

Governance & Accountability Committee

Monday, January 26, 2015 – 12:00 noon

Room 280

Committee Members: David Howard, Chair
LaWana Mayfield, Vice Chair
John Autry
Patsy Kinsey
Greg Phipps

Staff Resource: Carol Jennings, Chief of Staff

AGENDA

I. Ethics Review

Staff Resource: Bob Hagemann

Attachments

II. Charlotte Employee Hotline Update

Staff Resource: Greg McDowell

III. Approve 2015 Committee Schedule

Attachment

IV. Next Meeting

Monday, February 23, 2015

Distribution:

Mayor and City Council
Council Team
Greg McDowell
Sheila Simpson

City Manager's Executive Team
Bob Hagemann
Cheryl Brown
Robert Campbell

Corporate Communications
Stephanie Kelly

**Code of Ethics, Gift Policy, and Disclosure Requirements
for the Mayor and City Council of the City of Charlotte, North Carolina**

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty,” and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto, *Esse quam videri*, “To be rather than to seem,” and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of this City, and with obeying the law, and

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the City of Charlotte, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the City Council do hereby adopt the following General Principles and Code of Ethics to guide the Mayor and City Council in their lawful decision-making.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- The Mayor and Council members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- The Mayor and Council members must always remain aware that at various times they play different roles:
 - As advocates, who strive to advance the legitimate needs of their citizens
 - As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
 - As decision-makers, who arrive at fair and impartial determinations.
- The Mayor and Council members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- The Mayor and Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

A. CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the Mayor and Council members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for an official's best judgment.

Section 1.

The Mayor and Council members should obey all laws applicable to their official actions. The Mayor and Council members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, the Mayor and Council members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that the Mayor or a Council member is behaving unethically because one disagrees with that official on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2.

The Mayor and Council members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Treating other council members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices

- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual Council members are not generally allowed to act on behalf of the Council but may only do so if the Council specifically authorizes it, and that the Council must take official action as a body

Section 3.a.

The Mayor and Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. Although opinions may vary about what behavior is inappropriate, this Council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Council member's action would conclude that the action was inappropriate.

Section 3.b.

If the Mayor or a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the official should seek the advice of the City Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

Section 4.

The Mayor and Council members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

The Mayor and Council members should faithfully attend and prepare for meetings. They should demand full accountability from those over whom the board has authority.

The Mayor and Council members should be willing to bear their fair share of the governing board's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

Section 5.

The Mayor and Council members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to them or City employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and Council members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

B. GIFT POLICY

Definitions

“Gift” – Anything of monetary value given or received without valuable consideration. The following shall not be considered gifts:

- (1) Anything for which fair market value, or face value if shown, is paid by the official.
- (2) Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business.
- (3) Contractual arrangements or commercial relationships or arrangements made in the normal course of business.
- (4) Academic or athletic scholarships based on the same criteria as applied to the public.
- (5) Anything of value properly reported as required under Article 22A of Chapter 163 of the General Statutes.
- (6) Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
 - a. A sympathy card, letter, or note.
 - b. Flowers.
 - c. Food or beverages for immediate consumption.
 - d. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars per death per donor.

“Extended family” – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these individuals.

“Official” – the Mayor or a member of the City Council.

Gift Ban

No official shall knowingly accept a gift unless the gift falls within one of the exceptions set forth below.

A prohibited gift shall be promptly declined, returned, paid for at fair market value, or donated to charity or the City.

Exceptions

These prohibitions shall not apply to any of the following:

- (1) Gifts from the official's extended family, or a member of the same household.
- (2) Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided that the gift is made under circumstances that a reasonable person would conclude that the gift was not given to influence or attempt to influence official action.
- (3) Nominal gifts having a value of less than \$50.
- (4) Anything generally made available or distributed to the general public without charge.
- (5) A memento such as a commemorative shovel, plaque, figurine, trinket, or novelty item related to a civic occasion or event.
- (6) Informational materials relevant to the duties of the official.
- (7) Food and beverages for immediate consumption in connection with any of the following:
 - a. A meeting of the City Council, provided that the meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.
 - b. Business meetings so long as the food and beverages are of incidental value.
 - c. Neighborhood or community meetings.
 - d. A gathering of ten or more individuals that is open to the general public, provided that the official pays the same amount, if any, that the general public is charged to attend.
- (8) Tickets or admittance to, and food and beverages for immediate consumption at, an event where the official is clearly representing the City and where the City has a legitimate purpose in being represented at the event. By way of illustration but not limitation, this would include events sponsored by the Charlotte Regional Visitors Authority, the Charlotte Chamber of Commerce, the Foundation for the Carolinas, Charlotte Center City Partners, the Regional Partnership, the United Way, the Arts & Science Council, colleges, universities, and other educational institutions, and similar organizations.
- (9) Food and beverages for immediate consumption and related transportation provided all of the following conditions are met:
 - a. The food, beverage, or transportation is provided during a conference, meeting, or similar event and is available to all attendees of the same class as the recipient.
 - b. The official is a director, officer, governing board member, employee, or independent contractor of one of the following:
 1. The entity giving the food, beverage, or transportation.
 2. A third party that received the funds to purchase the food, beverages, or transportation.

- (10) An expense appropriate for reimbursement by the City if it had been incurred by the official personally. Such a gift shall be considered a gift accepted by or donated to the City, provided that the gift and its value are reported in writing to the City Clerk within two weeks of receipt.

C. DISCLOSURE REQUIREMENTS

By February 1 of each year, the Mayor and Council members shall file with the city clerk a statement of economic interest using the form set forth in Exhibit A attached hereto. The statements required by this section are public records available for inspection and copying by any person during normal business hours.

D. COMPLAINTS, INVESTIGATIONS, AND SANCTIONS

1. Complaints

- a. Any individual may file a complaint alleging a violation. Complaints shall be filed with the City Clerk on a form provided by the City Clerk. Complaints shall: (i) identify the complainant; (ii) state with specificity the facts that form the basis for the alleged violation; and (iii) cite the provision that has allegedly been violated.
- b. Upon receiving a complaint, the City Clerk shall forward the complaint to the City Attorney for initial review.
- c. The City Attorney shall review the complaint to determine whether it provides the information required in subsection a. If the City Attorney determines that the complaint fails to provide the information required by subsection (a), the complainant shall be so informed and afforded an opportunity to provide the required information. If the City Attorney determines that a complaint does provide the required information, the complaint shall be referred to an independent investigator selected by the City Attorney.

2. Investigations

- a. The independent investigator shall review a complaint referred by the City Attorney. In the event that the independent investigator determines that the complaint is either: (i) frivolous; or (ii) does not state a claim of a violation even if the facts alleged are true, then the investigator shall communicate that conclusion in writing to the City Attorney who shall in turn communicate that conclusion to the complainant and the Mayor or, if the subject of the complaint is the Mayor, to the Mayor Pro Tempore.
- b. If the independent investigator determines that the complaint is not frivolous and does state a claim of a violation if the facts alleged are true, the independent investigator shall investigate the allegations and make written findings as to the truthfulness of the factual allegations and conclusions as to whether a violation has occurred. The written findings and conclusions shall be provided to the City Attorney who shall in turn provide them to the complainant, the Mayor, and the City Council.

3. Sanctions

Upon receipt of written findings and conclusions pursuant to Section 2.b., the City Council may sanction the official who was the subject of the investigation. Potential sanctions include the adoption of a Resolution of Censure and any other lawful sanction within the Council's power.

DRAFT

Proposed

City of Charlotte

Statement of Economic Interest

FI			
First Name	Middle Name	Last Name	Suffix
MAILING ADDRESS, CITY, STATE, ZIP			
Address	City	State	Zip
HOME ADDRESS, CITY, STATE, ZIP			
<input type="checkbox"/> Same as Mailing Address			
Address	City	State	Zip
CURRENT EMPLOYER	JOB TITLE		
NATURE OR TYPE OF BUSINESS			
DAYTIME PHONE NUMBER	ALTERNATE PHONE NUMBER		
E-MAIL ADDRESS			

I. \$10,000 PLUS DISCLOSURES

If you, your spouse, or members of your immediate family¹ have assets or liabilities with a market value of at least \$10,000 in the following categories, please provide the requested information as of December 31st of the preceding year unless another time period is specified in the question.

- ▶ Do not list the actual value of those assets or liabilities.
- ▶ Do not list assets or liabilities held in a blind trust² established by or for the benefit of you or an immediate family member.

1. Do you, your spouse, or members of your immediate family have an ownership interest in any real estate located in the City of Charlotte or the City's extraterritorial planning jurisdiction with a market value of \$10,000 or more?

▶ This may include your home/residence. Do not list actual value.

Yes No

Owner of Real Estate	% Ownership Interest	Location by City

2. Do you, your spouse, or members of your immediate family lease or rent to or from the City real estate with a market value of \$10,000 or more? Do not list actual value.

Yes No

Name of Lessor	Name of Lessee (Renter)	Location by City

3. Within the preceding two years, have you, your spouse, or members of your immediate family sold to or bought from the City personal property with a market value of \$10,000 or more? Do not list actual value.

Yes No

Name of Purchaser	Name of Seller	Type of Property

4. Do you, your spouse, or members of your immediate family currently lease or rent to or from the City personal property with a market value of \$10,000 or more? Do not list actual value.

Yes No

Name of Lessor	Name of Lessee (Renter)	Type of Property

¹ **Immediate family** includes your spouse (unless legally separated), minor children, and members of your extended family (your and your spouse's adult children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those person) that reside in your household.

² **Blind trust** is a trust that meets all of the following criteria: (a) the owner of the trust's assets has no knowledge of the trust's holdings and sources of income, (b) the individual or entity managing the trust's assets ("the trustee") is not a member of the official's extended family and is not associated with or employed by the official or his or her immediate family, and (c) the trustee has sole discretion to manage the trust's assets.

5(a). Do you, your spouse, or members of your immediate family own interests (generally stock) valued at \$10,000 or more in a publicly owned company that you know or have reason to know any of the following: (1) is doing or is seeking to do business of any kind with the City; (2) is engaged in activities that are regulated or controlled by the City; or (3) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of your official duties? **Do not list actual value.**

▶ Do not list ownership interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if (i) the fund is publicly traded or its assets are widely diversified and (ii) neither you nor an immediate family member are able to control the assets held in the mutual fund, investment company, or pension or deferred compensation plan.

Owner of Interest	Full Name of Company (Do not use a ticker symbol)

5(b). Do you, your spouse, or members of your immediate family hold stock options valued at \$10,000 or more in a company or business that you know or have reason to know any of the following: (1) is doing or is seeking to do business of any kind with the City; (2) is engaged in activities that are regulated or controlled by the City; or (3) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of your official duties? **Do not list actual value.**

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

6(a). Do you, your spouse, or members of your immediate family have financial interests valued at \$10,000 or more in a non-publicly owned company or business entity (including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations) that you know or have reason to know any of the following: (1) is doing or is seeking to do business of any kind with the City; (2) is engaged in activities that are regulated or controlled by the City; or (3) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of your official duties? **Do not list actual value.**

Owner of Interest	Name of Business Entity

6(b). For each of those non-publicly owned companies or business entities identified in question 6(a) (the "primary company"), please list the names of *any other companies* in which the primary company owns securities or equity interests valued at over \$10,000, *if known*. **Do not list actual value.**

Non-Publicly Owned Company (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
<input type="checkbox"/> None or Not Known	

6(c). If you know that any company or business entity listed in 6(a) or (b) above has any material business dealings or business contracts *with the City*, or is *regulated by the City*, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the City
<input type="checkbox"/> None or Not Known	

II. OTHER DISCLOSURES

7(a). During the preceding calendar year, were you, your spouse or members of your immediate family a director, officer, governing board member, employee, or independent contractor of a nonprofit corporation or organization operating in the City primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes that you know or have reason to know any of the following: (1) is doing or is seeking to do business of any kind with the City; (2) is engaged in activities that are regulated or controlled by the City; or (3) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of your official duties?

▶ Do not list organizations of which you are a mere member or subscriber.

Name of Person	His/Her Position	Name of Nonprofit Corporation or Organization	Nature of Business or Purpose of Organization

7(b). If the listed nonprofit corporations or organizations do business with the City or receive City funds, please provide a brief description of the nature of that business, if known, or with which due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe City Business or City Funding
<input type="checkbox"/> None or Not Known	

8. Have you ever been convicted of a felony for which you have not received either (i) a pardon of innocence or (ii) an order of expungement regarding that conviction?

Yes No

Offense	Date of Conviction	County of Conviction	State of Conviction

9(a). List the name of each business with which you are associated where you or a member of your immediate family is an employee, director, officer, partner, proprietor, or member or manager and that you know or have reason to know any of the following: (1) is doing or id seeking to do business of any kind with the City; (2) is engaged in activities that are regulated or controlled by the City; or (3) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of your official duties.

Name of Person	Relationship to Filer	Name of Company	Role of Person
<input type="checkbox"/> No Business Associations			

9(b). If you know that any company or business entity listed in 9(a) above has any material business dealings or business contracts with the City, or is regulated by the City, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input type="checkbox"/> Not applicable (No entities listed on #14a) <input type="checkbox"/> No relationship / Not known	

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto are public record.

I Agree

Printed Name

Signature

Date

Submit SIGNED, ORIGINAL documents.

Governance & Accountability Committee **2015 Schedule**

12:00 - 1:30 pm in Room 280

**Meetings will be held at the Charlotte-Mecklenburg Government Center in Room 280, unless otherwise noted*

January 26

February 23

March 23

April 27

May 26 (Tuesday)

June 22

***July 20**

****August 17**

September 28

October 26

November 23

December 28

**Changed to 3rd Monday in preparation for the City Manager's Evaluation on July 27th*

***Changed to 3rd Monday in preparation for the City Attorney's Evaluation on August 24th*