Subject: Veterans appreciation luncheon

Thank your for your inquiry, as to which the Board of Ethics members have consulted via email.

Your recollection is correct. This is reflected in the Board of Ethics Report, and authorities cited therein, on the topic of gifts to the Town. The Report is "Board of Ethics Report Regarding Accepting Gifts to or for the benefit of the Town of Greenburgh", which was adopted at the Board of Ethics July 29, 2009 meeting and transmitted to the Town Board via email on August 3, 2009. The Report is also posted on the Town website, in the Board of Ethics section, under "Important Documents and Reports" (second document from the bottom of the list).

For convenience, relevant portions of the Report respecting accepting gifts are reprinted below:

"NYS law authorizes a town board, subject to law, to accept gifts of real and personal property for any public use upon such terms and conditions accepted by the town board. This authorization is expressly made "subject to law", and thus is subject to ethical standards.

[A]cceptance of gifts by the Town Board would occur only as an official action of the Town Board voted on at a Town Board meeting. Meetings of the Town Board are held under the Open Meetings Law (Art. 7 of the NYS Public Officers Law), which has a number of safeguards to protect the public. These safeguards include: notice of the meeting, publication of a written agenda, attendance by the public, and a requirement that (with a few exceptions not relevant here) final formal action be taken in public.

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The Board of Ethics thus concludes that any official action of the Town Board which culminates in the acceptance of a gift to or for the benefit of the Town at a meeting conducted pursuant to and in accordance with the requirements of the NYS Open Meeting Law does not violate either NYS or Town ethical laws, if the public has a reasonable opportunity to comment on the proposed gift. In response to the inquiry from the Town Supervisor, the Board of Ethics does not believe that any statutory change is needed, but does believe that the procedures of the Town Board must assure that the public has a reasonable opportunity to make comments on proposed gifts.

The Board of Ethics recognizes that the amount of information regarding a proposed gift and the amount of public discussion that would be appropriate could vary from gift to gift, and thus there can be no one-size-fits-all answer. It would assist informed public comment if the meeting agenda stated relevant facts, such as the proposed donor, the amount of the proposed gift (or equivalent information if the gift is not purely monetary), and (if applicable) whether the proposed donor was in litigation with the Town, or was a lobbyist, or was seeking an approval or permit from the Town. The Board of Ethics believes that with respect to proposed gifts where the proposed donor was in litigation with the Town, was a lobbyist or was seeking an approval or permit from the Town that the public should be able to address the issue of acceptance of the gift as a separate matter (and not be required to bundle comments on the gift with other agenda items). Additionally, the Town Board may, if it wishes, refer any sensitive proposed gift to the Board of Ethics for an advisory opinion which the Town Board could also consider in making its decision.

The Report on Gifts does not directly address at length solicitations of gifts to the Town. In the last paragraph, the Report states: "[T]he Board of Ethics believes that at a minimum the guidelines of the NYS Commission on Public Integrity would apply since municipal ethical standards cannot be laxer than state ethical standards." Under that NYS authority, it would appear that special attention should be given to soliciting gifts from those involved in litigation with a governmental entity, or lobbyists, or those applying for a material permit or license from a governmental entity. If the Town is faced with any such situation, as stated above the Board of Ethics is of course prepared to render an advisory opinion for consideration by the Town Board.

From: Paul Feiner [mailto:pfeiner@greenburghny.com]
Sent: Wednesday, May 12, 2010 11:06 AM
To: Paul Feiner; Sigal, Mike; Jackmc1@optonline.net; Town Board; 'Frank'; Alan Hochberg
Cc: Town Board; Townclerk; EAScott@legal-aid.org; wrivera@rhclegal.com
Subject: veterans appreciation luncheon

To: Ethics Board
The Veterans Advisory Committee is organizing a barbeque in honor of the veterans of the various wars. We are planning the reception in early July –after the July 4th weekend.
A student intern would like to reach out to restaurants, businesses and will ask them to donate for the reception. My recollection is that if the Town Board accepts the donations from these businesses at a formal meeting –then there would be no ethical problems seeking the donations.
Please advise if my interpretation of the law is inaccurate.
PAUL FEINER