



BOARD OF COMMISSIONERS

1 S. Main St., 9th Floor
Mount Clemens, Michigan 48043
586.469.5125 FAX 586.469.5993
macombcountymi.gov/boardofcommissioners

DECEMBER 19, 2011

NOTICE OF MEETING

There will be a **Regular Meeting** of the **BOARD OF COMMISSIONERS** with a **Special Agenda** on Tuesday, December 20, 2011, **at 9 a.m.**, on the 9th Floor of the Administration Building, in the Commissioners' Board Room, Mount Clemens.

SPECIAL AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Adoption of Agenda
5. Public Participation (five minutes maximum per speaker, or longer at the discretion of the Chairperson related only to issues contained on the agenda)
6. Override County Executive's Veto of Ordinance No. 2011-4, Ethics Ordinance **(attached)**
7. Adopt Ordinance No. 2011-10, Amendment to Ethics Ordinance No. 2011-4 **(attached)**

Committee Reporter

MACOMB COUNTY BOARD OF COMMISSIONERS

Kathy D. Vosburg
District 8
Chair

Marvin E. Sauger
District 2
Vice Chair

Fred Miller
District 9
Sergeant-At-Arms

Toni Mocerri - District 1

David Flynn - District 4

James L. Carabelli - District 6

Roland Frascchetti - District 10

Bob Smith - District 12

Phillip A DiMaria - District 3

Ray Gralewski - District 5

Don Brown - District 7

Kathy Tocco - District 11

Joe Sabatini - District 13

RESOLUTION NO. _____

FULL BOARD MEETING DATE: _____

AGENDA ITEM: _____

MACOMB COUNTY, MICHIGAN

RESOLUTION TO override the County Executive's veto of Ordinance No. 2011-4, Ethics Ordinance

INTRODUCED BY: Kathy Vosburg, Board Chair

COMMITTEE/MEETING DATE
Special Full Board 12-20-11

RESOLUTION NO. _____

FULL BOARD MEETING DATE: _____

AGENDA ITEM: _____

MACOMB COUNTY, MICHIGAN

RESOLUTION TO adopt Ordinance 2011-10, Amendment to Ethics Ordinance No. 2011-4

INTRODUCED BY: Kathy Vosburg, Board Chair

COMMITTEE/MEETING DATE
Special Full Board 12-20-11

**ENROLLED ORDINANCE
NO. 2011- 10**

An Ordinance to Amend the Ethics Ordinance, Enrolled Ordinance No. 2011-4

INTRODUCED BY COMMISSIONER(S):

AN ORDINANCE TO AMEND SECTIONS 1.3, 2, 3.2, 3.3, 3.5, 3.6 AND 4 OF ORDINANCE NO. 2011-4, THE "ETHICS ORDINANCE."

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF MACOMB:

SECTION 1. AMENDMENT. Sections 1.3, 2, 3.2, 3.3, 3.5, 3.6 and 4 of Macomb County Ordinance No. 2011-4, the "Ethics Ordinance," are amended to read as follows:

Sec. 1.3. Definitions.

- A. Appointee means a person appointed to a compensated or uncompensated position in County government that is not subject to a collective bargaining agreement, who is not elected to or holding office or holding an office that is subject to an election and whose appointment is subject to the approval of the Board of Commissioners or who is exempt from such approval under the Charter.
- B. Charter means the Home Rule Charter of Macomb County that took effect on January 1, 2011, as it may from time-to-time be amended.
- C. Commission means the County Board of Commissioner created by the Charter.
- D. Commissioner means a member of the Commission.
- E. Confidential Information means information obtained by a Public Servant by reason of his or her position that is not available to members of the public pursuant to the Michigan Freedom of Information Act or other applicable laws, regulations, or procedures.
- F. Conflict of Interest means one or more of the following situations:
 - 1. A decision to be made by the Public Servant or the body on which the Public Servant serves, or in the case of a County Commissioner or the County Executive, a decision to be made by any County body or Public servant, that could result in private gain for the Public Servant or a member of the Public Servant's family.
 - 2. A decision to be made by the Public Servant or the County body on which the Public Servant serves could result in private gain for (a) anyone the Public Servant

represents in any professional capacity, (b) an entity for which the Public Servant serves as an officer, director, or, for a limited liability company or partnership, as a member, unless the interest is held in a manner so that the Public Servant does not directly control the number of shares, portion of the ownership interest, or its value, or (c) an entity in which the Public Servant either owns more than 10% of the total stock or other ownership interest in the entity, or has an interest totaling \$50,000 or more in value.

- G. County-Wide Elected Official means the person holding the office of County Executive, Public Works Commissioner, Clerk/Register of Deeds, Treasurer, Prosecuting Attorney, or Sheriff.
- H. Department Head means the administrative head of any department, office, board, commission or other administrative unit of County government regardless of the title of the position.
- I. Employee means a person employed in a position of County government whether on a full-time or part-time basis.
- J. Executive or County Executive means the person holding the office of County Executive as provided in the Charter or that person's designee(s).
- K. Gift means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements.
- L. Immediate Family means a person's spouse and the person's children and step-children, by blood or adoption, or anyone over the age of eighteen (18) who resides with that person.
- M. Intra-governmental gift means, for the purpose of this ordinance, any gift given to a Public Servant from another Public Servant of Macomb County.
- N. Personal gain means any direct financial benefit that is different than any financial benefit members of the general public or a significant group of the general public would gain in similar circumstances.
- O. Prohibited Source means anyone doing business with, who is regulated by, who is seeking business from, or seeking any action from the County or any officer, office, agency or body of the County.
- P. Public Servant means an employee, county-wide elected official, commissioner, or appointee.
- Q. Relative means people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece,

husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of an individual's spouse and the individual's fiancé or fiancée

SECTION 2. CONFLICTS OF INTEREST

In order to ensure independence and impartiality, Public Servants shall not use their position to influence or otherwise affect government decisions or actions in which they possess a personal interest which may present an apparent or real conflict of interest.

- A. A Public Servant shall not represent his or her personal opinion as that of the county.
- B. A Public Servant shall not engage in a business transaction in which the Public Servant and his or her relative may profit from his or her official position or authority or benefit financially from confidential information which the Public Servant has obtained or may obtain by reason of that position or authority.
- C. A Public Servant shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, issuance of permits or certificates or other regulation or supervision, which involves Macomb County and an entity in which the Public Servant and his or her relative has a financial or personal interest.
- D. This ordinance shall not in any manner vary or change the requirements of Contracts of Public Servants with Public Entities Act, 1968 PA 317, MCL 15.321 to 15.330, which governs the solicitation by and participation in government contracts by officers and employees of the County and preempts all local regulation of such conduct.

Sec. 3.2. Personal Disclosure for Public Servants

Public Servants and candidates for election as a County-Wide Elected Official or a Commissioner shall file a personal disclosure statement.

- A. The personal disclosure statement shall disclose the existence of the following financial interest in or the receipt of gifts by the Public Servant or candidate and the Public Servant's or candidate's immediate family in any company, business, or entity that has contracted with Macomb County or which has sought licensure or approvals from Macomb County in the two calendar years prior to the filing of the statement:
 - 1. Any interest as a partner, member, employee or contractor in or for a co-partnership
or other unincorporated association;

2. Any interest as a beneficiary or trustee in a trust;
 3. Any interest as a director, officer, employee or contractor in or for a corporation, limited liability company, partnership, sole proprietorship, or other business entity; and
 4. Legal or beneficial ownership of 10 % or more of the total outstanding stock of a corporation, limited liability company, partnership, sole proprietorship, or other business entity;
- B. Public servants specified under this section shall file personal disclosure statements by March 31, 2012. Candidates for elected county offices shall file the personal disclosure statement with the County Clerk within 30 days after filing as a candidate for public office. Newly hired or appointed Public Servants shall file within 30 days of date of hire or appointment. Public servants would not be required to file an additional personal disclosure statement unless the substance of the document were to change, in which case they shall file an amended personal disclosure statement.
- C. The County Executive shall develop a Personal Disclosure Form, notify all affected Public Servants, collect the forms from Public Servants, and otherwise implement this section. The County Clerk shall post the submitted Personal Disclosure forms on the County's website. The County Clerk shall also post on the County's website the names of candidates for elected county offices who fail to file the personal disclosure statements as required by subsection B. The Personal Disclosure form may be submitted electronically.
- D. The County shall amend its standard contract form to include language which provides that County contracts shall be voidable or rescindable at the discretion of the County Executive at any time if a Public Servant has an interest in such contract and fails to disclose such interest. Such contract shall be voided or rescinded if a lobbyist or employee of the contracting party offers a prohibited gift, gratuity, honoraria or payment to a Public Servant in relation to the contract. A fine shall be assessed to the contractor in the event of a violation of this section of the Charter. If applicable, the actions of the contractor, and its representative lobbyist or employee, shall be referred to the appropriate prosecuting authorities.
- E. If a person required to file a Personal Disclosure form discovers that the person neglected to disclose some required information, the person shall file an amended form within 10 days of the discovery or notification.

Sec. 3.3. Personal Disclosure for Vendors

All potential and existing County vendors shall be required to file a vendor disclosure statement in the manner specified by the County Executive. At a minimum, the vendor

disclosure statement shall include (a) the employment of a relative of a Public Servant of the County, (b) any interest of a Public Servant of the County as a director, officer, partner, beneficiary, trustee member, employee or contractor in the entity, (c) legal or beneficial ownership by a Public Servant of the County of 10 % or more of the total outstanding stock of a corporation, limited liability company, partnership, sole proprietorship, or other business entity, and (d) any instances in the last five calendar years of failure to perform or otherwise deliver on the terms of a contract or agreement with the County or any other public entity, including any suspensions or debarments.

Sec 3.5. Nepotism

It is the policy of Macomb County not to discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital status.

- A. Notwithstanding this policy, the County will consider a member of an employee's immediate family for employment if the applicant possesses all the qualifications for employment. An immediate family member may not be hired, however, if the employment would:
 - 1. Create either a direct or indirect supervisor/subordinate relationship with a family member; or
 - 2. Create an actual conflict of interest or the appearance of a conflict of interest.
- B. The Department Head shall have the authority and responsibility for determining if such a potential for adverse impact does or does not exist.
- C. When a Department Head has made a determination that such adverse impact does not exist, the determination shall be reviewed by the Human Resources Director prior to any employment decision being made. The Department Head shall submit a Nepotism Review Request form developed by the Human Resources Department to the Human Resources Director. Only Department Heads or their designee may sign the request form. The Human Resources Director will review the request form and concur (with or without restrictions) or not concur with the decision of the Department Head. If the Human Resources Director determines that an adverse impact would in fact occur, the Department Head, County Executive and the Board of Ethics shall be notified in writing.
- D. These criteria will also be considered when assigning, transferring, or promoting an employee.
- E. Employees who marry or become members of the same household may continue employment as long as there is not:
 - 1. A direct or indirect supervisor/subordinate relationship between the employees; or

2. An actual conflict of interest or the appearance of a conflict of interest.

Should one of the above situations occur, the County would attempt to find a suitable position within the County of Macomb to which one of the affected employees may transfer. Exceptions may be made by the County Executive in cases where there is an intermediate level of supervision between the division head or supervisor and the related employee. If accommodations of this nature are not feasible, the employees will first be permitted to determine which of them will resign. If no agreement between the employees can be reached, the County will decide which of the employees will be terminated.

- F. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the County at the time of the election or appointment of an officer to elective County office.

Sec. 3.6. Inappropriate Use of County Time and Property for Political Activity

- A. Public servants are prohibited from engaging in political campaign activities using County property or engaging in such activity during time in which they are performing official duties.
- B. Public servants are prohibited from soliciting appointees and employees to work on political campaign activities using County property or during working hours on their behalf or on the behalf of another.
- C. Public servants are prohibited from soliciting campaign contributions from County department heads and employees under their supervision, coordination, direction, or control.
- D. County-wide elected officials and commissioners are prohibited from soliciting campaign contributions from appointees, department heads and employees.

SECTION 4. SANCTIONS, REMEDIES, AND INTERPRETATION.

- A. Sanctions shall not be construed to diminish or impair the rights of a Public Servant under any collective bargaining agreement, nor the County's obligation to comply with such collective bargaining agreements.
- B. State and federal statutes, including those cited in this ordinance and including, without limitation, those found at MCL 750.505 (misconduct in office), MCL 750.478 (neglect of duty), and MCL 15.321 *et seq.* (contracts of public servants with public entities), may address conduct described in this ordinance or impose requirements on Public Servants or candidates. Nothing in this ordinance is intended to affect the applicability of, to replace or to modify any such requirements or the penalties for their violations.

- C. A violation of this ordinance shall be a municipal civil infraction that may be punished by a fine of up to \$500.00. Because the Public Servants subject to this ordinance all serve the County, because any candidate addressed by this ordinance would be a candidate for County office, and because any vendor addressed by this ordinance would be contracting with the County, and because the County seat is in Mt. Clemens, to the extent not otherwise prohibited by law any violation of this ordinance shall be deemed to have occurred in Mount Clemens. In addition, the District Court shall have jurisdiction to order other appropriate remedies and compliance as provided by applicable state law.
- D. In addition to any other penalty, a Public Servant who violates this ordinance may be subject to appropriate personnel actions.
- E. This ordinance repeals, supersedes and replaces all County policies or parts of County policies dealing with its subject matter.

SECTION 2. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption

Date: _____, 2011

Kathy D. Vosburg, Board Chair

Carmella Sabaugh, County Clerk

Adopted: _____, 2011

Notice Published: _____, 2011