



CITY COUNCIL Agenda Item #19-085

Date: March 13, 2019

Consent ___ Discussion X

SUBJECT: Re-adoption of City Council's Ethics Policy

SUBMITTING DEPARTMENT: City Manager's Office

RECOMMENDED ACTION: Review and approve, with or without further amendments

STRATEGIC OUTCOME/ PRIOR ACTION: Responsive and Responsible Government

EXPENDITURE REQUIRED:

N/A SOURCE OF FUNDS:N/A

LEGAL REQUIREMENTS: N/A

BACKGROUND INFORMATION: The Council adopts an Ethics Policy for itself for the ensuing year; this generally occurs at the first meeting after March elections.

SUPPORTING DOCUMENTS: Copy of current Policy

INTERESTED PARTIES:Council, City Staff

CITY MANAGER'S APPROVAL:

A handwritten signature in black ink, appearing to read "W. Hoffman".

ETHICS POLICY

City of Montpelier Vermont

Adopted by City Council on February 10, 1999

Passed after two public hearings on April 21, 1999

Amended March 11, 2015

Re-affirmed annually at first meeting in March

Whereas, the residents of Montpelier deserve the finest municipal government possible and;

Whereas, the Montpelier City Council desires to maintain the public trust by conducting all municipal operations in the most ethical and fair manner possible and;

Whereas, the Montpelier City Council appoints many various boards, commissions and committees, as well as the City Manager, and;

Whereas, the Montpelier City Council recognizes that conflicts of interest will occasionally arise in the course of the conduct of municipal affairs, and;

Whereas, the Montpelier City Council desires to provide ethical guidelines and standards for all branches of city government;

Now be it resolved that the Mayor and City Council of the City of Montpelier, Vermont for the purpose of promoting public accountability and trust, hereby adopt the following policy concerning ethical conduct and conflicts of interest for itself and for all subordinate boards, commissions, agencies, committees and employees:

I - Recusal from Official Action

- A. A public officer shall not take any official action if she/he/they has a conflict of interest in a matter that could result in the officer receiving direct or indirect financial benefit.
- B. In matters involving a conflict of interest other than those previously set forth above, a public officer shall not take any official action on any matter in which she/he/they has a conflict or interest. A public officer shall not take any action on any matter in which she/he/they has an appearance of a conflict of interest unless in his or her own estimation, she/he/they is able to do so fairly, objectively and in the public interest in spite of the appearance of conflict of interest.

- C. It is recognized that Montpelier may have a large number of Vermont State Employees as members of local public agencies. These individuals may generally participate in matters involving state government but should consider recusal or disclosure when matters involve their specific work responsibilities or employment unit.
- D. Public officers shall not offer their individual professional services to applicants after an application is filed.
- E. Officials who are recused as per Sections I-A and I-B of this policy shall physically remove themselves from the remaining members of the Board, Commission, Committee, Council or other such group and refrain from any discussion, deliberation, or communication about the relative issue. When feasible, the recused member shall leave the room where the meeting is being held during consideration of the item in question.

II - Disclosure

- A. A public officer who has reason to believe that she/he/they has a conflict of interest shall recuse themselves. A public officer who has reason to believe they have an appearance of a conflict of interest but believes she/he/they is able to act fairly, objectively and in the public interest in spite of the appearance of conflict of interest shall, prior to taking any official action on the matter involving the conflict, disclose to other board members during an official public meeting of the board the nature of the potential appearance of conflict of interest, the action required by the board and the reason why the official believes she/he/they is able to take such action fairly, objectively and in the public interest in spite of the potential appearance of conflict.
- B. In the event a public officer personally (or through any member of the household, business associate, employer or employee) represents, appears for, or negotiates in a private capacity on behalf of any person or organization in any cause, proceeding, application or other matter pending before the public body in which the officer holds office, the public officer shall disclose his/her relationship to that public body. In such cases, the officer shall not sit with the remaining members of the public body nor be included in any deliberations other than to the extent that all applicants/members of the public are included.

- C. If a public officer does not voluntarily withdraw from official action on any matter in which that public officer has or may have a conflict of interest, another member of the same public body or any interested party to the matter being heard may request that the public body consider the issue of whether that member should recuse him/herself because of conflict of interest. Upon such request the members of the public body, excluding the member with the potential conflict, shall act on the following motion. “Should_____recuse him/herself because of a conflict of interest or an appearance of a conflict of interest?” If a majority of those voting vote in favor of the motion and if the member with the potential conflict does not recuse him/herself, the chair of the public body shall refer the action of the public body to the City Council.
- D. Violations of this ethics regulation may be grounds for removal from public office, except if such removal is prohibited by law.

III - Emergency

- A. The provisions of Section I shall not apply if the City Council has voted that an emergency exists and that actions of the public body or agency otherwise could not take place. In such cases, a public officer who has reason to believe she/he/they has a conflict of interest shall disclose such conflict as provided in Section II - A.

IV - Definitions

- A. **“Conflict of Interest”** means a personal or pecuniary interest of a public officer or his or her relative (as defined in 12 VSA 61 (a) and 24 VSA 1203), member of the household, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the public body in which she/he/they holds office or is employed. “Conflict of Interest” does not arise in the case of votes or decisions on matters in which the public officer has a personal or pecuniary interest in the outcome no greater than that of other persons generally affected by the decision (such as adopting a bylaw or setting a tax rate) who are residents of Montpelier.
- B. **“Emergency”** means an imminent threat or peril to the public health, safety or welfare.
- C. **“Public Body”** means the City Council of the City of Montpelier as defined in the City Charter and all other boards, councils, commissions or committees under the administrative control of the City Council.

- D. **“Public Officer”** means a member of the City Council and/or members of all other boards, councils, commissions or committees under the administrative control of the City Council elected or appointed to perform executive, administrative, legislative or quasi-judicial functions as a member of or for a public body.
- E. **“Official Action”** means engaging in a vote, entering into a contract, authorizing the issuance of a permit, deliberating in connection with or rendering a written or recorded decision, conducting a criminal or disciplinary investigation, or taking any formal action in a quasi-judicial capacity in the course of a public officer’s performance of the duties and responsibilities of his or her office.