



# CITY OF ATLANTA

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## BOARD OF ETHICS

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## Formal Advisory Opinion 2004-1 What Constitutes Official City Business

### Opinion Summary

City officials or employees are conducting official city business when they act in an official capacity and perform official duties on behalf of the city. Whether the mayor or city council member is acting in an official capacity and performing official duties when using a city facility depends on the purpose of the event and whether it furthers a city policy or mission contained in the City Charter, ordinance, resolution, administrative or executive order, or court order.

### Question Presented

When is an elected city official conducting official city business and thus entitled to use a city facility without paying the rental fee customarily charged the public for its use?

### Facts

The Board of Ethics has ruled that a city official is not entitled to a waiver of a rental fee for the personal use of city property or for its use by any other private person or entity on terms that are not available to the general public. See Formal Advisory Opinion 2003-1 (adopted Aug. 21, 2003). In that opinion, the Board noted that it was not addressing the related question of the use of city-owned property to conduct official city business.

A city councilmember has asked the board to address when an elected official may use a city facility to conduct official city business, giving three examples for the board to consider:

1. The Mayor or City Council holds a press conference in the atrium of City Hall.
2. The Mayor or City Council hosts a reception at City Hall or any city facility.
3. The Mayor or City Council requests the use of the city-owned mobile stage for a community “anti-drug” rally.

### **Discussion**

The Board of Ethics is being asked to define what constitutes “official city business” as that term is used in section 2-811 of the Standards of Conduct. Section 2-811 prohibits officials and employees from using city property for their private advantage, unless the property is made available to the general public or the city has a policy allowing its use for official business of the city. The relevant section states:

No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the private advantage of such official or employee or any other person or private entity. However, no official or employee is prohibited from requesting, using or permitting the use of any city-owned or city-supported property, vehicle, equipment, material, labor or service which as a matter of city policy is made available to the public at large or which is provided as a matter of stated public policy for the use of officials and employees in the conduct of official city business.

Although the question deals with an elected official’s use of a city facility, without charge, for official city business, the same analysis would generally apply to an official’s or employee’s expenditure of city funds to rent a facility for official city business.

Besides the ethical standards in the City’s Code of Ordinances, there are other code provisions that address the use of city property or expenditure of city funds for city business by elected officials. These provisions disallow the use of city property for personal profit or benefit (section 5-401); permit expense accounts for official city business, including business travel, conventions and training, publications, office supplies, service contracts, and subscriptions to publications (sections 2-36 & 2-39); establish a process for using office expense accounts to fund projects for the public good (sections 2-36 & 2-39); require that city funds spent on employee services exclude “any campaign-connected costs” (sections 2-308 & 2-152); and provide authority for contingency funds for the mayor, council president, and department heads for expenses for public purposes or related to their official duties (sections 2-924 and 2-925).

Taken together, these provisions establish that official city business is not any activity related to a political campaign, a private for-profit business, or a family event, such as a wedding or christening. In addition, the code sections on council

expense accounts suggest that “projects for the public good” are not part of the city’s official business unless the city council enacts an ordinance that establishes a separate account from which the project may be funded. A private event, no matter how laudable its purpose, is not transformed into the city’s business merely because it benefits the community.

Whether a press conference, reception, or community rally is “official city business” depends on the purpose and nature of the event. A city official or employee needs to be present, but an official’s presence alone does not make the event city business. If a city official holds a press conference to announce the introduction of legislation, a city department holds a reception to honor a retiring city employee, or the mayor and chair of the council’s Public Safety Committee use the mobile stage to hold a rally as part of a city-wide initiative against drugs, they are conducting the official business of the city. If, on the other hand, a city official holds a press conference to announce his candidacy for mayor, another city official hosts a reception to raise money for a private school, or a neighborhood civic association uses the mobile stage to hold a community anti-drug rally, then it is not the official business of the city. For the use of city property or expenditure of city funds to meet the standard of official business, the city must have approved the use in an ordinance, resolution, administrative order, executive order, or departmental policy or the use must support a policy contained in an ordinance, resolution, or order.

### **Conclusion**

The Board of Ethics concludes that a city official or employee is conducting the city’s official business when acting in an official capacity and performing official duties on behalf of the city. The city’s official business does not include an activity or event done solely for the personal benefit of an individual official or employee, such as a political campaign activity, a private business transaction, or an event sponsored by a private or non-city group. To determine whether an official or employee is entitled to use a facility for official city business, it is important to examine the purpose of the event and whether it furthers a city policy or department mission contained in the City Charter, ordinance, resolution, administrative or executive order, or court order.

Adopted March 18, 2004

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