DES PLAINES
ILLINOIS

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October 26, 2016

TO: Mayor Matthew J. Bogusz
Members of the City Council
City Manager
Department Heads
The Press

SUBJECT: Notice of Committee Meeting

Alderman Patricia Haugeberg, Chairman, has called for a meeting of the Legal & Licensing Committee to be held Monday, October 31, 2016 at 6:30 p.m. in Room 102 of City Hall.

AGENDA

Discussion Regarding Formal Investigation Relative to Ethics Ordinance Violations

Gloria J. Ludwig
City Clerk

The City of Des Plaines, in compliance with the Americans With Disabilities Act, requests that persons with disabilities, who require certain accommodations to allow them to observe and/or participate in the meeting(s) or have questions about the accessibility of the meeting(s) or facilities, contact the ADA Coordinator at 391-5486 to allow the City to make reasonable accommodations for these persons.

H:Common/Committee Meeting Notice Template

Chapter 9
CODE OF ETHICS

1-9-1: POLICY STATEMENT:

A. It is the policy of the city that, in all cases, its city officials and employees perform their duties for the benefit of the citizens of the city. They shall conduct the government of the city with integrity and impartiality, without allowing prejudice, favoritism or the opportunity for personal gain to influence their decisions or actions or to interfere with serving the public interest.

B. The purpose of this chapter is to establish ethical standards of conduct for all "city officials" as defined in section 1-9-3 of this chapter, by setting forth those acts or actions that are incompatible with the best interests of the citizens of the city and by directing disclosure by all city officials of private financial or other interests in matters which may affect the city. (Ord. M-15-95, 3-27-1995)

1-9-2: APPLICABILITY:

All of the provisions of this chapter, except as otherwise indicated, apply to all city officials, whether paid or unpaid. The provisions of this chapter do not apply to independent contractors. (Ord. M-15-95, 3-27-1995)

1-9-3: DEFINITIONS:

Whenever used in this chapter, the following terms shall have the following meanings:

CITY: The city of Des Plaines.

CITY OFFICIALS: The mayor, city clerk, eight (8) aldermen, department heads and any person acting as a department head. For purposes of this chapter only, "city officials" also includes the appointed members of the planning and zoning board.

COMMITTEE OR POLITICAL COMMITTEE: As defined in article 9 of the Illinois election code, as amended.

CONTRIBUTION: As defined in article 9 of the Illinois election code, as amended.

DOING BUSINESS: Any combination of sales, contracts, or purchases, with the city or any city agency in an amount in excess of ten thousand dollars ($10,000.00) in any twelve (12) consecutive months.

EMPLOYEE: Any individual compensated directly by the city in exchange for work performed directly for the city (other than those employees covered in the definition of "city officials" in this section) who, in the regular course of his duties, assists and acts in a confidential capacity to persons who formulate, determine and effectuate management policies with regard to city business or who, in the regular course of his duties, has authorized access to confidential information relating to the effectuation or review of the city's policies.

EXPENDITURE: A payment, distribution, loan, advance, deposit or gift of money or anything of value.

FINANCIAL INTEREST: A. Any interest as a result of which the owner currently receives or is entitled to receive in the future more than two thousand five hundred dollars ($2,500.00) per year; or

B. Any interest with a cost or present value of five thousand dollars ($5,000.00) or more; or

C. Any interest representing more than ten percent (10%) of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust or any legal entity organized for profit; provided, however, financial interest shall not include:

1. Any publicly held stock traded on a recognized exchange;

2. The authorized compensation paid to an official or employee for his office or employment;

3. Any economic benefit provided equally to all residents of the city;

4. A time or demand deposit in a financial institution;

5. An endowment or insurance policy or annuity contract purchased from an insurance company. (Ord. M-15-95, 3-27-1995; amd. Ord. Z-29-15, 10-5-2015)

1-9-4: RESPONSIBILITIES OF PUBLIC OFFICE:

City officials and employees of the city are agents of public purpose and hold office or are employed for the benefit of the public. They are bound to uphold the constitution of the United States and the constitution of the state and to carry out impartially the laws of the nation, state, and of the city, and thus foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both official and private affairs should be above reproach. (Ord. M-15-95, 3-27-1995)

1-9-5: DISCLOSURE:

A. Statement Of Economic Interest: All city officials required to file a statement of economic interest with the Cook County clerk shall file a copy of that statement with the city clerk by May 1 of each year.

B. Disclosure And Abstention: Any city official or employee who has an interest in any proposed contract, work, business or land use application with the city shall publicly disclose the nature and extent of such interest and shall not deliberate or vote on the matter in his official capacity. The same restrictions shall apply to any city official or employee whose spouse has an interest in any proposed contract, work, business or land use application with the city.

C. Other Employment:

1. All city officials shall annually submit a signed and notarized statement indicating all current employment and all employment for the previous calendar year. Such statement shall include the name of the employing entity and the nature of the services rendered in the course of employment.

2. The statement shall also disclose whether the city officials directly or indirectly were associated with or employed by a corporation, sole proprietorship or partnership which performs services for the city. (Ord. M-15-07, 4-16-2007)

D. Current Address: Elected city officials, planning and zoning board members, and department heads shall have the affirmative duty of notifying the city clerk, by notarized statement in writing, of any change of address for themselves. This affirmative duty may not be delegated to any other individual or family member. Aldermen must reside in the

ward they were elected to represent for their entire term. (Ord. M-15-07, 4-16-2007; amd. Ord. Z-29-15, 10-5-2015)

E. Failure To File; Penalty: On or before March 15 of each year, the city clerk shall notify the persons required to file disclosure statements of their duty to do so and of the provisions of this section. Any person who takes office or otherwise becomes required to file a statement of economic interests within thirty (30) days prior to May 1 of any year may file his or her statement at any time on or before May 31 without penalty. If such person fails to file such statement by May 31, the city clerk shall, within seven (7) days after May 31, notify such person by certified mail of his or her failure to file by the specified date. Such person shall file his or her statement of economic interests on or before June 15 with the city clerk together with a fifteen dollar ($15.00) late filing fee. Any such person who fails to file by June 15 shall be subject to a penalty of one hundred dollars ($100.00) per day for each day from June 16 to the date of filing, which shall be in addition to the fifteen dollar ($15.00) late filing fee specified above. Failure to file by June 30 shall constitute abandonment of office pursuant to 65 Illinois Compiled Statutes 5-3.1-10-50 and a forfeiture of office pursuant to 5 Illinois Compiled Statutes 420/4A-105 et seq.

F. Appeals Process For Failure To File Ethics Statement: Any person who fails to file within the requisite time as stated in subsection E of this section, may file a written appeal with the city clerk stating the reasons for their failure to timely file the ethics statement. The city council shall conduct a hearing and enter such findings either absolving the person of the penalty for failure to file or setting forth penalties within the parameters allowed in subsection E of this section. The decision of the city council shall constitute final administrative action pursuant to 735 Illinois Compiled Statutes 5/3-101. (Ord. M-15-07, 4-16-2007)

1-9-6: CONFLICT OF INTEREST:

A. No city official shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.

B. No city official shall engage in employment other than by the city which will cause a conflict with or impair the proper discharge of official duties. (Ord. M-15-95, 3-27-1995)

1-9-7: GIFTS AND FAVORS:

A. No city official or employee shall directly or indirectly solicit, accept, or receive any valuable gift or benefit, whether in the form of money, services, loan, travel, entertainment, hospitality, thing, or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift or benefit was intended as a reward for an official action or was intended to influence the city official, or could reasonably be expected to influence him in the performance of official duties.

B. Neither police nor fire charity functions are covered by this section and are specifically exempted herefrom. (Ord. M-15-95, 3-27-1995)

1-9-8: ABUSE OF POSITION:

A. No city official shall use the prestige or power of his office or employment for private gain or benefit, financial or otherwise, or for the private gain or benefit, financial or otherwise, of another. All city officials are also prohibited from using their positions to gain undue influence over subordinates.

B. No city official shall request or permit the unauthorized use of city owned vehicles, equipment, materials, or property for personal convenience or profit or political purposes. (Ord. M-15-95, 3-27-1995)

1-9-9: CONFIDENTIAL INFORMATION:

A. No city official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. City officials and employees are prohibited from using such confidential information to advance the financial or other private interests of themselves or others. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois freedom of information act[1]. A list of items which comprise "confidential information" is made a part of this chapter.

B. Any employee found to have knowingly violated any provisions of this chapter shall be subject to employment sanctions, including discharge. (Ord. M-15-95, 3-27-1995)

C. Any city official or member of the planning and zoning board found to have knowingly violated any provision of this chapter shall be subject to such penalty as may be determined by the city council within its authority to mete out disciplinary measures. (Ord. M-15-95, 3-27-1995; amd. Ord. Z-29-15, 10-5-2015)

1-9-10: ENFORCEMENT AND PENALTIES:

A. Any employee found to have knowingly violated any provision of this chapter shall be subject to employment sanctions, including discharge, as allowed by collective bargaining agreements and the city's personnel policy manual as currently exists or may be amended from time to time. (Ord. M-17-07, 5-7-2007)

B. Any city official or member of the planning and zoning board found to have knowingly violated any provision of this chapter shall be subject to such penalty as may be determined by the city council within its authority to mete out disciplinary measures. (Ord. M-17-07, 5-7-2007; amd. Ord. Z-29-15, 10-5-2015)

C. In addition to the foregoing, any person found by a court to be guilty of violating any of the provisions of this chapter, upon conviction thereof shall be punished by a fine as set out in the general penalty in section 1-4-1 of this title for each day of violation.

D. An ethics officer is hereby created who is hereby empowered to take any written complaints of any violation of provisions of this chapter. The ethics officer shall be entitled to investigate and make a written determination upon the alleged ethical violation. The ethics officer may make any such recommendations, as he or she may deem appropriate, to the corporate authorities. The ethics officer shall be appointed by the city manager for a term of one year and may be reappointed thereafter as the city manager deems appropriate. (Ord. M-17-07, 5-7-2007)

1-9-11: CITY OF DES PLAINES EMPLOYMENT:

No city official or employee may collect payment from more than one employment classification unless such person is appointed to an acting, interim or temporary position requiring additional duties. (Ord. M-15-95, 3-27-1995)

1-9-12: POLITICAL ACTIVITIES:

A. Political Activity:

1. No city official or employee shall use the prestige or power of his position on behalf of any city political party or for any political purposes in a city campaign.

2. No city official or employee may conduct political activities while on city time, or may use city equipment or facilities to campaign for any candidate for any office. All political activity, if any, must be conducted on one's own time after or before scheduled work hours.

3. Notwithstanding any provision of this code to the contrary, a limited exception to the foregoing is created for candidate forums held in city hall. To be an exception, such forums must be sponsored by outside nonpartisan or bipartisan groups for the purpose of allowing the public to meet and greet candidates or hear them in a public forum to discuss campaign issues. Invitations should be sent to all candidates on the ballot for city offices, unless a separate forum is held for mayoral or clerk candidates, in which case all candidates for that office shall be invited. Such candidates are specifically allowed to bring campaign materials to city hall to supply information to the citizens attending the forum. The forum shall not be utilized by candidates for distribution of large quantities of campaign literature, brochures or materials.

4. City staff may post notice through government access, cable, press release, website, or other electronic means of such meetings.

B. Political Contributions:

1. No city official seeking reelection may solicit or accept cash or in-kind contributions from any person or organization who has done business with the "city" as defined in section 1-9-3 of this chapter.

2. In addition to the foregoing, any person found by a court to be guilty of violating any of the provisions of this chapter, upon conviction thereof shall be punished by a fine as provided in the general penalty in section 1-4-1 of this title for each day of violation. (Ord. M-17-09, 3-16-2009)

1-9-13: REPRESENTATION BEFORE CITY BODIES OR COURTS:

A. No city official or employee who is an attorney licensed to practice law in the state shall represent any private interests before any city body or in any action or proceeding against the interests of the city in any matter in which the city is or could become a party. (Ord. M-60-95, 12-4-1995)

B. No city official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city body.

C. In the course of his duties, a city official or employee may appear on behalf of constituents as a representative of the electorate or in the performance of public or civic obligation as long as the city official receives no compensation. Also, a city official may appear on behalf of himself, his spouse, or minor children before any city body, administrative body, or court of law. (Ord. M-15-95, 3-27-1995)

1-9-14: POSTCITY EMPLOYMENT RESTRICTIONS:

A. Former city officials are permanently barred from representing any private entity before the city after leaving city employment regarding any matter he participated in as a city official. Former city officials are barred from representing any private entity before the city for a period of twelve (12) months after their employment terminates.

B. All city officials are prohibited from negotiating future employment with any person or entity who has a matter pending before the city official or body of which the city official is a member. (Ord. M-15-95, 3-27-1995)

1-9-15: VALIDITY OF CONTRACT:

Any contract negotiated, entered into, or performed in violation of any of the provisions of this chapter shall be voidable by the city. (Ord. M-15-95, 3-27-1995)

1-9-16: INVALID ACTIONS:

A. All city contracts shall include a provision requiring compliance with this chapter.

B. Any contracts negotiated, entered into, or performed in violation of any of the provisions of this chapter shall be voidable by the city.

C. Any permit, license, ruling, determination or other official action of a city agency applied for or in any other manner sought, obtained or undertaken in violation of any of the provisions of this chapter, shall be invalid and without any force or effect whatsoever. (Ord. M-15-95, 3-27-1995)

1-9-17: OTHER REMEDIES:

Nothing in this chapter shall preclude the city from maintaining an action for an accounting for any pecuniary benefit received by any person in violation of this chapter or other law, or to recover damages for violation of this chapter. (Ord. M-15-95, 3-27-1995)