

**Opinion of the City of Rochester Board of Ethics**  
**Opinion Number 2020-1**  
**June 9, 2020**  
**C20-1**

**Overview**

On January 9, 2020 the Office of the Comptroller, New York State, referred a complaint to the Board of Ethics filed by Ms. Annemarie Van Son. In the complaint, Ms. Van Son expressed concern over the use of City resources to fund a letter from the Mayor to Rochester Police Department retirees which encouraged financial support for the United Way. Ms. Van Son questioned whether this was an appropriate use of City resources and, if so, which charities would qualify for such an endorsement by the City.

**Applicable Code of Ethics Provisions**

Section of the Code of Ethics alleged to have been violated:

*5, No City officer or employee shall use or permit the use of city-owned vehicles, equipment, materials or property for the convenience or profit of himself or herself or any other person.*

**Opinion**

After review of the information provided by the complainant, all members of the board joining this opinion find that the use of City resources to distribute a letter of support for the United Way was not in violation of the Code of Ethics.

In making this determination, the board confirmed that the City has an established legal review process for such requests. During this review, each request is evaluated to ensure that such solicitations are in furtherance of a valid public purpose and that any incidental benefit to private individuals are outweighed by the benefit to the public. In this particular case, the board agreed that the United Way, a recognized charity organization which benefits the public at large, meets the criteria of having a valid public purpose and that any benefit to the employees of the United Way is limited in comparison to its contribution and support to the City of Rochester and its residents.

In keeping with previous decisions and opinions of the Board, the board members strongly recommend that the City adopt formal policies and procedures regarding use of its resources in support of charitable organizations which serve the public good. A simple determination that an organization benefits the residents of the City of Rochester and that the City providing support is legal does not preclude inappropriate conduct potentially violating the Code of Ethics if one organization is favored over others who also benefit the community. No such claim of favoritism, however, is made in the complaint at hand, so no violation of the Code of Ethics is present.

Putting in place written guidelines and qualifying conditions for City assistance to non-profit organizations would minimize the risk of preferential treatment of certain charities by the City and avoid the appearance of a non-level playing field existing in the allocation of City equipment, materials, property and support with respect to such organizations.

(Weir, Graham, Hodgins, Patterson, Scott, Sierra, Steinbrenner)

APPROVED