



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: DECEMBER 10, 2018

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

Public Hearing to Review the Effectiveness of the City Council Adopted Code of Ethics and Conduct and Ethics Pledge.

ISSUE: Review of the 2016 adopted *Code of Ethics and Conduct*.

RECOMMENDATION: That City hold a public hearing on the current *Code of Ethics and Conduct* (attached) and request the City Manager develop a document which captures the ideas and issues from the public hearing, as well as those ideas and issues that the Council may raise during and after the public hearing, and then synthesize those ideas and issues for the incoming City Council members who will take office on January 2, 2019.

BACKGROUND: In early 2016 City Council created an Ad Hoc Code of Conduct Review Committee (the "Committee") which was charged with writing a code of conduct and an ethics pledge, as well as reviewing the findings of the report on the Commission on Integrity and Public Confidence in State Government to determine whether any of the recommendations in that report should be applied to the City. The Committee reported to Council in the spring of 2016, and Council then considered the Committee's recommendations and adopted the attached *Code of Ethics and Conduct* and *Ethics Pledge*. As stated in the 2016 Council adoption, the Code and its *Ethics Pledge* are "aspirational in nature," and "subordinate to federal, state, and local law and do not confer and/or mandate any additional duties beyond those required by law."

In the area of ethics and ethical conduct, Virginia local governments operate largely under the laws of the Commonwealth including the Virginia Freedom of Information Act (FOIA) which sets standards for governmental open meetings and transparency of information, as well as the Virginia Conflict of Interest Act (COIA) which establishes standards for ethical behavior and actions by governmental officials. The City, as an instrumentality of the Commonwealth, is required to operate under FOIA and COIA, and as such, City staff periodically informs Council, City staff, as well as City boards and commissions about FOIA and COIA and how best to comply with those two laws. Incoming new councilmembers have already been briefed on COIA and FOIA and will also receive additional training in these two areas at the Virginia Municipal League's January 2019 session for newly elected local officials.

In addition to these state mandated requirements, there are local additional standards and policies. For example, the City Charter prohibits City Council member participation in personnel decisions in regard to City employees (except personnel matters related to their aides, the Council-appointed City Manager, City Clerk and the City Attorney). This long-standing prohibition in the personnel arena has fostered the establishment and maintenance of a cadre of professional City staff. It is a keystone to the City Council-

Manager form of government. In addition, City procurement laws, regulations and practices place decisions on contracting and purchasing at the City staff level and not with Council. This keeps the contracting and award decisions for millions of dollars of annual spending decisions at the staff administrative level rather than at the City Council legislative level.

In addition, to the Virginia State Code FOIA and COIA requirements, the City has exercised its limited authority to go beyond the FOIA and COIA requirements and set higher standards than required by State law. For example:

- (1) The City Manager approved in 2012 an administrative Code of Ethics which is a set of regulations that govern the actions of City employees.
- (2) At the request of City Council, the Clerk has published Mayor and Council Member financial disclosure documents online for public inspection.
- (3) The City has put in place an anonymous third-party administered ethics and fraud hotline function where the public, as well as City employees, can raise concerns related to ethics and conduct which are then reviewed, and action taken, if warranted, to address the issues raised in these anonymous public and employee hotline calls and online filings.
- (4) The City also maintains a robust internal auditing arm, and is subject to an annual external audit and review by a third-party independent accounting firm.
- (5) The City provides an ethics training module for all new City employees at their new employee orientation,
- (6) The City Manager has approved a City staff-drafted citywide employee *Values* statement which articulates *Integrity* as a value and as a foundational expectation for City employees.
- (7) Council also has created an audit committee comprised of two of its members.

The 2016 Code of Ethics also included an expectation of a community forum on ethics and enhanced website. Those two initiatives did not occur but will occur in 2019 as these two proposed concepts will be specifically assigned to one or more staff persons.

In 2009, City Council added section 11-350 to the Zoning Ordinance to require public ownership disclosure requirements for developers seeking to do business with the City, as well as required disclosure of campaign contributions by developers and those with land-related interests before the City. In 2016, City Council lowered the percentage of ownership required to be disclosed thereby increasing the amount of disclosure required making Alexandria's disclosure requirements among the highest in the region. At the request of Council, the City Attorney also publishes an annual report in regard to the number, date and purpose of executive sessions held by Council during the previous fiscal year.

Finally, it is a regular practice for Council members and staff to consult with the City Attorney's Office in regard to potential conflict of interest issues, so that Council members individual votes and actions are consistent with, and at times exceed, COIA requirements.

On May 24, 2016, City Council adopted the attached *Ethics Pledge* statement to be applied prospectively to future City Councils, and therefore would be first utilized by the incoming City Council on January 2, 2019. Additionally, City Council adopted the attached Code of Ethics and Conduct. Included within that Code was a once-a-Council-term (i.e., once every three years) public hearing so that a review of the effectiveness of this *Code of Ethics and Conduct* could be conducted. With the City Council term now nearly completed, it is an appropriate time for the public hearing to be held, and that public input be then synthesized for the new City Council to consider when it starts its term in 2019.

ATTACHMENT: May 24, 2016 Adopted *Code of Ethics and Conduct* and *Ethics Pledge* for future City Councils