



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: May 23, 2022

TO: President Heather Graham and Members of City Council
VIA: Marisa Stoller, City Clerk
FROM: Mayor Nicholas A. Gradisar
SUBJECT: AN ORDINANCE AMENDING THE LEGISLATIVE PROCEDURES AND RULES OF THE PUEBLO CITY COUNCIL REGARDING CONFLICTS OF INTEREST

SUMMARY:

Attached is a proposed Ordinance which makes an amendment to the legislative procedures and rules of the Pueblo City Council regarding conflicts of interest.

PREVIOUS COUNCIL ACTION:

The legislative rules of the City Council have been amended periodically in the past to address particular policies and procedures.

BACKGROUND:

A protocol should be instituted to establish a policy and procedure when a member of City Council has a personal or private interest in any matter proposed or pending before the City Council.

FINANCIAL IMPLICATIONS:

The proposed legislative change shall have no budgetary impact.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to implement a specific policy and procedure when a member has a conflict of interest.

RECOMMENDATION:

Approve the Ordinance.

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LEGISLATIVE PROCEDURES AND RULES OF THE PUEBLO CITY COUNCIL REGARDING CONFLICTS OF INTEREST

WHEREAS, Section 1-9-7 of the Pueblo Municipal Code provides as follows:

(c) A member of City Council who or whose family has a personal or private interest in any matter proposed or pending before the City Council shall disclose such interest to the City Council and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the City Council in voting on the matter.

and;

WHEREAS, Section 24-18-109 of the Colorado Revised Statutes provides as follows:

(3)(a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

and;

WHEREAS, in Advisory Opinion 16-05, the Colorado Independent Ethics Commission, stated as follows:

Colo. Const. Article XXIX, sec. 1(c) requires covered individuals “to avoid conduct that is in violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated.” Appearances of impropriety are generally referred to as “perception issues” or “violating the smell test.” They can weaken public confidence in government and create a perception of dishonesty, even among government officials who are in technical compliance with the law.

In order to avoid the appearance of impropriety, local government officials should avoid voting on or debating questions in a manner that may lead the public to perceive that the local government official is either placing his or her own private business interests in a position of competitive advantage or keeping his or her own private business interests from being adversely affected by the decisions of the governing body.

(emphasis supplied) and;

WHEREAS, Section 3-16 of the Charter of the City of the City of Pueblo provides as follows:

In all legislative matters coming before it, the Council shall act only by ordinance, resolution or motion. The ayes and nays shall be taken upon the passage of all ordinances, resolutions and motions, and entered upon the journal of the Council proceedings. Every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage. Failure to vote by a council member when present shall result in a vacancy, the office to be forfeited immediately.

(emphasis supplied). NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

The Legislative Procedures and Rules of the Pueblo City Council shall be and hereby are amended by the addition of a new Rule 8 Section (d) as follows:

8. Voting.

...

(d) A member of City Council who or whose immediate family, defined as the following relatives, connected by blood or by marriage ("in-laws") spouse, sibling, parent, grandparent, child, grandchild, niece or nephew, has a personal or private interest in any matter proposed or pending before the City Council shall:

(i) *Notification of City Clerk.* Such Councilor shall notify the City Clerk, as soon as feasible, that such member has a conflict of interest with respect to an item on a proposed work session agenda or proposed regular meeting agenda and shall request that the City Clerk place such item at the end of such agendas to permit such Councilor's recusal at the appropriate time.

(ii) *Voluntary Disclosure.* Such member is encouraged to voluntarily disclose, not less than 72 hours before the Council vote, the nature of the member's private interest, on a form to be electronically filed with the Office of the Colorado Secretary of State, pursuant to C.R.S. 24-18-110.

(iii) *Mandatory Disclosure.* Such Councilor shall disclose the conflict of interest and at the beginning of Council's regular meeting or work session and request permission to be excused at the appropriate time.

(iv) *During discussion and debate:* Such member shall be excused from the Council dais so as not to influence the decisions of the other members of Council in voting on the matter. Such Councilor shall be allowed to remain in the Council Chamber but shall not be allowed to address Council. This Section 8(d)(iv) is applicable only to Council meetings in which formal votes are disallowed (e.g. work sessions) and shall not apply regular sessions of the Council at which formal voting takes place.

(v) **Voting:**

1. Resolutions. Such member shall not cast a vote and shall be excused from the Council Chamber for purposes of compliance with Charter Sec.3-16.

2. Ordinances on First Reading. This vote is procedural only and does not result in the adoption of an ordinance and therefore such Councilor may vote on the motion to adopt the ordinances on the Consent Agenda on First Reading; to set the public hearing date and to order that all proposed ordinances be published by title.

3. Ordinances on Second Reading. Such member shall not cast a vote and shall be excused from the Council Chamber for purposes of compliance with Charter Sec.3-16.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

- Approved on _____.
- Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- Council did not act to override the Mayor's veto.
- Ordinance re-adopted on a vote of _____, on _____
- Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk