

Legislation Text

File #: 15-14922, Version: 1

Mayor and Council Ethics Policy Revisions

Action:

Adopt a resolution to revise the Code of Ethics, Gift Policy, and Disclosure Requirements for the Mayor and City Council.

Committee Chair:

Ed Driggs, Budget and Effectiveness

Staff Resource(s):

Patrick Baker, City Attorney's Office

Lina James, City Attorney's Office

Background

- At the July 26, 2020 Council Business Meeting, the Mayor referred to the Budget and Effectiveness Committee (Committee) the review of the current Code of Ethics, Gift Policy, and Disclosure Requirements for the Mayor and City Council of the City of Charlotte, North Carolina (Ethics Policy) to determine if revisions are needed.
- Council's Ethics Policy was adopted in 1978 and most recently revised in 2020:
 - On September 8, 2020, Council adopted limited revisions to the Ethics Policy as recommended by the Committee:
 - Substituted the word "investigator" with "independent outside counsel" in Part D;
 - Made review and referral of pending complaints retroactive to date of first 2020 complaint;
 - Authorized retaining independent outside counsel to review qualifying complaints received under Part D; and
 - Authorized continued review of the policy for further clarifications.

Proposed Revisions

- The proposed revisions clarify the requirements for reporting and reviewing potential ethics-related concerns; revisions are limited to Part A and Part D of the Ethics Policy. Specific revisions include:
 - Conflict of interest - if potential for conflict of interest arises, councilmembers shall seek advice of attorney where (revised **Part A, Section 3.b.**):
 - Actions may be misunderstood; or
 - Councilmember's connections with a contractor or subcontractor relates to city business; or
 - Councilmember's business or property interests disclosed on economic interest statement are subject of city business; and
 - Obligation to disclose potential conflict is on councilmember, not the contractor, subcontractor, or city.
 - Complaint and Review Process (revised **Part D, Sections 1 & 2**):
 - Creates new *prima facie* allegation standard for complaints: facts in the complaint, if true, must be sufficient to establish an alleged violation;
 - Prima facie allegation defined to include connections posing potential conflicts; misappropriation of city resources; criminal or fraudulent activity, or any harassment; and

- City Attorney may refer violations of law (criminal or fraudulent) to appropriate agency.
- City Attorney shall forward complaint to subject councilmember;
- Authorizes initial review by City Attorney and extends time to submit complaint;
- If allegation standard met, authorizes City Attorney referral to outside counsel; and
- Investigations section deleted.

Committee Discussion

- The Committee received information and discussed the policy at the August 18, 2020; September 15, 2020; October 27, 2020; December 1, 2020; December 15, 2020; and January 6, 2021 Committee meetings.
- On December 15, 2020, the Committee voted unanimously in favor of revisions to potential conflicts of interest and obligations, standard of review for complaints, initial attorney review and subsequent referral process, and to recommend proposed policy revisions to the full Council.
- On January 6, 2021, the Committee voted to approve additional clarifications to the Committee-approved revisions for consideration by full Council. (Driggs, Eiselt, and Graham for; Ajmera and Johnson opposed)
- At the February 22, 2021 Business Meeting, Council is scheduled to receive a presentation highlighting the proposed changes.

Attachment(s)

Resolution
Ethics Policy red-line
Updated Ethics Policy