

Introduced by: Council Member Williams
Introduction Date: April 27, 2010
Public Hearing: May 25, 2010
June 8, 2010
Action: Fails
Vote: 2-2

CITY OF BETHEL, ALASKA

Ordinance #10-17

AN ORDINANCE AMENDING BMC CONFLICTS OF INTEREST SECTION OF THE BMC TO PREVENT THE EXCHANGE OF GIFTS FOR A PROMISE TO VOTE OR ACT IN A PARTICULAR MANNER

WHEREAS, the Alaska Public Offices Commission's purpose is to maintain the public's confidence in their elected and appointed officials by administering disclosure statements and publishing financial information regarding the activities of election campaigns, public officials, lobbyist employers;

WHEREAS, all city council members, planning commission members and the city manager are required to fill out an annual disclosure statement which is a public document;

WHEREAS, disclosure of income and financial gains is reported, to insure a transparent government;

WHEREAS, if a council member, planning commissioner or the City Manager receive a gift valued at over \$250.00 they must report that to the Alaska Public Offices Commission;

WHEREAS, changing the Bethel Municipal Code to allow for gifts valued at more than \$10.00 would allow for a council member, planning commissioner and the city manager to be purchased a meal by another member of the community;

WHEREAS, no matter what the value no officer of the city should accept a gift in exchange for voting or acting in a particular manor, it is unethical behavior and grounds for removal from office or position.

NOW, THEREFORE BE IT ENACTED by the City Council of Bethel Alaska as follows:

SECTION 1. Classification. This ordinance is of permanent nature and shall be codified within the Bethel Municipal Code.

SECTION 2. Amendment. Section 2.05 of the Bethel Municipal Code are hereby amended as follows (new language is underlined and old language is stricken out):

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2.05.060 Conflicts of interest.

A. Prohibitions.

1. No elected official, appointed municipal officer, committee or commission member or municipal employee shall use his or her office or official position for the primary purpose of obtaining financial gain for themselves or their spouse, child, parent or business with which he or she is associated or owns stock. This provision does not apply to financial gain from salary under the terms of employment.

2. No elected official (except in the case of a member of the city council where the presiding officer or city council rule otherwise as provided in subsection D of this section), appointed municipal officer, appointed official or municipal employee shall participate in any official action in which he or she has a substantial financial interest. Prohibited participation includes voting as a member of the city council, taking part in debate, soliciting the vote of a member of the city council, or encouraging any municipal official or officer to act in a certain way.

3. No elected official, appointed municipal officer, appointed official or municipal employee may accept from any other elected official, ~~appointed municipal officer, appointed official or municipal employee or any other person~~, money, gifts valued at ~~more than ten dollars (\$10)~~, promises of future benefits, or any other thing of value, ~~for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties.~~ This subsection does not prohibit any person from accepting an award or bonus authorized by the city council to be given for meritorious service.

4. No elected official, appointed municipal officer, appointed official or municipal employee, and no other person shall give or offer to give money, gifts valued at ~~more than ten dollars (\$10)~~, promises of future benefits, or any other thing of value to any elected official, appointed municipal officer, appointed official, or municipal employee ~~for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties.~~ This subsection does not prohibit any person from voting for or participating in granting an award or bonus authorized by the city council to be given for meritorious service.

B. Financial Interests Which May Be Conflicts of Interest. The following is a list of examples of financial interests substantial enough that any member of the city council, appointed officer, appointed official or municipal employee who falls under any of the categories listed below should not vote or act on. The categories below are not meant to be a complete listing of all possible conflicts of interest. Any instances not covered below should come before the city council for a vote as the individual matters arise. A member of the city council, appointed officer, appointed official or municipal employee should abstain from voting or refrain from acting if:

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1. He or she (or a member of his or her immediate family) individually, jointly, or in partnership with another has an interest in land or buildings, other than his or her residence, which will be affected by the vote or action.

2. He or she (or a member of his or her immediate family) is party to or beneficiary of a contract for a sum of one thousand dollars (\$1,000) or more in value that will be affected by the vote or action.

3. He or she (or a member of his or her immediate family) is individually, jointly, or in partnership with another the owner of a business, or has an interest in a business of one thousand dollars (\$1,000) or more that will be affected by the vote or action.

4. He or she (or a member of his or her immediate family) is a member of a board of directors or city council or an officer of, or holds a management position with, an organization that has financial dealings of one thousand dollars (\$1,000) or more in value with the municipality that will be affected by his or her vote or action.

5. He or she is an employee of an organization that has financial dealings of one thousand dollars (\$1,000) or more in value with the municipality that will be affected by his or her vote or action.

C. Conflicts of Interest and Disclosure – City Councilmembers.

1. Each member of the city council shall disclose any financial interest he or she may have in any matter that comes before the city council for a vote. If the member believes that the financial interest is substantial, he or she shall ask to be excused from voting on the matter.

2. The mayor shall rule on the request of a member of the city council to be excused from voting on a matter in which the member has or believes he or she has a substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the city council shall designate another councilmember who has no financial interest in the matter to rule on the request.

3. The decision of the mayor (or designated member of the city council) on the member's request to be excused from voting may be overridden by a majority vote of the city council. Neither the councilmember making the request nor any other councilmember, who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.

4. If any resident of the municipality believes that a member of the city council may have an undisclosed conflict of interest, the resident may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other member of the city council chosen by the resident requesting the meeting) and the councilmember who may have a conflict of interest. If, as a result of the confidential meeting, the member of the city council with the potential conflict or the mayor decides that the financial interest must be disclosed to the city council, the member of the city council shall disclose the interest to the city council as provided in subsection (C)(1) of this section.

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5. A member of the city council who has a substantial financial interest in a matter before the city council, and who has been excused from voting on that matter, may not participate as a councilmember in the debate on the matter. If the matter is discussed by the city council in executive session, the member shall be excluded during the executive session.

6. If a conflict of interest is discovered after an official action has been undertaken or completed, the city council may by a majority vote, excluding the vote of any affected member, resolve to rescind the official action or to take any other remedial steps necessary.

D. Conflicts of Interest and Disclosure – Municipal Officers, Appointed Officials, and Employees.

1. Each municipal officer, appointed official and employee shall disclose any financial interest he or she may have in any matter that has come before the municipal officer, appointed official or employee for action in the course of his or her duties. If either the municipal officer, appointed official or employee making the disclosure, the mayor (or, in the case of city employees, the city manager) concludes that the financial interest in question is substantial, then the municipal officer, appointed official or employee shall not act or participate in taking action on the matter.

2. Any resident of the municipality who thinks that a municipal officer, appointed official or employee may have an undisclosed conflict of interest may request a confidential meeting with the city manager (in the case of a city employee) or the mayor (in the case of a city municipal officer or appointed official) and the municipal officer, appointed official or employee who may have a conflict of interest. If, as a result of the confidential meeting, the municipal officer, appointed official or employee with the potential conflict concludes that he or she should refrain from acting on the matter, or the city manager (or the mayor) directs the municipal officer, appointed official or employee to refrain from acting on the matter, all proceedings of the meeting with the resident and the city manager (or mayor) will remain confidential. If neither the municipal officer, appointed official or employee nor the city manager (or mayor) decides that the municipal officer, appointed official or employee must refrain from acting, the resident may request the city council to consider the matter at its next regular meeting.

E. Violations.

1. Any member of the city council who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be censured by the city council. Such censure shall be made upon a two-thirds (2/3) majority vote of the city council. No member of the city council may vote on any question of his or her own censure, but may participate in any discussion and debate on the matter.

2. Any municipal officer who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be terminated from employment by a two-thirds (2/3) vote of the city council in accordance with the

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municipal officer's contract with the city of Bethel. The municipal officer has the right to address the city council before any vote on the matter.

3. Any appointed official who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be suspended or permanently removed from the committee or commission. Such removal or suspension shall be made upon a two-thirds (2/3) majority vote of the city council. Any suspension shall be for a period of up to ninety (90) days. The appointed official has the right to address the city council before any vote on the matter.

4. Any employee who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be terminated from employment by the city manager in accordance with the municipality's personnel policies and applicable law. The employee has the right to address the city manager before any decision on the matter.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

ENACTED THIS ___ DAY OF ____, BY A VOTE OF a__ IN FAVOR AND _ OPPOSED.

ATTEST:

Joseph Klejka, Mayor

Lori Strickler, City Clerk