



**PIBC** PLANNING  
INSTITUTE  
OF BRITISH COLUMBIA

*FORWARD THINKING  
SHAPING COMMUNITIES*

# **2019 PIBC - CPL Webinar**

## **Webinar #5**

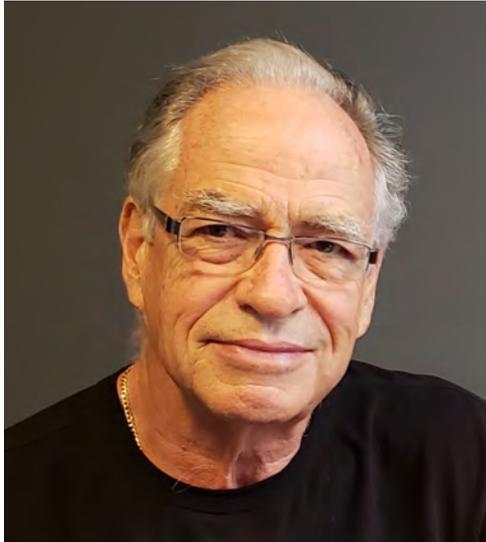
### **Ethics & Professionalism for Planners**

Speakers

**Ken Cameron RPP, FCIP**

**Nancy Knight RPP, MCIP**

# PRESENTERS



**Ken Cameron RPP, FCIP** is the former Manager of Policy and Planning for the Greater Vancouver Regional District (now Metro Vancouver) and former CEO of the provincial Homeowner Protection Office. He is the author of *City Making in Paradise: Nine Decisions that Saved Vancouver*, with former Premier Mike Harcourt, and *Showing the Way: Peter Oberlander and the Imperative of Global Citizenship*. Ken has been a member of PIBC's Professional Conduct Review Committee for four years.



**Nancy Knight RPP, MCIP** holds a Ph.D. in Planning from the University of British Columbia. She began her planning career in consulting, and then worked for 15 years at the Greater Vancouver Regional District (now known as Metro Vancouver) as a senior planner on the award-winning Livable Region Strategic Plan, and as Division Manager for Demand Side Management and for Corporate Strategies in which she had leadership responsibilities for significant sustainability initiatives. Nancy concluded her career after nearly a decade with the University of British Columbia as Associate Vice President of Planning. She has taught planning at the post-secondary level and written about planning, plan implementation and planning ethics. Nancy has been a member of PIBC's Professional Conduct Review Committee and an Oral Examiner for Membership Candidates for the past five years.

# Professionalism and Ethics for Planning

PIBC Webinar Series

Ken Cameron RPP, FCIP

Nancy Knight RPP, MCIP

# Today's Topics

- Professional Self-Regulation
- PIBC's Code of Ethics and Professional Conduct
- Issues You Might Run Into
- PIBC's Professional Conduct Review Process
- Case Studies
- Our Advice
- Resources



# Why do Planners Need To Understand Ethics and Professionalism?

- Planners have varied backgrounds and probably assign slightly different weights / priorities even to values you hold in common
- In a professional planning setting, you will have:
  - Specialized knowledge
  - Power in the process (before, during and after)
  - Information and / or experience about the distributional effects of policy
  - A responsibility to ensure ongoing public trust and confidence in the planning system
  - A responsibility to serve the public interest
  - A responsibility to your employer / client

# Influences on Professional Behaviour



# Professional Self-Regulation

# Characteristics of a Profession\*

1. **Education** – formal course work
2. **Accreditation** – assures formal course work meets standards of profession
3. **Skills development** – candidates have opportunity to develop skills
4. **Certification** – candidates evaluated to determine readiness to enter profession
5. **Licensing** – gives candidates legal right to practice
6. **Professional development** - formal course work to maintain and develop new skills
7. **Professional society** – organization promoting the welfare of the profession
8. **Code of ethics** – mechanism by which a profession ensures that its members will use their knowledge and skills for the benefit of society

\* Ruth Chadwick (1998)

# The Deal Between Society and Professions

## Society

- Allow professions to limit entry
- Allow professional self-discipline

## Professions

- Establish qualifications and conditions for entry and continuation
- Establish complaints process
- Establish disciplinary process

# The Deal Can be Withdrawn

- In 2016, BC withdrew the right of realtors to self-regulate after 10 years of self-regulation
  - Premier Clark: *the industry's self-regulating body has failed to protect the public from cut-throat and illegal practices and has lost the public's confidence in its ability to police itself.*
- Real Estate Council restructured and responsibilities reduced
  - Membership to include significant non-realtor representatives (more than half)
  - New superintendent now responsible for rule-making and regulation, including enhanced Code of Ethics and Professional Conduct
- Penalties for breaking rules significantly increased
  - Fines from \$10,000 to \$250,000 for individual realtors; up to \$500,000 for brokerages
  - Commissions to be returned if misconduct found
  - No more representation of buyer and seller by single agent (dual agency)
  - No shadow-flipping

# The Deal Can Be Restructured

- Professional Reliance Review in 2018 leading to Professional Governance Act 2018
  - Government cited loss of public trust that public interest was being put first
- New Act redefines relationship between society and self-governing professions
  - Initially covering foresters, engineers and geoscientists, applied science technologists, agrologists, applied biologists; others can be added
  - New superintendent of professional regulation in government as overseer
  - Expectations for public representation in regulator, competency and conflict of interest declarations, common ethical principles, responsibility to report ethical breaches, whistleblower protection
- A wake-up call for self-regulating professions

PIBC's Code of Ethics  
and Professional Conduct:  
the Bedrock of Self-regulation

# PIBC's Code

- Part of the bylaws of the Planning Institute of BC
- Consists of a code of ethics (aspirational) and a code of professional conduct (directional)
  - 35 statements in total
- Code of professional conduct is from the Canadian Institute of Planners
  - Provides consistency across Canada
- Both codes are enforceable in BC

# Core Concepts in Code of Ethics

## Competency

- Know the skills / abilities needed for your area of practice
- Be able to apply those successfully

## Integrity

- Keen sense of responsibility to profession, employers and public
- Retain sense of independence to exercise professional judgement
  - Independently and without bias

# Values in the Code of Ethics

Practice sustainable planning considering needs of today and future generations

Value natural and human environments and consider interactions, and acknowledge cross-boundary effects

Foster meaningful public participation by all segments of society

Balance community and individual interests

# Code of Professional Conduct

Principles of  
conduct in  
dealing with:

- Public / public interest
- Employers / client
- Fellow professionals, assistants, students of the profession

# Code of Professional Conduct

## Responsibility to the Public Interest

- Respect diversity of needs, values and aspirations and encourage discussion
- Provide full, clear, accurate information while recognizing employer's right to confidentiality and importance of timely reporting
- Acknowledge inter-related nature of planning decisions for human and natural environment
- Provide opportunities for meaningful participation and education

# Code of Professional Conduct

## Responsibility to Employer / Client

- Provide independent professional opinion
- Work only within your competency, with integrity and professionalism, and be diligent and appropriately prepared
- Do not accept or offer inducements that could appear to influence professional advice
- Acknowledge values of employer, and respect right to confidentiality unless they conflict with the PIBC Code
- Inform, in timely way, employer or client of any potential conflict between the employer / client's interests and actions and the PIBC Code
- Only work for one employer on any particular planning issue

# Code of Professional Conduct

## Responsibility to the Profession and Other Members

- Keep knowledge up to date
- Do not sign off on work you have not checked
- Do not advertise services outside your competency
- Be fair and objective and do not act maliciously toward other members or colleagues or their work
- Do not try to steal someone's job / contract
- Do not speak for PIBC unless authorized
- Do not engage in questionable conduct in any aspect of your life
- Deal with ethics responsibly, including:
  - Reporting unethical or unprofessional behavior of a member
  - Complying with PIBC requests for information including related to a disciplinary process
  - Respecting process and decision of any review or disciplinary process

# Common Ethical and Professional Issues

# Types of Ethical and Professional Challenges

- Independent judgement vs. accepting employer / client decision
- Failure to disclose conflicts of interest and perceptions thereof
- Professional integrity
- (Dis)regard for social or environmental impacts, inter-relatedness of decisions and long-range consequences
- Not providing timely and adequate information
- Misrepresentation of – data, visuals, others' work, others' qualifications
- Pressuring others (or being pressured) to make unsubstantiated findings
- Non-inclusive public consultation processes

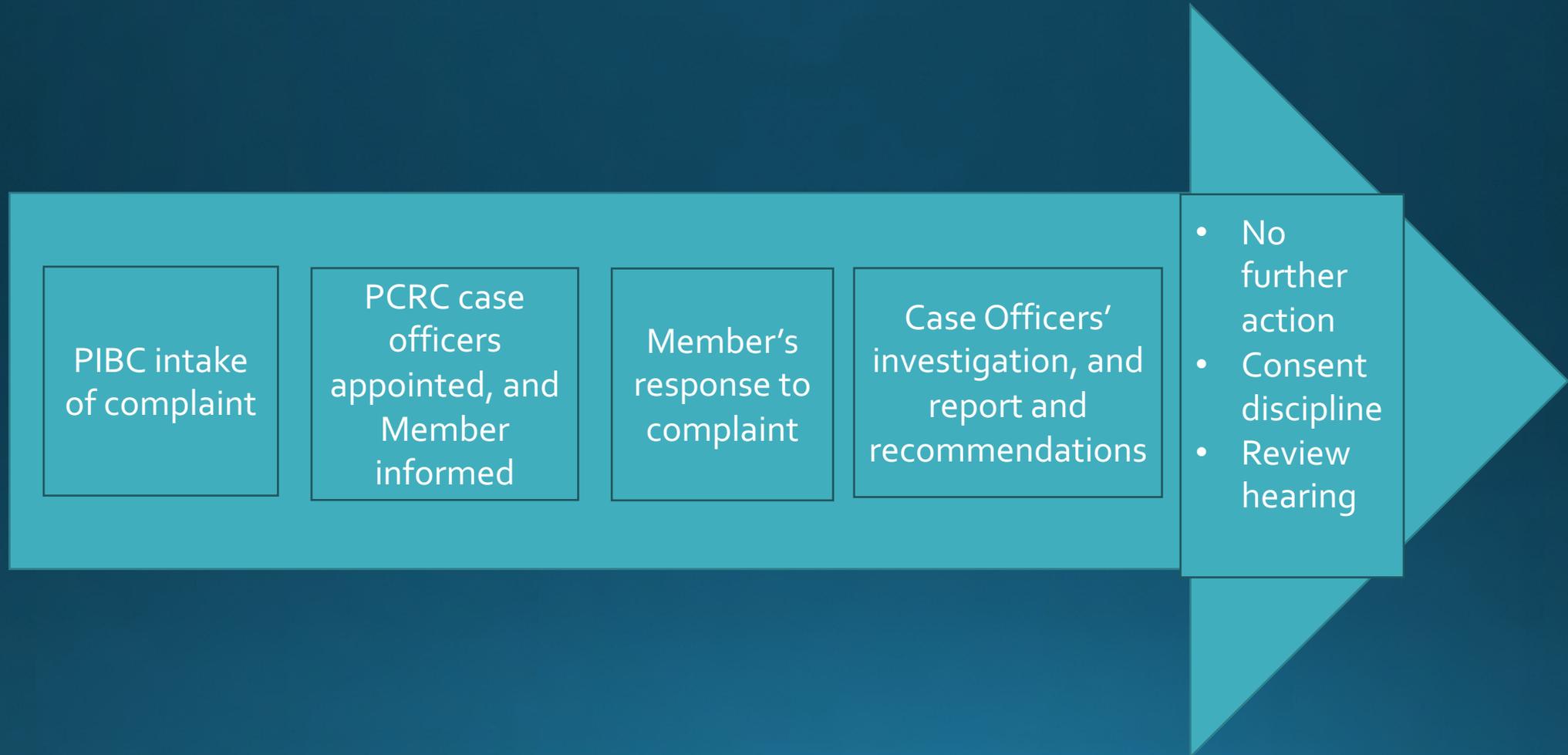
# Complaints to PIBC

General categories are:

- Conduct of member in providing advice or recommendations on a project or plan
- Non-disclosure of potential or actual conflict of interest
- Accepting inducement or personal benefit
- Improper criticism of another member's work
- Providing advice outside member's expertise

# PIBC's Professional Conduct Review Process

# The Process



# The Consequences

- Written reprimand of member
- Written apology from member
- Further training, education or counseling of member
- Censure of member by written public notice
- Suspension of PIBC membership
- Financial penalty up to \$10,000
- Loss of PIBC membership
- Payment of PIBC costs if a review hearing is required

Focus on Conflict of Interest

# Conflict of Interest

- Arises when a professional's judgment and recommendations are perceived to be, or are, influenced by personal interests in the case
- The onus is on the PIBC Member to disclose to their client or employer, fully and in a timely way, a possible conflict of interest arising from the member's private interests or activities
- Conflicts of interest are not a breach of the Code; not disclosing the conflict is the breach
- Handling the perceived or real conflict is not the responsibility of the member; it is up to their employer/client to decide how to address this
- An undisclosed conflict of interest can lead to a breach of a member's responsibility to provide demonstrably impartial professional advice and recommendations, which may be much more serious than failure to disclose a possible conflict of interest when it first arises.

# Professional Practice Review Committee

## NOTICE TO MEMBERS: CASE OUTCOME SUMMARIES

As members are aware, the Planning Institute of British Columbia's regulatory function includes investigation of complaints of professional misconduct against members and resolution of such complaints by discipline, where appropriate.

The following summaries of recent professional conduct matters are published in keeping with PIBC bylaws and in the interest of education to all members and the public.

### CASE SUMMARY #1 THE COMPLAINT

In late 2014, the PIBC received a complaint from a member working for a local government regarding the conduct of a fellow planner employed by the same local government (the subject member). The allegations of potential misconduct involved the acceptance of a gift by the subject member from a developer who, at the time of the receipt of the gift, had planning and development business under consideration by the local government for which the subject member worked in a senior management role overseeing planning and development functions. The gift in this particular case was a set of tickets and a parking pass for an event with a total value of just over \$900.

### INITIAL INVESTIGATION & RECOMMENDATION

A case officer was appointed from amongst the members of the Institute's Professional Practice Review Committee to conduct an initial investigation into the complaint, in keeping with the bylaws of the Institute. Following the initial investigation, which included reviewing the complaint, a response from the subject member, and the review of other relevant information, the case officer concluded that the complaint had merit and recommended that the matter be referred for resolution by means of a formal review hearing. The conclusions and recommendation of the case officer were then subsequently confirmed and ratified by an evaluation sub-committee of the Professional Practice Review Committee in accordance with the Institute's bylaws.

### REVIEW PANEL

Following the initial investigation and the referral of this case for a formal review hearing by the evaluation sub-committee, a review panel of members of the Professional Practice Review Committee (consisting of three members and one alternate review panel member) was established and appointed as stipulated by the Institute's bylaws. The review panel scheduled the date, time, and location to hold the review hearing, and issued the formal 'Notice of Hearing' in this case.

In advance of the formal review hearing the Institute's prosecuting legal counsel and the subject member (represented by legal counsel) reached agreement on a joint submission and proposed consent discipline to resolve the matter in this case. Consent discipline is an option provided for in the Institute's bylaws.

At the commencement of the review hearing the joint submission was presented to the review panel. It included agreed facts, admissions of misconduct by the subject member, and proposed discipline, as well as analysis and reasons for the proposed consent discipline. Additionally the submission acknowledged that there was no allegation or evidence of actual influence with respect to the gift and the subject member's exercise of authority, and further noted that the subject member had repaid the monetary value of the gift.

### RESOLUTION

The review panel sought clarification, gave consideration, and provided feedback regarding the joint submission and proposed consent discipline. The subject member (represented by legal counsel) and the Institute's prosecuting legal counsel agreed to a revised consent discipline proposal for the consideration of the review panel. The review panel ultimately accepted the joint submission and resolved to confirm and ratify the revised consent discipline proposed.

The consent discipline that resolved this case included admissions by the subject member to breaches of the Institute's Code of Professional Conduct including: failing to ensure full disclosure to the member's employer of a possible conflict of interest arising out of receipt of a gift (PIBC bylaws

section 14.5.8); and acceptance of a gift that could appear to influence or affect planning advice in the context of the subject member's position with their employer (PIBC bylaws section 14.5.9). Once the hearing was convened, but prior to making the joint submission, the Institute stayed an additional one allegation of misconduct against the subject member related to another section of the Code of Professional Conduct (PIBC bylaws section 14.6.2).

The consent discipline also included the following disciplinary actions against the subject member in this case:

- The registration of a reprimand against the member;
- A requirement for the member to provide a written apology to the Institute;
- The publication of a summary of the circumstances of the complaint and the discipline in this case to the members of the Institute; and
- Payment of \$1,500 by the member to the Institute towards partial recovery of the Institute's costs in this matter.

### PRACTICE ADVICE

All members are reminded that conflicts of interest or possible conflicts of interest in the planning profession can arise easily and without ill intent, particularly when planners are employed in local government settings where planning and development proposals from various third parties are under review and consideration.

Members are further reminded of the need to identify and disclose any potential conflict of interest that might arise from any third party relationship or interaction. Being in a possible conflict of interest is not necessarily inherently unethical. The Institute's Code of Professional Conduct, (PIBC bylaws section 14.5.8), creates the expectation that planners will identify and disclose possible conflicts so that they can be addressed without prejudicing the planner, the employer, or third parties.

With respect to the receipt of gifts or benefits, members should exercise extreme caution and make all reasonable efforts to avoid personal acceptance or receipt of any kind of gift or other personal benefit from a third party who might have business with or planning proposals under consideration before the organization for which the member works. Such gifts or benefits might easily be perceived as a potential inducement, even though they might otherwise appear innoc-

uous and be offered with no obvious quid pro quo or explicit strings attached.

Any members finding themselves in a possible conflict of interest situation should, wherever possible, make prompt and full disclosure to their employer or client so that adequate steps can be taken to address any concerns. In addition, members may contact the PIBC for advice or assistance, including a referral to a colleague, to help determine whether a possible conflict of interest has arisen and how disclosure may best be made.

The PIBC Professional Practice Review Committee is developing a more extensive practice advice article addressing the circumstances and professional practice issues raised in this case, which will appear in a future edition of Planning West. Watch this space.

# Planning director takes concert tickets from developer applying for permit

## Example 1

# Example 2

Engaging in employment negotiations with a consulting firm while the firm was providing and seeking to provide services to the public employer

No disclosure of possible conflict

**Outcome:** Admission of breach of Code  
Reprimand and \$2,500 fine  
Case reported in 'Planning West'

# Notice to Members

## PIBC Professional Practice Review Committee: Notice To Members – Summary of Consent Discipline Action

As members are aware, the Planning Institute of British Columbia's regulatory function includes investigation of complaints of unprofessional conduct against members and resolution by discipline, where appropriate.

This summary of a recent professional conduct matter is published in keeping with PIBC bylaws and in the interest of education to all members and the public.

### The Complaint

In 2009, the PIBC received a complaint from a local government regarding the conduct in 2007 of a planner (the "Member") employed by the local government in a supervisory capacity. The complaint, in summary, was an allegation that the Member had been involved in a possible conflict of interest by engaging in employment negotiations with a consulting firm while that consulting firm was providing consulting services to the local government and/or seeking to provide consulting

### Circumstances

The Member did not intend to conceal discussions with the consulting firm from the local government employer nor to intentionally breach any PIBC bylaw or ethical expectation. The Member did not appreciate that a 'possible conflict of interest' could arise in the circumstances. The possible conflict of interest in this case arose when the Member had employment discussions with that consulting firm while the consulting firm was providing and/or seeking to provide consulting services to the local government.

After being retained by the consulting firm, the Member did disclose the new employment relationship and steps were taken within the department, and by the local government, to address any possible conflict of interest concerns.

The PIBC agreed to publish the circumstances and resolution of this matter 'anonymously', as permitted under PIBC bylaws, given the unusual nature of the matter. This anonymous publication does not create a precedent for future publication of PIBC disciplinary matters.

### PIBC Practice Advice

Members are reminded that conflicts of interest or possible conflict of interest in the planning profession can arise easily and without ill intent, particularly when planners are employed by government authorities. Being in a possible conflict of interest is not inherently unethical, and is commonplace in many professions. The PIBC's *Code of Professional Conduct*, through Bylaw 15.2.8, creates the expectation that planners will identify and disclose possible conflicts so that they can be addressed without prejudicing the planner, the employer or third parties.

Any members finding themselves in a possible conflict of interest situation should, wherever possible, make prompt and full disclosure to the employer or client so that adequate steps can be taken to address any concerns. In addition, members may wish to seek assistance, including referral to the conflict of

# Planning West

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# Example 3

Planner was conducting a competing independent consulting firm outside of his employer's firm

Redirected work and fees contrary to his professional responsibilities; created potential conflicts for clients; etc

**Outcome:** Membership was revoked

\$5,000 fine

OPPI published case, naming Member

# Example 4

Planner had multiple roles all within the same geographic area of the member's practice

Planning consultant, elected School Board official, appointed member of Conservation Authority, & builder/developer



OPPI found that the member was in a conflict of interest and unable to impart independent professional advice on some of these projects

**Outcome:** Admonished from working on certain projects

Directed to disclose conflicts & hire a project manager

OPPI published 'anonymously'

# It's Your Turn!

- Send in your questions about ethical or professional challenges
- We will do our best to discuss these issues and provide guidance
- We will take up to 30 minutes for this part.
- Then we will close off the session with some advice on going forward.



# Advice to Keep in Mind

# Avoiding Ethical Problems

- Keep your roles and associations clear and simple
- Think ahead
- Review the code and seek advice
- Apply the newspaper test
- If in doubt, don't do it

# Responding to Ethical Problems

- Don't lie
- Don't belittle the issue or question motives
- Keep very careful notes throughout the situation; document as much as you can
- Show your respect for the public interest
- Cooperate fully with investigations
- Know when to hold 'em; know when to fold 'em
- If it's serious enough, consider retaining a lawyer

# Resources

- Read the PIBC Code Every Year!
- Attend PIBC Conference Sessions on Ethics and Professionalism
- Attend APA and other professions sessions on Ethics and Professionalism
- Talk to your colleagues and supervisors about ethics and professionalism
- Read books and articles on Ethics and Professionalism
  - Jerry Weitz's 'The Ethical Planning Practitioner', APA, 2015
  - Barry Schwartz 'Practical Wisdom' Book and TED Talks, 2010
  - Martin Wachs 'The Past, Present and Future of Professional Ethics in Planning' in Fainstein and DeFilips Readings in Planning Theory 2015,
  - Websites of APA, ICMA, APEGBC, other professions with ethics / practice sections

# In Closing

- There is no higher calling than to serve society in a professional capacity
- Ethics and professionalism are a life-long concern
- The scope of ethical / professional responsibility is broader for planners than for most other professions
- Expect continued evolution in ethical and professional standards – stay up to date!
- Ethics and professionalism are a useful compass – they can even set you free!

Thank You and Good Luck

# Professionalism and Ethics for Planning

PIBC Webinar Series

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Nancy Knight, MCIP RPP



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*FORWARD THINKING  
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**Thank You!**

**Friendly CPL Reminder**

Log in online & record your 1.5 CPL units earned today!

**Webinar #6**

**Economic Reconciliation: Collaborating Toward Economic Well-Being and  
Capacity Building  
Wednesday, June 19<sup>th</sup>**

**Fall 2019**

**Resiliency Planning  
Waterfront Revitalization  
And more!**