

City Council Work Session Handouts

October 5, 2020

- I. Review and Discuss the Code of Ethics Ordinance Renewal
- II. Review and Discuss Social Media Policy for Elected and Appointed Officials

ETHICS ORDINANCE REVIEW

City Council Work Session: October 5, 2020



BACKGROUND

- Code of Ethics was adopted September 27, 2010
- Council must review the Code of Ethics once every two years
- Last reviewed October 1, 2018
- Ordinance Features
 - Purpose
 - Title/Application
 - Definitions
 - Standards of Conduct
 - Additional Standards
 - Disclosure of Substantial Interest
 - Complaints Against Officers
 - Violations
 - Interpretation of Content
 - Review

OVERVIEW - TITLE/APPLICATION

- Applies to the City Council and all City Boards and Commissions
- Applies to City officers while the person holds the position/office
- City employees are not covered by the ordinance
 - The standards of conduct for employees are governed by the City of Richardson Personnel Policies and City Charter.

OVERVIEW - STANDARDS OF CONDUCT

- No officer of the City or relative thereof shall:
 - Have a financial interest in any contract with or sale of land to the City
 - Participate in a vote or decision on any matter in which the officer has a substantial interest
 - Represent or appear on behalf of private interests
 - Excluding homeowner or neighborhood associations
 - Accept any gift that might influence decision making
 - Exceptions listed in Section 2-4 (d) (1-12)

OVERVIEW - STANDARDS OF CONDUCT

- No officer of the City or relative thereof shall:
 - Use official position to secure special privileges or benefits
 - Grant special consideration, treatment or advantage to any citizen
 - Disclose confidential information
 - Engage in outside activities which will conflict with the person's official position and/or duties
 - Use City supplies, personnel, property, equipment or facilities for any purpose other than official City business

OVERVIEW - ADDITIONAL STANDARDS

- No member of the City Council may vote on any funding request for a nonprofit in which the person is a board member
- No member of the City Council may appear on his/her own behalf before City Council, a board, a commission, or a committee
- No member of the City Council, City Plan Commission or Board of Adjustment shall participate in or vote on any land use matter in which such officer has a substantial interest in any real property within 200 feet of the real property, the subject of the land use matter

OVERVIEW - DISCLOSURE OF SUBSTANTIAL INTEREST

- Any officer who has a substantial interest in any matter pending before the City Council, a board or a commission of which the officer is a member must file an affidavit stating the nature and extent of the substantial interest before a vote or decision on such matter
- Officer must also abstain from participation in such a matter

OVERVIEW - COMPLAINTS AGAINST OFFICERS

- To be considered, a written complaint shall be filed with the City Secretary's Office
 - Must be sworn to before a notary public
 - Must describe the specific details of the complaint
 - May not be anonymous
- Subsequent to an official complaint being received by the City Secretary, an investigation is commissioned in accordance with Sections 2-7 (a-g)
- Once an official complaint is resolved, the City Council may take any one or more of the actions outlined in Sections 2-8 (1-6) in an open meeting

OVERVIEW - VIOLATIONS

- The city council may take any one or more of the following actions in an open meeting concerning a complaint:
 - Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith
 - Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the officer of any steps to be taken to avoid future violations
 - Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification

OVERVIEW - VIOLATIONS

- **The city council may take any one or more of the following actions in an open meeting concerning a complaint:**
 - **Issue a reprimand when a violation has been committed knowingly or intentionally**
 - **Remove from office an officer, other than a city council member, for a serious or repeated violation of this Code of Ethics. Removal shall be, to the extent by and allowed, in compliance with the Charter and state law**
 - **Pass a resolution of censure or a recommendation of recall when the city council finds that a serious or repeated violation of this code of ethics has been committed intentionally by a member of the city council**

RECOMMENDED REFINEMENTS

- Based on your suggestions and input and a thorough review of the current standards, staff has compiled several recommended refinements to the Ethics Ordinance for the City Council's consideration
- City Council Strategy
 - Enhance the quality of life of our stakeholders
 - Conduct biannual review of Code of Ethics

RECOMMENDED REFINEMENTS

- *Officer or official* means any member of the city council and any appointed member of a city board, commission or committee established by ordinance, Charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the city council. Such term includes but is not limited to the members of the city plan commission, the board of adjustment, the building and standards commission, the tax increment reinvestment financing zone boards of directors, the civil service board and appeals board, the library board, the parks and recreation board, the cultural arts commission, animal shelter advisory board, and the sign control board ~~environmental advisory commission~~. Such term also includes the members of the boards of directors of corporations, such as the Richardson Improvement Corporation.

RECOMMENDED REFINEMENTS

- **Sec. 2-5 – Additional Standards**

(d) No member of the city council shall fail or refuse to file a personal financial statement as required by Texas Government Code Chapter 145, as amended.

(e) No member of the city council shall fail or refuse to file a conflicts disclosure statement as required by Texas Government Code Chapter 176, as amended.

RECOMMENDED AMENDMENTS

- **Sec. 2-7 – Complaints against officers**

(c) If it is determined by the city attorney that the facts as alleged could constitute a violation of this code of ethics, then the city attorney shall, within 15 business days after receipt of the complaint, notify the mayor and city council members of the existence and nature of the complaint. The city council shall cause a meeting to convene, whether regular or special, within 15 business days after being so notified by the city attorney to further consider said complaint in executive session with mayor or any three members of the city council (excluding the mayor) causing such a meeting to be convened. In any event, the city attorney shall immediately proceed to fully investigate the alleged improprieties. For purposes of this investigation, the city attorney shall have all of the powers of investigation as are given to the city council by reason of the City Charter and shall report back to the city council as soon as possible but in no event more than 15 business days from the date of notification of the city council unless an extension is granted by the city council. Said report shall be comprehensive and explain in detail all facts, findings and conclusions in support of the city attorney's opinion as to whether a violation of this code of ethics occurred. The city attorney has the same power to subpoena witnesses and the production of documents, books, records and other evidence as are given the City Council under the City Charter when acting pursuant to this subsection. It shall be unlawful and an offense for any person to fail to obey a subpoena or to produce books, papers or other evidence as ordered under the provisions of this section and shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00)."

RECOMMENDED AMENDMENTS

- Sec. 2-7 – Complaints against officers

(f) The city council may appoint outside legal counsel or may direct the city attorney to appoint outside legal counsel, or the city attorney in the city attorney's discretion, may appoint outside legal counsel, to perform the duties and responsibilities of the city attorney under subsections (b), (c) and (d) of this section. The outside legal counsel shall have the same power to subpoena witnesses and the production of documents, books, records and other evidence as the city attorney under section (c) when acting pursuant to this subsection. It shall be unlawful and an offense for any person to fail to obey a subpoena or to produce books, papers or other evidence as ordered under the provisions of this section and shall constitute a misdemeanor and shall be punishable by fine not to exceed two hundred dollars (\$200.00).

RECOMMENDED AMENDMENTS

- Sec. 2-11. – Acknowledgement of Code of Ethics.

The city will provide each officer a copy of the Code of Ethics at the time such person is initially elected or appointed. Each officer shall within ninety (90) days after such person is initially elected or appointed file with the city secretary an acknowledgement, in a form provided by the city, that such person has received a copy of, and has read the Code of Ethics.

NEXT STEPS

- Accept City Council feedback and direction about renewal of the Ethics Ordinance
- Prepare an ordinance for City Council consideration/action on November 2, 2020 agenda
- The next review of the Ethics Ordinance will occur in October 2022



REVIEW & DISCUSS A SOCIAL MEDIA POLICY FOR ELECTED & APPOINTED OFFICIALS

City Council Briefing: October 5, 2020



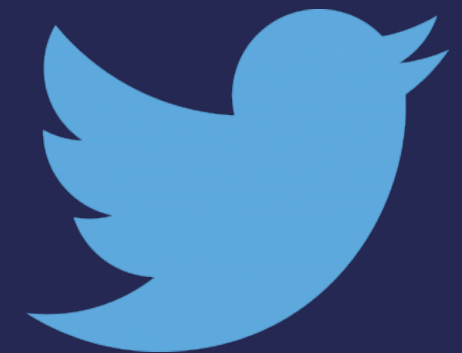
INTRODUCTION

- Purpose of A Social Media Policy
 - A social media policy provides guidelines for elected and appointed officials who post content on the Internet either in their official capacity or as a private person
 - Such policies normally include directives for when an elected or appointed official should identify him/herself as a representative of the City on a social networking website, as well as rules for what types of information can be shared



INTRODUCTION

- An effective social media policy will:
 - Protect the City's reputation
 - Outline what's considered confidential or private information
 - Spell out who in the organization is the official voice
 - Discuss the proper way to engage with others online



INTRODUCTION

- Social media can be a valuable communication tool and community engagement strategy when managed properly
- The City of Richardson's image as a professional organization is critical to maintaining the trust and respect of its constituents
- The City acknowledges its elected and appointed officials have the First Amendment right to free speech
- When posting personal information on social media platforms or when making comments on sites hosted by other persons, groups or organizations, elected and appointed officials' right of expression should not undermine the effective, efficient management or operation of the City

SOCIAL MEDIA POLICY ELEMENTS

- Application
- Definitions
- Best Practices & Guidelines
- Professional & Personal Conduct Standards



APPLICATION

- Proposed policy would apply to members of all city boards, committees or commissions as defined in the policy as “officials” or “officers” except when such member is an independent contractor of the City, or a City employee, including an individual employed on a full-time, part-time or internship basis
- Proposed policy would apply to the conduct or actions of officers that occurs in whole or in part after the date of adoption of this policy; and would only apply to officers while that person holds that position or office
- Proposed policy would not apply to an individual employed on a full-time, part-time or internship basis by the City
 - The City of Richardson has a Social Media Policy for its employees

DEFINITIONS

- *Officer or Official* means any member of the city council and any appointed member of a city board, commission or committee established by ordinance, Charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the city council
- *Social Media Accounts* means social media profiles, accounts, addresses and handles, and services related thereto, including those made available through the Facebook, Twitter, Instagram, SnapChat and other similar platforms
- *Personal Account* means a social media or electronic media identity/account connected to the Officer by text, title or visual representation, not including a *professional account*
 - Election/campaign related social media accounts fall into the category

DEFINITIONS

- *Professional Account* refers to any social media account created or maintained by the City of Richardson as well as any social media account created by an Official in their *official capacity*
 - Examples of actions that denote official capacity
 - Identifying oneself as Mayor/City Council member/Board or Commission member on the social media account
 - Using the City logo as the cover photo or profile picture on the social media account
 - Using official City-provided photographs as the cover photo or profile picture on the social media account

BEST PRACTICES AND GUIDELINES

- Public officials are strongly encouraged to separate personal social media accounts from professional social media accounts so that City-related matters and all public records generated from those posts are easily archived and not intermingled with personal posts not related to City matters
- Officials should exercise caution with respect to comments they post, particularly those concerning the City and the business of the City
- Officials should be cautious in using official City-provided photographs on personal social media sites

BEST PRACTICES AND GUIDELINES-CONTINUED

- Officials are strongly encouraged to consider the potential impact of social media statements prior to posting. The City strives to be professional in its operations and processes. Posts that express favoritism and/or bias for or against any individual or group of individuals reflect poorly on the official, as well as the City and its residents. Further, comments suggesting such treatment can expose the City to liability and legal costs
- Officials should refrain from using social media accounts to communicate with City employees about City-related matters as this creates a public record on employees' personal accounts that must be retained according to the City's records retention schedule and possibly produced to the public pursuant to the Texas Public Information Act

PROFESSIONAL & PERSONAL CONDUCT STANDARDS

- All officials are expected and required to conduct themselves in a manner consistent with the City's policies and standards of conduct
- Unless the official has been designated to serve as a spokesperson, officials should never represent themselves as a spokesperson for the City, the City Council, a City board or commission, City Administration, or any City department
- From time to time, officials will have access to information that is considered privileged or confidential; Officials must be particularly careful to protect against the disclosure of confidential or privileged information
- Officials should be honest and accurate when posting information or news, and should quickly correct any mistakes, misstatements and/or factual errors in content upon discovery

PROFESSIONAL & PERSONAL CONDUCT STANDARDS

- Officials should not post or share information known to be false about the City, its employees, constituents, other public officials, suppliers, vendors, or contractors
- Officials are prohibited from deleting posts and related comments regarding any City-related matters to avoid violating the Texas Public Information Act, chapter 552, Texas Government Code and records retention requirements
- Officials should be mindful that posting content regarding City-related matters could inadvertently result in the violation of the Texas Open Meetings Act Chapter 551, Texas Government Code, if enough other officials engage on the post, resulting in a quorum, the online conversation should immediately cease with no further posts by the officials

PROFESSIONAL & PERSONAL CONDUCT STANDARDS

- Officials are prohibited from using social media to engage in any activity that constitutes a conflict of interest as defined by State law or the City's Code of Ethics
- In order to ensure that all individuals or entities receive a fair and neutral resolution of matters considered by the City, and to avoid allegations of favoritism and/or bias for or against any individual, entity or issue, officials are prohibited from making any statements on social media regarding any individual, entity or issue which is reasonably likely to be considered by the body on which the official serves
- If any official conducts any City business or communication in such person's official capacity from either a personal account or a professional account, officials should assume that City-related communications will be considered a public record subject to the Texas Public Information Act, Chapter 552, Texas Government Code

NEXT STEPS

- Accept City Council feedback and direction about the proposed social media policy for elected and appointed officials
- Prepare a Resolution adopting the policy for City Council consideration/action on the November 2, 2020 agenda

