

# ETHICS



CITY OF SOUTH SALT LAKE  
CITY COUNCIL  
MARCH 2020

# Applicable Laws



- Utah Municipal Officers' and Employees' Ethics Act
  - (UCA 10-3-1301 et seq.)
- Utah Public Officers' and Employees Ethics Act
  - (UCA 67-16-1 et seq.)

# Utah Municipal Officers' and Employees' Ethics Act



- Utah Code Ann. § 10-3-1301
- Purpose: The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.
- Intent: Build public trust in government officials

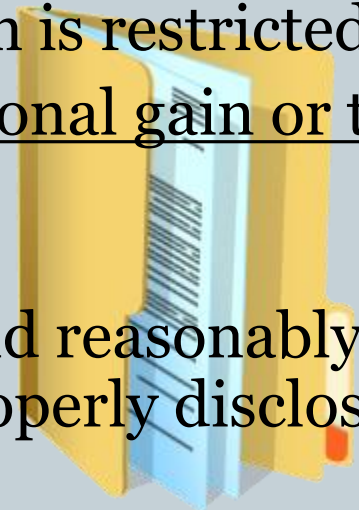
# Who does the law apply to?



- Elected Officials
- Appointed Officers
  - Committees, agencies, boards (regardless of compensation)
- Municipal Employee
  - Any person employed by a municipality or a community reinvestment agency

# Disclosing private, controlled, or protected information

- Public officials have access to sensitive information:
  - Personal information
  - Real estate documents
  - Business trade secrets
  - Medical documents
  - Documents of criminal and internal investigations
  - Attorney work product
- The **use** and **disclosure** of this information is restricted
- Using or disclosing the information for personal gain or to aid or assist another is unlawful
- Accepting employment or engaging in business/professional activity that one would reasonably expect would require or induce one to improperly disclose this info is unlawful



# Inappropriately using official position



- Officials may not use or attempt to use position or title to gain economic or personal advantages.
  - “Do you know who I am?”
- Nor may they do so for others.
  - “I’ll pull a few strings for you.”
  - Special requests for fee waivers
  - Influencing investigations



# Inappropriate Gifts or Economic Benefits



- **Gift:**
  - Which would tend to influence a reasonable person's decision
  - Recipient knows or should know that the gift is given to reward them for official action taken
- **Economic Benefit:**
  - Loan at rate below FMV
  - Compensation for private services at rate above FMV
- **Excludes:**
  - Occasional non-pecuniary gift less than \$50
  - Publicly presented award for service
  - Bona fide loan
  - Political campaign contribution.

# Bribery



## Receiving or Soliciting a Bribe:

- 1) Asking for, soliciting, accepting, or receiving, either directly or indirectly...
- 2) Any benefit...
- 3) With the understanding, agreement, or purpose to influence an action, decision, opinion, recommendation, judgment, vote, nomination, etc

## Still a crime, even if:

- 1) Benefit is conferred after the action
- 2) The person sought to be influenced did not act in the desired way
- 3) The person sought to be influenced was not qualified to act in the desired way
- 4) The person sought to be influenced has left office

This may be committed by any person involved.





# Public Perception

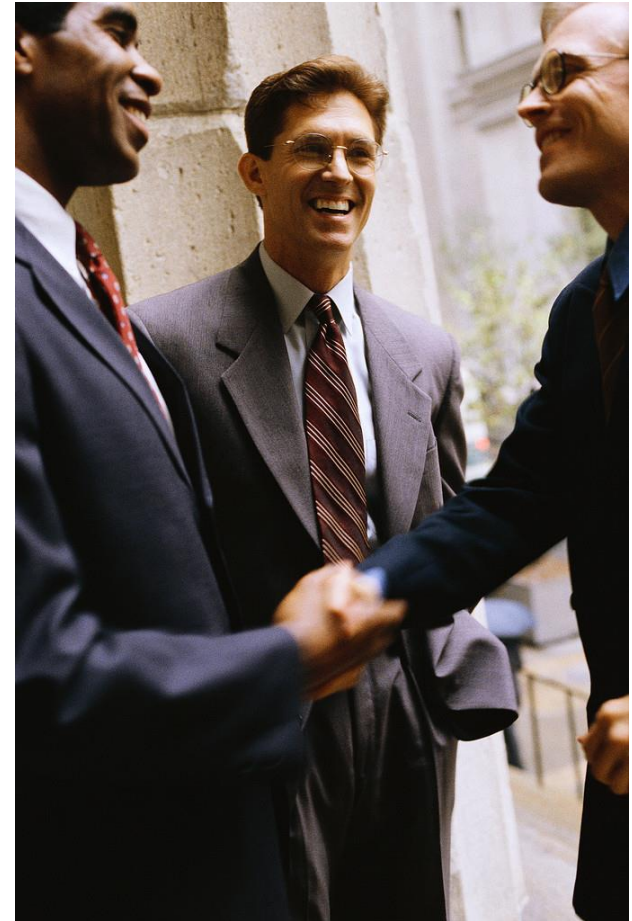


- City routinely does business/regulates for-profit entities
- City Staff v. Elected Officials Roles
  - Appearance of selling your vote
- City Attorney advises against meeting with these entities, but if you have to invite technical City Staff to be present
  - Meeting alone is NEVER a good idea
  - Having staff present may help balance interests and help eliminate a public perception problem

# Business Transactions - Disclosure



- It is unlawful for members of a public body to receive compensation for assisting a person or entity in a business transaction with the City UNLESS the official:
  - Provides sworn written disclosure to Mayor, and
  - Provides oral disclosure to body immediately before the discussion
- Written disclosure is a public document.
- Disclosure must be provided at least 10 days prior to the earlier of: (1) the transaction, or (2) receipt of compensation



# Conflicts of Interest: Business Interests- Disclosure



- Officials who have a substantial interest in a business which is regulated by the City must disclose the relationship in writing to the Mayor
  - “Substantial interest” means at least 10% interest by the official, their spouse, or their minor children.
  - Substance of disclosure is reported to governing body
- Must keep the disclosure updated.

# Conflicts of Interest: Business Transactions- Disclosure



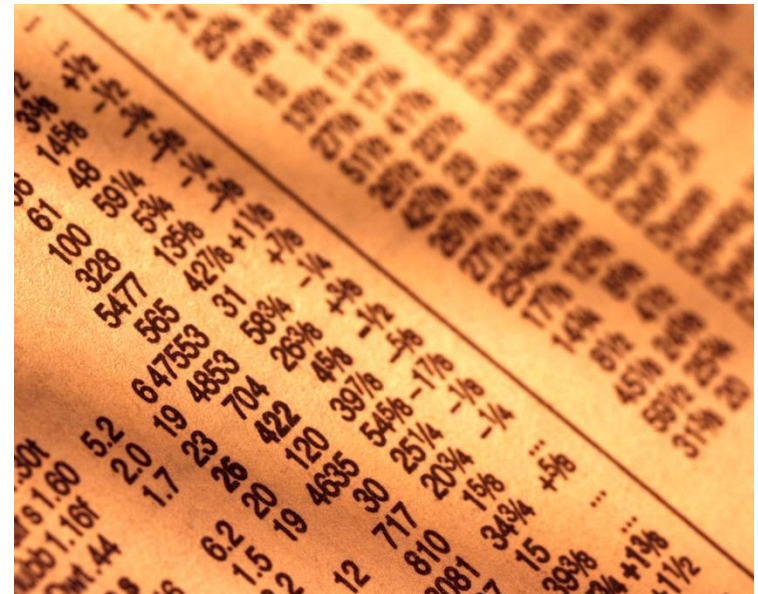
- If you have a substantial interest in a business which will be engaging in a transaction with the city, regardless of where it is headquartered, then you must publicly disclose to the members of the public body the business interest prior to discussing the transaction.
- The disclosure need not be in writing, but must be included in the meeting's minutes.



# Conflicts of Interest: Investment & Personal



- Any interest which creates a conflict between the official's personal interests and the employee's public duties must be disclosed to the Mayor in writing, who will then disclose it to the Council.
  - This includes investments and personal interests



# Disclosure



- Elected officials disclose any conflicts of interest:
  - Upon election
  - When the nature of the conflict has changed
  - In cases of receiving compensation for assisting a person or entity in a transaction, at least ten days before the contract date or ten days before receipt of the compensation, whichever is earlier.

# Rule 11 of Council Rules- Disclosure



- **Your Rules**

- “Under most conflict of interest situations, Council Members should abstain from voting on a matter if they have a substantial interest in the item before the Council, and to avoid participating in the discussion as well.
- “substantial interest”- 10% or more ownership by council member or immediate family.



# When in Doubt....



- **Disclose**

- Under state law, conflicts do not require an officer to abstain from voting or discussing the transaction or issue. Officers are free to do business in and with the municipality.
- But they must disclose the relationship and/or conflict
- These are minimum standards. Public scrutiny may determine whether you *should* abstain. (and your own rules)

- **Report**

- If you feel there has been a violation, seek to enforce it through the proper channels. It is unfair to make a public accusation of an ethical violation or conflict of interest for political purposes.

There may be a difference between what you feel is right, and what the law requires.



# Accepting Employment



- It is unlawful to accept other employment or engage in any business that one might expect
  - Would require or induce him/her to improperly disclose controlled information
  - would impair one's independence of judgement in the performance of his public duties, or
  - would interfere with the ethical performance of one's public duties

# Enforcement



- Self regulating by recusing when conflict- Not your job to call someone else out
- Political Subdivisions Ethics Review Commission for any violation of the Ethics Act
- Criminal Sanctions for some offenses
  - Disclosure not a defense for crime
- Removal from Office/Employment

# Review



- **Criminal Sanctions/Dismissal from Office**
  - Use office to get special privileges for yourself or others
  - Sell votes
  - Gifts over \$50
  - Using secrets that advantage you or others

- **Disclosure of Conflicts**
  - Based on Economic Interest of you or close family member
    - ✦ If business with City
    - ✦ If regulated by City
  - Personal interest that conflicts with public duty
  - How?
    - ✦ Writing (to Mayor)
    - ✦ Oral (when it comes up)



Questions or Discussion