

**BUSINESS OF THE CITY COUNCIL
WINDSOR HEIGHTS, IOWA
AGENDA STATEMENT**


Item No. 11
For Meeting of 12/03/07

ITEM TITLE: Consideration of a resolution adopting a code of ethics policy for the City of Windsor Heights.

CONTACT PERSON(S): Marketa George Oliver, City Administrator

SUMMARY EXPLANATION

Attached is a resolution adopting a code of ethics, conflict of interest and gift policy. The Policy and Administration Committee has reviewed the policy and recommends its adoption.

<input checked="" type="checkbox"/> Resolution _____ <input type="checkbox"/> Ordinance _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Other (Specify) _____
Funding Source _____
 APPROVED FOR SUBMITTAL _____ City Administrator

COMMITTEE RECOMMENDATION: Passage of the ethics policy recommended by the Policy and Administration Committee. By motion and roll call vote, adopt the resolution.

COUNCIL ACTION:

RESOLUTION NO. 07-1203/

**A RESOLUTION ADOPTING A NEW POLICY STATEMENT REGARDING
CONFLICT OF INTEREST, CODE OF ETHICS, AND GIFTS**

WHEREAS, the City of Windsor Heights has a number of full and part-time employees, elected officials, commission members, board members, and committee member and has created a Conflict of Interest, Code of Ethics and Gifts Policy; and

WHEREAS, the City of Windsor Heights wants citizens to continue to hold the city and its officials in the highest regard; and,

WHEREAS, the Conflict of Interest, Code of Ethics and Gifts Policy for the City of Windsor Heights is meant to instill further trust in the public and give Windsor Heights officials clear ethical guidelines; and,

WHEREAS, the City finds it desirable to make changes and appropriate updates to the City's policies from time to time and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Windsor Heights, Iowa, that the attached conflict of interest, code of ethics and gifts policy be adopted..

PASSED AND APPROVED THIS 3rd DAY OF DECEMBER, 2007.

David J. Sullivan, Mayor

ATTEST:

Marketa George Oliver, City Administrator/Clerk

CITY OF WINDSOR HEIGHTS
POLICY STATEMENT
CONFLICT OF INTEREST, CODE OF ETHICS, GIFTS

I. CONFLICT OF INTEREST

1. In General. It is the policy of the City of Windsor Heights that elected officials, commission members, board members, committee members, employees and professional consultants ("City Officials") shall not use their official position or the knowledge gained therein in such a manner that a conflict would develop between the City's interest and their personal affairs. These individuals shall avoid any conflicts between their personal and outside interests and the interests of the City and shall avoid any conduct which might adversely affect or appear to affect the exercise of their official judgment.
2. Personal Financial Interests. All City Officials should avoid participating financially, directly or indirectly, in any business enterprise which might influence or be thought to influence their official decisions or actions. In determining whether particular outside employment or activity creates an unacceptable conflict of interest, the official should follow these guidelines:
 - a. The outside employment should not involve the City's time, facilities, equipment or supplies or the use of the City's badge, uniform, business card or other evidences of office or employment. This prohibition does not extend to off duty police officers who provide authorized private duty security.
 - b. The outside employment should not involve the receipt of compensation or other consideration by an individual for performing his/her regular duties for the City.
 - c. The outside employment should not be subject to the official control, inspection, review, audit, or enforcement authority of the individual during the performance of his/her regular duties for the City.
3. Gratuities. All City Officials, and the members of their immediate families, should avoid accepting any payments, gifts, favors, special discounts, or other benefits of value from any party doing business with the City, seeking to do business with the City, acting as a lobbyist or involved in a regulatory or policy matter in front of an official body of the City, except as allowed under Section III.2 of this policy.
4. Outside Affiliations. No City Official shall hold a position with any other business enterprise or governmental body which would conflict with or reasonably might conflict with the proper performance of his or her civic duties or responsibilities or

which might tend to influence his or her impartial judgment with respect to dealings between the City and such other business enterprise or governmental body.

5. General Practices. A City Official shall not use any property which belongs to the City of Windsor Heights for any non-incidental private purpose nor shall any City Official perform any non-employment related duties while on City time.

A City Official shall not have interest, direct or indirect, in any contract or job of work or material or the profits thereof of services to be furnished or performed for the City unless he or she meets one of the exceptions as delineated in Code Section 362.5 of the Iowa Code. A contract entered into in violation of this section is void.

No City Official will allow nor be involved in making purchases for any employees or individuals for their personal use.

No City Official shall lease any property to the City.

No City Official shall endorse commercial products by agreeing to use his/her photograph, endorsement or quotation in paid or other commercial advertisements, whether or not for compensation.

Any City Official making an unreasonable purchase or one otherwise outside of the normal purchasing procedures may, at the direction of the City Manager, be held personally liable for payment of the expenditure.

Any City Official found guilty of violating any of the above provisions will be subject to disciplinary action which may include termination.

6. Disclosure. If at any time a commission member, a board member or any employee of the City or member of their immediate family finds that he or she has or is considering the assumption of a financial interest or outside relationship which reasonably might involve a conflict of interest with the City, it shall be his or her duty to make timely disclosure of the facts to the appointing authority. Under such circumstances, except as otherwise instructed by the City at the full disclosure of the facts, the individual should refrain from exercising responsibility in any matters concerning the City which reasonably might be considered to be affected by self interests.

II. CODE OF ETHICS

1. In General. All City Officials should be dedicated to the highest standards of honor and integrity in public service. The effectiveness of City Officials depends on their ability to maintain the public's trust and confidence. Through their daily actions, officials depict the character of the City of Windsor Heights. Additionally, these individuals should be forthright in their dealings with the public and should remember that they hold office for the benefit of their constituents. Finally, local

officials must create public confidence where it is lacking and maintain it at all times by demonstrating a sincere adherence to ethical standards.

2. Administrative Practices. All City Officials should exercise extreme caution in handling public funds. The investment of idle funds by appointed officials should be consistent with the policies approved by the City Council. City Officials should avoid unnecessary risks in their investments and should strive to protect the investment principle whenever possible. City Officials should aggressively pursue any instances of fraud or mismanagement of public funds.

City Officials have a duty to report violations of law or of the City's ethical standards, if they have compelling evidence to support allegations of violations. Such report should be made in confidence, in order to protect the rights of the accused and to avoid jeopardizing any necessary investigations.

In order to maintain the public's trust, appointed officials may not hire a family member to work in any subordinate classification. Additionally, relatives of elected officials, appointed commissioners, appointed board members, or appointed committee members may not be hired for full time or part time employment in any department in which their relation has a direct policy making or advisory role. Relatives shall be defined as wife, husband, child, mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, grandparent, grandchild and any other relative living in the same household.

The integrity of the hiring process will be maintained if elected and appointed officials do not interfere with the selection process in any manner that may benefit a relative. These City Officials should refrain from the practice of recommending any relative for employment or expressing an improper interest in the hiring process.

Discrimination based on race, color, creed, religion, sex, sexual preference, national origin, political affiliation, disability, age or marital status should be aggressively opposed. No individual should be denied employment or service as a result of any of these characteristics.

Individuals should be appointed to City positions based on their professional qualifications. City Officials should not allow personal biases to enter the employment process. Additionally, undue influence from others outside the hiring process should be strongly resisted. All hiring decisions should conform to the City Council's personnel policies, regulations and guidelines.

Involvement in political campaigns should be at the sole discretion of the public official and public employee. There should be no undue pressure placed on officials and employees to contribute time, money, services or items of value to political campaigns. There should be no solicitation in a way which could be construed as affecting the employee's employment. There will be no political solicitation on any city property unless specifically endorsed by the City Council.

3. Service Delivery. As public servants, City Officials have a responsibility to treat all persons in a respectful and courteous manner. Inquiries from the public should be addressed in a forthright manner. City Officials should also recognize the diverse backgrounds and characteristics of their constituents. This diversity should be considered a valuable asset of the community and should never be used as a reason to deny service or assistance. When appropriate, City Officials should make reasonable accommodations to ensure equitable service delivery.
4. Public Decision Making. City Officials should remain impartial in their consideration of public policies. They should not be unduly influenced by family relationships, business interests, religious affiliation or friendships in the formulation or adoption of rules, regulations, ordinances, resolutions or other policy matters. Additionally, services and programs should be provided to constituents in a fair and equitable manner. Further, City officials have a duty to maintain confidentiality when appropriate. Information which may be considered confidential includes, but is not limited to personnel-related information and future land acquisition. If an official has a question, s/he should direct it to the City Administrator, the Mayor or the City Attorney. Under no circumstances should people from outside the organization be consulted on such a matter.

City Officials should be non-partisan when exercising their public and official duties. They should serve as available resources for other officials and the public in a political process. Equal information must be provided to all candidates for public office.

III. GIFTS

1. Acceptance of Gifts. A City Official or candidate, or that person's immediate family member, shall not directly or indirectly receive any gift or series of gifts from a restricted donor. A City Official or candidate, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time. However, an otherwise prohibited non-monetary gift can be accepted if it is donated within thirty days to a public body or a bona fide educational or charitable organization.
2. Exceptions. The following gifts may be received by City Officials, candidates or members of the immediate family of City Officials, or candidates:
 - a. Contributions to a candidate or a candidate's committee.
 - b. Informational material relative to a City Official's official functions, such as books, pamphlets, reports, documents, periodicals or other information.
 - c. Anything received from anyone related within the fourth degree of kinship or

marriage, unless the donor is acting as an agent or intermediary for another person not so related.

d. An inheritance.

e. Anything available or distributed free of charge to members of the general public without regard to the official status of the recipient.

f. Items received from a bona fide charitable, professional, educational or business organization to which the donee belongs as a dues paying member, if the items were given to all members of the organization.

g. Actual expenses of a donee for food, beverages, registration, travel and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the donee has participation or presentation responsibilities. If any such expenses are being reimbursed or paid for by the City, then any funds should be returned to the City to eliminate double payment for such items.

h. Plaques or items of negligible resale value which are given as recognition for the public services of the recipient.

i. Non-monetary items with a value of \$3.00 or less that are received from any one donor during one calendar day.

j. Items or services received at a business or educational conference, seminar or other meeting sponsored by a government organization of which the City is a member.

k. Items or services received at a regularly scheduled event that is part of a business or educational conference, seminar or other meeting that is sponsored and directed by a government organization of which the City is a member.

l. Funeral flowers or memorials to a church or non-profit organization.

m. Gifts which are given to a City Official for that official's wedding or 25th or 50th wedding anniversary.

n. Payment of salary or expenses by a person's employer or the firm in which the person is a member for the cost of attending a meeting of a City board, commission, committee or City Council.

o. Gifts of food, beverages, travel or lodging received by City Officials involved in an economic development activity, in a manner consistent with the restrictions contained in Code Section 68b.22 of the Iowa Code.

p. Gifts other than food, beverages, travel and lodging received by a City Official which are received from a person who is a citizen of a country other than the United States and is given during a ceremonial presentation or as a result of a custom of the other country and is of personal value only to the donee.

q. Actual registration costs for informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions. The costs of food, drink, lodging and travel are not "registration costs" under this paragraph. Meetings or sessions which a City Official attends for personal or professional licensing purposes are not "informational meetings or sessions which assist a City Official in the performance of the person's official functions" under this paragraph.

r. Honorariums presented to a City Official for providing any type of service or presentation to a non-City of Windsor Heights group, except when such services or presentations are being performed as part of City reimbursable time. If a City Official is being reimbursed via salary and/or travel expenses for participation in the event for which the honorarium is being presented, then the honorarium amount should be remitted to the City. Only if the event for which the honorarium is being presented, is occurring on the City Official's personal time, may the City official retain the honorarium.

3. Definitions. For the purpose of this policy statement, the following definitions apply:

1. "Gift" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

2. "Restricted donor" means a person who is in any of the following categories:

a. Is or is seeking to be a party to any one or any combination of sales, purchases, leases or contracts to, from or with the City in which the donee holds office or is employed.

b. Will personally be or is the agent of a person who will be directly and substantially affected financially by the performance or non-performance of the donee's official duty in a way that is greater than the affect on the public generally or in a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.

c. Is personally, or is the agent of a person who is, the subject of or party to a matter which is pending before the City and over which the donee has discretionary authority as part of the donee's official duties or employment with the City.

- d. Is a lobbyist or the client of a lobbyist with respect to matters within the donee's jurisdiction.

IV. FIDUCIARY ACTIVITIES

1. City Officials must not accept appointment as an executor, administrator, guardian, trustee or any similar fiduciary capacity unless the appointment is based on a family or obvious close personal relationship and it is clear that he relationship, not your position with the City, is the basis for the appointment and the relationship did not arise out of the business of the City. Requests for exceptions to this policy must be approved in writing by the City Administrator, or the City Council, in the event the city official making the request is the City Administrator or an elected official. Approval to an exception to this policy shall not imply that you are serving at the direction or request of the City. City officials may not be named in or accept an inheritance under a will or other instrument from a customer, unless the customer is a family member or other relative. Requests for exceptions to this policy must be approved in writing by the City Administrator, or the City Council, in the event the city official making the request is the City Administrator or an elected official.

V. REPORTING OF IMPROPER ACTIONS

It is the purpose of this policy to provide City Officials of the City of Windsor Heights with a means by which to report improper governmental action, to protect those City Officials who make good-faith reports to appropriate governmental bodies and to ensure that there will be no retaliation for having made such reports.

It is the policy of the City of Windsor Heights that all City Officials are encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of any City Officials. Every City Official has the right to report to the appropriate person, information concerning an alleged improper governmental action.

1. Definitions.

1. "Improper governmental action" is any action by any City Official of the City of Windsor Heights that:
 - a. Is undertaken in the performance of his/her duties, whether or not the action is within the scope of the City Official's employment; and
 - b. Is in violation of any federal, state or local law or rule;
 - c. Is an abuse of authority;
 - d. Is of substantial and specific danger to the public health or safety; or
 - e. Is a gross waste of public funds

“Improper governmental action” does not include personnel actions, including, but not limited to, employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of applicable collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any other personnel action taken under authority of state law.

2. “Abuse of authority” means intentional misuse of power or position by any City Official for an improper purpose.
 3. “City Official” means all City elected officials, commission members, board members, committee members, employees and professional consultants.
 4. “Emergency” means a circumstance that, if not immediately changed, may cause damage to persons or property.
 5. “Good faith” means action taken after a reasonable investigation of facts available to the City Official, and after due consideration and with an honestly held belief that there was improper conduct.
 6. “Gross waste” means a significant or recurring intentional misuse of public funds, and does not include unintentional errors.
 7. “Retaliatory action” means any adverse change in a City Official’s employment status or in the terms and conditions of a City Official’s employment based on the reporting by the City Official of improper governmental actions.
2. Procedures for reporting improper governmental action.
1. A City Official who becomes aware of improper governmental actions shall raise the issue first with his/her supervisor. If the action involves an elected official, then the issue shall be raised with the city administrator who may involve the city attorney. Where the City Official reasonably believes the improper governmental action involves his/her supervisor, or for some other reason does not feel comfortable making a report to his/her supervisor, then the City Official shall raise the issue with the Mayor, except in those cases where the supervisor is an elected official, and in that case the employee may directly contact the City Attorney. If a meeting is requested as a part of the investigation, then the reporting City Official may be accompanied by another person of his/her choice to such meeting. The city official about whom any investigation is being conducted will receive a notice that a complaint has been raised.

2. City Officials involved in any investigation shall keep the identity of the reporting City Official(s) confidential to the extent possible under law, unless the City Official authorizes the disclosure of his/her identity in writing.
3. The supervisor, the Mayor, or the city attorney, as the case may be, shall take prompt action to coordinate a proper investigation, either through internal means or by an independent, outside source. An investigator may be appointed by the Mayor, and the City Official shall be advised that a prompt investigation is occurring. Emergency situations shall receive appropriate expedited response. Non-emergency situation shall receive serious, prompt attention.
4. Results will be shared with the Mayor and City Administrator, who shall decide (1) what action should be taken to address the reported improper governmental action and (2) what, if any, personnel action is required. If the investigation involved the City Administrator, the results would be shared with the Mayor only. If the investigation involved the Mayor, the results would be shared with the Mayor Pro-Tem and the City Administrator. The City Council shall received information regarding the investigation and the proposed action. Provided, however, where the alleged improper governmental action involves an elected official, the city council shall review the investigation report and determine what course of action should be taken to address the improper governmental action.

3. Protection against retaliatory actions

1. City Officials are prohibited from taking retaliatory action against a City Official because he/she has, in good faith, and in accordance with this policy, reported an improper governmental action.
2. A City Official who believes he/she has been retaliated against for reporting an improper governmental action shall first raise the issue with his/her supervisor. If the action involves an elected official, then the report shall be made to the city administrator. If the City Official reasonably believes that the person committing the retaliatory action was his/her supervisor, then the City Official shall report to the city administrator, except in those cases where the supervisor is the city administrator and in that case the report shall be submitted to the city attorney.
3. If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the complainant. If, however, an allegation is made frivolously, maliciously or for personal gain, the City will view this very seriously and may impose appropriate disciplinary or legal action against the complainant

VI. REAFFIRMATION OF THIS POLICY STATEMENT

1. All City Officials will be provided a copy of this statement upon initial employment and will be required to reaffirm their understanding of the policy at the time at which their appointment renews or during their annual performance review.