

**Carson City
Agenda Report**

Date Submitted: August 7, 2012

Agenda Date Requested: August 16, 2012

Time Requested: 10 minutes

To: Mayor and Supervisors

From: Donna DePauw, Chair - Charter Review Committee

Subject Title: For Possible Action: The Board of Supervisor will discuss and possibly adopt a recommendation from the Charter Review Committee to appoint a committee to review Carson City Municipal Code Chapter 2.34, Code of Ethics, and make recommendations to the Board for modifications to the existing ordinance.

Staff Summary: The Carson City Charter Review Committee brought forth, discussed and took action on this item at their June 5, 2012 meeting.

Type of Action Requested: (check one)

Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to adopt a recommendation from the Charter Review Committee to appoint a committee to review Carson City Municipal Code Chapter 2.34, Code of Ethics, and make recommendations to the Board for modifications to the existing ordinance.

Explanation for Recommended Board Action: See Staff Summary.

Applicable Statute, Code, Policy, Rule or Regulation: CCMC Chapter 2.34

Fiscal Impact: N/A

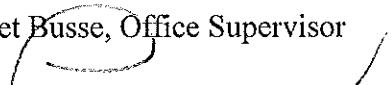
Explanation of Impact: N/A

Funding Source: N/A

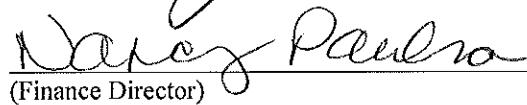
Alternatives: Do not adopt

Supporting Material: Excerpt from the meeting minutes of June 5, 2012 & CCMC 2.34.

Prepared By: Janet Busse, Office Supervisor

Reviewed By: 
(City Manager) Date: 8/7/12


(District Attorney) Date: 8/7/12


(Finance Director) Date: 8/7/12

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

_____ (Vote Recorded By)

7. "FOR DISCUSSION AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE CITY'S ETHICS ORDINANCE BE UPDATED TO REQUIRE DISCLOSURE FROM ALL CARSON CITY ELECTED OFFICIALS AS TO THEIR BUSINESS CONNECTIONS SO THAT CONFLICTS MAY BE JUDGED BY THE PUBLIC, (A) RECOMMEND CHANGE TO CHARTER; (B) RECOMMEND BALLOT QUESTION; (C) RECOMMENDATIONS TO THE BOARD OF SUPERVISORS" (3:20:27) - Chairperson DePauw introduced this item, and entertained committee member questions or comments. When none were forthcoming, she entertained public comment. (3:21:28) Andrea Engelman provided background information on this item, and recommended writing a letter to the Board of Supervisors requesting the formation of a committee for the purpose of revising Chapter 2.34.

Chairperson DePauw entertained additional public comment. (3:24:54) Ward 4 Supervisor Candidate Amy Clemens described the Outside Business Activity form required by her employer, and expressed a preference for a similar document to be required for "business officials." By way of example, she referenced an elected official owning property in one of the redevelopment areas.

(3:26:14) Ward 2 Supervisor Candidate Dennis Johnson expressed support for the recommendation, and related employment experience relative to disclosure.

(3:27:36) Fred Brown inquired as to whether disclosures would be required prior to or after an election. Mr. Werner explained the provisions of Section 2.34.040, Filing by candidates. Mr. Munn reviewed the

provisions of Section 2.34.010. Mr. Werner reviewed the City's policies and procedures relative to employees holding outside employment positions. He acknowledged that the subject ordinance is in effect and its provisions practiced by the Board of Supervisors, the City Manager, and all City department heads.

In response to a question, Mr. Werner advised that very little employee information is open to the public. Ms. Engelman reiterated the opinion that the language of the ordinance "needs to be cleaned up ..."

(3:33:58) John Wagner discussed his past experience as a candidate, and expressed the opinion "there's a lot of checks and balances already in statute that we don't need to have a whole lot more added on top of it."

Mr. Munn advised that public employees and public officers are subject to the State ethics law, "and that includes local government employees." In reference to the provisions regarding City employees receiving gifts, Member Joiner agreed that the subject ordinance is "already way out of date." Chairperson DePauw entertained additional committee member and public comments. When none were forthcoming, she entertained a motion. **Member Messina moved to recommend to the Board of Supervisors to appoint a committee to review Chapter 2.34, Code of Ethics, and make recommendations for modification. Member Joiner seconded the motion.** In response to a question, Mr. Munn advised that the committee making recommendations beyond the Charter "may exceed what it is you're formed to do." He expressed doubt, however, that the Board of Supervisors would be offended by the committee requesting review of an ordinance. Chairperson DePauw requested a roll call vote. **Members Messina, MacKenzie, Lincoln, Joiner, Fregulia, Barnett, Allen, Vice Chair Robertson, Chair DePauw - Yes. Motion carried 9-0.**

Carson City, Nevada, Code of Ordinances >> Title 2 - ADMINISTRATION AND PERSONNEL* >> **Chapter 2.34 - CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICIALS** >>

Chapter 2.34 - CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICIALS

Sections:

- 2.34.010 - Purpose and intent.
- 2.34.020 - Definitions.
- 2.34.030 - Duties of the Carson City clerk.
- 2.34.040 - Filing by candidates.
- 2.34.050 - Information required.
- 2.34.070 - Conflict of interest—Elected officials, committees and commissions.
- 2.34.080 - Conflict of interest—Appointed employees.
- 2.34.090 - Violation—Reconsideration of vote.
- 2.34.095 - Unauthorized disclosure of confidential or proprietary information.
- 2.34.100 - Violation—Penalties.

2.34.010 - Purpose and intent.

1. The Carson City board of supervisors finds and declares as follows:
 - a. The people of Carson City have a right to expect from their elected and appointed representatives at all levels of government assurances of the utmost in integrity, honesty and fairness in their dealings;
 - b. The people of Carson City further have a right to be assured to the fullest extent possible that the private financial dealings of their governmental representatives, and of candidates of those offices, present no conflict of interest between the public trust and private gain; and
 - c. The representative form of government is founded upon a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their business holdings as they pertain to the business before the Carson City board of supervisors.
2. The Carson City board of supervisors intends to sustain, to the extent necessary, public confidence in government at all levels by assuring the people of the impartiality and honesty of their officials in all governmental transactions and decisions.
3. The provisions of this chapter are to be construed liberally, to the end that the public interests are fully protected.
4. The provisions of the Nevada Revised Statutes which conflict with this chapter or which impose greater standards shall supersede the provisions of this chapter.
5. Nothing in this chapter is meant to relieve a person from complying with any and all applicable provisions of state law concerning conflicts of interest and campaign practices.

(Ord. 1989-20 § 2, 1989).

2.34.020 - Definitions.

For the purposes of this chapter, certain words and phrases are defined and certain provisions shall be construed as hereinafter set forth unless it is apparent from the context that a different meaning is intended. Whenever any words and phrases used in this chapter are not defined in this section but are defined in the state laws regulating such matters, any such definition therein is deemed to apply to such words and phrases used in this chapter.

1.

"Appointed official" means salaried employees of the city, other than elected officials and temporary employees, who are not subject to the city's merit personnel system as established in Section 2.330 of the City Charter. These include, without limitation, the city manager and persons appointed by elected officials.

2. "Business entity" means any organization or enterprise operated for economic gain, including, but not limited to, a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

3. "Campaign contributions" means all donations of money, subscriptions, pledges, loans, conveyances, deposits, payments, transfers or distribution of money from all sources or any other matter set forth in NRS 294A.007.

4. "Candidate," for the purposes of this chapter, means and includes any individual seeking election or appointment as an elected official as defined in this section. This includes, without limitation, any person:

- a. Who files an affidavit of candidacy;
- b. Who files to fill a vacancy in an elective office;
- c. Whose name appears on an official ballot at any election; or
- d. Who has received contributions in excess of one hundred dollars (\$100.00).

5. "Confidential or proprietary information" means those matters declared by law to be confidential or proprietary.

6. "Direct financial interest" means a relationship to any business entity or real property in which an appointed official, elected official, candidate, and/or immediate family member is involved as a trustee, beneficiary of a trust, director, officer, employee, owner in whole or in part, limited or general partner, or a holder of stock or stocks or securities of any class or classes.

7. "Elected official" means a person designated as an elective officer of the city in the Carson City Charter.

8. "Gift" means anything of economic value which individually or cumulatively exceeds three hundred dollars (\$300.00) in value, but not including:

- a. Campaign contributions; or
- b. Gift(s) from any relative by blood or marriage, notwithstanding the definition of "relative" herein;
- c. Gift(s) from an employer, regardless of value; or
- d. Gift(s) of personal hospitality of an individual.

"Personal hospitality of an individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family.

9. "Immediate family" means the spouse and dependents of an official or candidate.

10. "Real property" means any interest in or option to purchase any interest in any real property in Carson City.

11. "Relative" means the parents of the official and his/her spouse, and the official's natural and adopted children regardless of dependency.

12. "Carson City" means that area bounded, generally, by Douglas County on the south, Lyon County on the east, Washoe County on the north and California on the west.

13. "Trust" means a legal title of property held by one party, the trustee, for the benefit of another, the beneficiary.

14. "Value" means the fair market value of a thing or service at the time of transfer, or if there be no market value, the cost of its replacement.

(Ord. 1997-66 § 1, 1997; Ord. 1989-20 § 3, 1989).

2.34.030 - Duties of the Carson City clerk.

The Carson City clerk shall supply forms from statements and other information required by this chapter and furnish such forms and information free of charge for use by persons subject to the requirement of this chapter and shall notify each person required to file under this chapter. The Carson City clerk shall notify the Carson City district attorney, the candidate or the elected official when anyone required to file a statement fails to do so within the prescribed time.

(Ord. 1989-20 § 4, 1989).

2.34.040 - Filing by candidates.

Each candidate for any city elective office shall file under oath, at the time of his/her filing papers of nomination, a disclosure statement containing the information set forth in Section 2.34.050 of this chapter.

(Ord. 1989-20 § 5, 1989).

2.34.050 - Information required.

Information required in the disclosure statement includes the following:

1. Name, address and phone number, if any, of the candidate;
2. The length of residence in the state of Nevada and the length of residence in Carson City;
3. The precinct in which the candidate is registered to vote;
4. The name, principal address and the general description of the business activity of any business entity conducting business with the city or within Carson City, in which the candidate has or had a direct financial interest at any time during the immediate preceding twelve (12) months;
5. The source or sources of each loan exceeding two thousand five hundred dollars (\$2,500.00).
Exceptions: The mortgage on the residence of the candidate; a loan for purchase of an automobile for private use; or a debt secured by mortgage or deed of trust for land located outside Carson City;
6. In the case of real property, a listing of all real property or interest therein, including options to purchase, located in Carson City, together with the location and name, if any, by which such property is commonly known, whether said real property was owned outright or held in whole or in part under a corporation or partnership;
7. Whether the candidate has ever been convicted of a felony, and if so, the date, location and nature of all such felony convictions;
8. Whether the candidate has filed for personal bankruptcy within the last seven (7) years;
9. The name of any person or entity providing a gift to the candidate within the preceding twelve (12) months, and a description of the gift.

(Ord. 1989-20 § 6, 1989).

2.34.070 - Conflict of interest—Elected officials, committees and commissions.

1. An elected official must abstain from voting on or participating in the discussion of an item before the Carson City board of supervisors whenever such official has a direct financial interest. When the item is called on the agenda, the elected official must disclose the existence and nature of the direct financial interest prior to any testimony being introduced on the item.
2. Members of the Carson City board of supervisors and the mayor must disclose the existence of a direct financial interest of a relative regarding an item before the Carson City board of supervisors. Disclosure must be made prior to any testimony being received on the item. After disclosure, the official may discuss and vote on the item.
3. An elected official must abstain from voting on or participating in the discussion of an item before the Carson City board of supervisors whenever such official or member of his immediate family has accepted a

gift from an applicant within the preceding eighteen (18) months, or whenever such official or member of his immediate family has sold or entered into a contract for the sale of goods or services to an applicant during the preceding eighteen (18) months which involves payment by the applicant of five hundred dollars (\$500.00) or more. When the item is called on the agenda, the elected official must disclose the existence and nature of the conflict prior to any testimony being introduced on the item.

4. A member of the Carson City board of supervisors and the mayor may discuss and vote upon an item, after disclosure, if the benefit or detriment accruing to the official as a result of the decision, either individually or in a representative capacity as a member of a business, profession, occupation or group, is not greater than that accruing to any other member of the business, profession, occupation or group.
5. All provisions of this section apply to all committees, commissions, boards and subcommittees appointed by the board of supervisors.

(Ord. 1989-20 § 8, 1989).

2.34.080 - Conflict of interest—Appointed employees.

An appointed employee who has a direct financial interest regarding a matter assigned to such employee for discretionary services must immediately disclose in writing the existence and nature of said interest to the city manager. An appointed employee must disclose the existence of a direct financial interest to the Carson City board of supervisors at the time of any communication, written or oral, to the Carson City board of supervisors concerning the item subject to such interest.

(Ord. 1989-20 § 9, 1989).

2.34.090 - Violation—Reconsideration of vote.

1. Within one month after the discovery that an elected or appointed official failed to disclose a conflict of interest regarding an item before the Carson City board of supervisors as required by law, the item may be brought back for reconsideration upon the request of one or more members of the Carson City board of supervisors.
2. Approval of an item by the Carson City board of supervisors where a violation of this chapter existed is voidable by any person having sufficient legal standing to challenge said approval. The fact that a violation existed shall be *prima facie* proof that the applicant had knowledge of the violation at the time of the initial approval.

(Ord. 1989-20 § 10, 1989).

2.34.095 - Unauthorized disclosure of confidential or proprietary information.

The wilful disclosure of confidential or proprietary information to another person by any appointed or elected official for personal gain or for the personal gain of another constitutes malfeasance in office and subjects the appointed official to termination from employment or the elected official to removal from office.

(Ord. 1989-20 § 11, 1989).

2.34.100 - Violation—Penalties.

1. Any elected official who wilfully and knowingly violates the provisions of this chapter is subject to removal from office in accordance with the procedure established in NRS 283.300 to NRS 283.430 inclusive, as amended.
2. Any appointed employee who wilfully and knowingly violates the provisions of this chapter is subject to removal by his or her appointing authority.
3. The penalties set forth in this section are in addition to misdemeanor prosecution for a wilful and knowing violation of any section of this chapter.

(Ord. 1989-20 § 12, 1989).

