

CITY OF READING
BOARD OF ETHICS
ADVISORY OPINION 2014-2

I. INTRODUCTION

The Board of Ethics (“Board”) received a letter dated July 29, 2014, from Charles D. Younger, Esquire, City Solicitor, requesting an Advisory Opinion, which states “During work hours and using city e-mails, does a city employee engage in prohibited political activity by acting as an intermediary for an Initiative Petitioners Committee by requesting corrected initiative petitions for the committee, relaying solicitor opinions re initiative petitions to the committee members and non-committee city employees and notifying the committee members and non-committee city employees when corrected copies are available for pickup.”

II. ADVISORY OPINIONS

Section 8 of the City of Reading Code of Ethics (Bill 28-2013, Adopted May 28, 2013) provides that the Board may render Advisory Opinions concerning matters of governmental ethics, shall consider questions as to ethical conduct, conflicts of interest and the application of ethical standards set forth in this Ordinance. The Board hereby decides, by the publication of this Advisory Opinion, that the request for Advisory Opinion is proper and requests an Advisory Opinion on a matter or matters within the scope of Section 8 of the Code of Ethics.

III. FACTS

The letter requesting the Advisory Opinion does not provide much specific information by the way of facts. However, for purposes of this Advisory Opinion, the Board assumes the following facts to be true:

1. Committee exists for purposes of conducting certain activities to cause a ballot initiative to be placed on the ballot at an upcoming election.
2. An employee of the City of Reading, during work hours and using the City e-mail system, assists the aforesaid Committee by requesting corrected initiative petitions for the committee, relaying Solicitor opinions regarding initiative petitions to the members of the committee and to other City employees who are not members of the Committee and notifying Committee members and other City employees who are not members of the Committee when corrected copies of the initiative petitions are available to be collected for pickup.

IV. JURISDICTION

A city employee is clearly subject to the jurisdiction of the Board of Ethics. The Code of Ethics, in Section 3, Subsection O defines "Employee" as "any individual receiving salary or wages from the City of Reading."

V. ADVISORY OPINION

Section 6, G. of the Code of Ethics is entitled Political Activities. This Section provides as follows:

Section 605 A and 707 of the City Charter and Section 1.08 of the City of Reading Personnel Code are incorporated herein by reference and made a part hereof. City employees or officials are to adhere to the sections restricting

involvement in political activities as set forth in Sections 605 A and 707 of the City Charter and Section 1.08 of the City of Reading Personnel Code. In the event that the City or City Council has failed to take appropriate action in enforcing the aforementioned provisions, then the Board of Ethics shall have jurisdiction to adjudicate any violation thereof.

Section 605 of the City Charter provides for certain prohibitions applicable to Department heads. It does not appear to the Board of Ethics that any of the prohibitions set forth in Section 605 have applicability to this request for Advisory Opinion.

Section 707 of the City Charter is entitled "Political Activity." This Section provides that "All employees are prohibited from engaging in any form of political activity during regular work hours and are prohibited from using City facilities or property for any political activity. Violation of this section will warrant discharge or other discipline under the provisions of the Personnel Code." This provision of the City Charter has applicability to this request for Advisory Opinion.

Section 1.08 of the Personnel Code appears to incorporate the provisions of Section 707 of the City Charter into the Personnel Code. Similarly, Section 1.08 of the Personnel Code has applicability to this request for Advisory Opinion.

The question to be answered is whether a city employee, engaging in the activity set forth in the Facts section of this Advisory Opinion, is engaging in political activity.

Clearly, by the terms of the City Charter and Personnel Code, which are incorporated into the Code of Ethics, employees are prohibited from engaging in any form of political activity during regular work hours and are prohibited from using City facilities or property for any political activity.

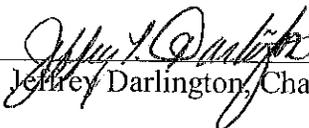
The Code of Ethics, in Section 3 "Definitions," contains a definition of "Political Activity." The Code defines "Political Activity" as any "activity which promotes the candidacy

of any individual seeking political office, or the advocacy of any political party or position, including but not limited to the circulation of election petitions and the sale or distribution of fund raising items or tickets.” See Code of Ethics, Section 3 X. For purposes of this Advisory Opinion, the key elements applicable from this definition of “Political Activity” would be an “activity which promotes” “the advocacy” “of any political party or position.” A City employee, on City work time or using City property, engaging in the activities described in the request for Advisory Opinion would be, in the opinion of this Board, engaging in an activity promoting the advocacy of a political position and would thus be engaging in prohibited political activity.

VI. CONCLUSION

The Board of Ethics believes that engaging in activities in support of a Committee’s efforts to cause a ballot initiative to be placed on an upcoming electoral ballot, when such activities occur during work hours, or involve the use of City property, constitutes political activity and thus such actions violate Section 6 G of the Code of Ethics.

CITY OF READING, BOARD OF ETHICS

By:  _____
Jeffrey Darlington, Chairman

Adopted: 8/11/17