privileged information" means information obtained under government
137 authority which has not become a part of the body of public information.
- 138 (165) "Probable cause" means information sufficient to support a reasonable
139 belief that an identified person has or may have violated one (1) or more
140 provisions of this Code.
- 141 (176) "Public official" means any elected official or appointed official.
- 142 (187) "Reporting period" means any six-month period beginning with Jan. 1 and
143 ending with June 30 or beginning with July 1 and ending with Dec. 31 or
144 annual period beginning January 1 through December 31.
- 145 (198) "Significant fiduciary relationship" means owning or controlling, directly or
146 indirectly:
- 147 (a) At least ten (10) percent of the outstanding stock or stock of any
148 business corporation having a cost or market values of at least five
149 thousand dollars (\$5,000.00), or
- 150 (b) An interest of at least ten (10) percent or five thousand dollars
151 (\$5,000.00) of any organization.
- 152 (4920) "Resources" means county supplies, services, property, or facilities not
153 available to all citizens.
- 154 (210) "Verified complaint" means a written statement from a person, given under
155 oath and subscribed before a notary public or other official authorized to
156 administer oaths, alleging specific acts or omissions constituting a
157 violation of the Code by an identified person subject to the Code. The
158 verified complaint must remain confidential until disclosure is permitted or

159 required by the Code unless the subject of the complaint requests in
160 writing that it be made part of the public record.

161 **SECTION 2:** Section 9.05 of the General Ordinances of Milwaukee County is amended
162 as follows:

163 9.05. - Standards of conduct.

164 (1) *No personal or economic interest in decisions and policies:* The county board
165 hereby reaffirms that a county elected official, appointed official or employee
166 holds his/her position as a public trust, and any effort to realize personal gain
167 through official conduct is a violation of that trust. This chapter shall not prevent
168 any county elected official, appointed official or employee from accepting other
169 employment or from following any pursuit which does not interfere with the full
170 and faithful discharge of his/her duties to the county. The county board further
171 recognizes that in a representative democracy, the representatives are drawn
172 from society and, therefore, cannot and should not be without all personal and
173 economic interest in the decisions and policies of government; that citizens who
174 serve as public officials or public employees retain their rights as citizens to
175 interests of a personal or economic nature; that standards of ethical conduct for
176 public employees and public elected and appointed officials need to distinguish
177 between those minor and inconsequential conflicts which are unavoidable in a
178 free society and those conflicts which are substantial and material; and that
179 county elected officials, appointed officials or employees may need to engage in
180 employment and/or professional or business activities, other than official duties,
181 in order to support their families and to maintain a continuity of professional or
182 business activity or may need to maintain investments. However, the code
183 maintains that such activities or investments must not conflict with the specific
184 provisions of this chapter.

185 (2) (a) *No financial gain or anything of substantial value:* Except as otherwise
186 provided or approved by the county board, no county public official or employee
187 shall use his/her public position or office to obtain financial gain or anything of
188 substantial value for the private benefit of himself/herself or his/her immediate
189 family, or for an organization with which he/she is associated. This paragraph
190 does not prohibit a county elected official from using the title or prestige of his/her
191 office to obtain campaign contributions that are permitted by and reported as
192 required by ch. 11, Wis. Stats.

193 (b) *No person may offer anything of value:* No person shall offer or give to any
194 public official or employee, directly or indirectly, and no public official or
195 employee shall solicit or accept from any person, directly or indirectly, anything of
196 value if it could reasonably be expected to influence the public official's or
197 employee's vote, official actions or judgment, or could reasonably be considered
198 as a reward for any official action or inaction or omission by of the public official

199 or employee. This section does not prohibit a public official or an employee from
200 engaging in outside employment.

201 (c) *No substantial interest or benefit:* Except as otherwise provided in
202 paragraph (1.), no public official or employee shall:

203 1. Take any official action substantially affecting a matter in which the
204 public official, employee, a member of his/her immediate family, or an
205 organization with which the public official or employee is associated has a
206 substantial financial interest.

207 2. Use his/her office or position in a way that produces or assists in
208 the production of a substantial benefit, direct or indirect, for the public
209 official, employee, members of the public official's or employee's
210 immediate family either separately or together, or an organization with
211 which the public official or employee is associated.

212 (d) *No disclosure of privileged information:* No county public official or
213 employee shall use or disclose privileged information gained in the course of, or
214 by reason of, his/her position or activities which in any way could result in
215 financial gain for himself/herself or for any other person.

216 (e) *No use of public position to influence or gain unlawful benefits,*
217 *advantages or privileges:* No county public official or employee shall use or
218 attempt to use his/her public position to influence or gain unlawful benefits,
219 advantages, or privileges for himself/herself or others.

220 (f) *No offer of gifts or anything of value:* No county public official shall offer or
221 give anything of value to a member or employee of a county department or entity,
222 while that member or employee is associated with the county department or
223 entity, and no member or employee of a department shall solicit or accept from
224 any such person anything of value from a county official or employee.

225 (g) *Limits on contracts with county:* No county public official or employee and
226 no business with which he/she or his/her spouse has a significant fiduciary
227 relationship or any organization with which he/she or his/her spouse is
228 associated shall enter into any contract with the county unless that contract has
229 been awarded through a process of public notice and competitive bidding in
230 conformity with applicable federal and state statutes and county ordinances.

231 (h) *Limits on lease of real estate with county:* No county public official or
232 employee and no business in which that county public official or employee has a
233 ten (10) percent or greater interest shall enter into a lease of real property with
234 the county, except that the county board, upon a publicly filed and considered
235 request, shall waive this subsection when it is in the best interests of the county.

236 (i) *No limits on lawful payments:* Paragraph (c) does not prohibit an elected
237 official from taking any action concerning lawful payment of salaries or employee
238 benefits or reimbursement of actual and necessary expenses, or prohibit an
239 elected official from taking official action with respect to any proposal to modify a
240 county ordinance.

241 (j) *No solicitation of at-will employees:* No elected county official shall
242 knowingly solicit a campaign contribution from any "at-will employee" defined as
243 an employee who is not under union or labor contract with the county, who is
244 hired for an indefinite term or who is under an independent contract with the
245 county or its subparts or who can be discharged or terminated at any time for any
246 nondiscriminatory reason.

247 (k) *No campaign contributions to county officials with approval authority:* No
248 person(s) with a personal financial interest in the approval or denial of a contract
249 or proposal being considered by a county department or with an agency funded
250 and regulated by a county department, shall make a campaign contribution to
251 any county elected official who has approval authority over that contract or
252 proposal during its consideration. Contract or proposal consideration shall begin
253 when a contract or proposal is submitted directly to a county department or to an
254 agency funded or regulated by a county department until the contract or proposal
255 has reached final disposition, including adoption, county executive action,
256 proceedings on veto (if necessary) or departmental approval. This provision does
257 not apply to those items covered by section 9.14 unless an acceptance by an
258 elected official would conflict with this section. The language in subsection
259 9.05(2)(k) shall be included in all Requests for Proposals and bid documents.

260 (l) *Limits on honorarium fees or expense reimbursements:* No county public
261 official or employee shall accept or solicit any honorariums, fees or expense
262 reimbursements except in accordance with section 9.14

263 (m) *Limits on purchased commercial time/paid public speech:* No elected
264 county official shall use county funds to purchase or direct others on his/her
265 behalf to purchase media commercial time or space, to place paid
266 advertisements, or paid public service announcements that feature the elected
267 official in video format or with an audio recording of the voice of the elected
268 official.

269 (3) *Limits on contact:*

270 (a) *Limits on contact with former county associates:* No former county public
271 official or employee, for twelve (12) months following the date on which he/she
272 ceases to be a county public official or employee, shall, for compensation, on
273 behalf of any person other than a governmental entity, make any formal or
274 informal appearance before or try to settle or arrange a matter by calling, writing,
275 or conferring with, any county public official, officer or employee of the

276 department with which he/she was associated as a county public official or
277 employee.

278 (b) *Limits on contact with judicial or quasi-judicial proceedings:* No former
279 county public official or employee for twelve (12) months following the date on
280 which he/she ceases to be a county public official or employee, shall for
281 compensation on behalf of himself/herself or any person other than a
282 governmental entity, make any formal or informal appearance before, or try to
283 settle or arrange a matter by calling, writing, or conferring with, any county public
284 official, officer or employee of a department in connection with any judicial or
285 quasi-judicial proceeding, application, contract, claim, or charge which was under
286 the former public official's or employee's responsibility as a county public official
287 or employee.

288 (c) *Limits on contacts with judicial or quasi-judicial proceedings where*
289 *personally participated:* No former county public official or employee shall,
290 whether for compensation or not, act on behalf of any party other than the county
291 in connection with any judicial or quasi-judicial proceeding, application, contract,
292 claim, or charge in which the former public official or employee participated
293 substantially as a public official or employee.

294 (d) *Consideration of exemptions:* The ethics board shall accept and review
295 written requests by former appointed officials for an exemption from the
296 prohibitions of (3). Such exemption requests must be heard and deliberated
297 during a properly convened open session of an ethics board meeting and must
298 be included in a written ethics board opinion stating the reason(s) that the former
299 appointed official should be exempt from the otherwise prohibited conduct.

300 **SECTION 3:** This ordinance shall become effective upon passage and publication.
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302
303
304

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 3/26/13

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution/ordinance amending Chapter 9 of the Milwaukee County Code of General Ordinances, clarifying the use of County funds to pay for Public Service Announcements and video and air time.

FISCAL EFFECT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget
<input type="checkbox"/> Decrease Operating Expenditures
<input type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input type="checkbox"/> Use of contingent funds |
|---|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

This resolution/ordinance would amend Chapter 9 of the Milwaukee County Code of General Ordinances adding a provision to the Ethics Code limiting purchased commercial time/paid public speech by elected officials.

There is no fiscal effect associated with adoption of this resolution/ordinance.

Department/Prepared By Jennifer Collins, County Board Research Analyst

Authorized Signature 

Did DAS-Fiscal Staff Review? Yes No

Did CDBP Review?² Yes No Not Required

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.