

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 10, 2014**

ITEM 22

REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7, SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS (COUNCILOR WURZBURGER) (SANDRA PEREZ)

PUBLIC WORKS COMMITTEE ACTION: Forward to FC with No Recommendation; return to PWC on 2/24/14

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER	Excused		
COUNCILOR CALVERT, Acting Chair	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

BILL NO. 2014-____ Workplace Bullying (GB)

SPONSOR(S): Councilor Wurzburger

SUMMARY: The bill relates to the code of ethics, Section 1-7 SFCC 1987; amending the code of ethics. The purpose is to establish that workplace bullying by governing body members would be a prohibited act and subject to a violation of the code of ethics.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

DATE: January 31, 2014

ATTACHMENTS: Bill
FIR

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-__

3 INTRODUCED BY:

4
5 Councilor Rebecca Wurzbarger

6
7
8
9
10 AN ORDINANCE

11 RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE
12 CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY
13 GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT
14 TO A VIOLATION OF THE CODE OF ETHICS.

15
16 BE IT ORDAINED BY THE GOVRNING BODY OF THE CITY OF SANTA FE:

17 Section 1. Subsection 1-7.7 SFCC 1987 (being Ord. #2005-14, §7, as amended)
18 is amended to read:

19 1-7.7 Improper Gifts; Improper Transactions; Representation of Private
20 Interests; Conflicts of Interest; and Other Prohibitions.

21 A. *Improper Gifts to Public Officials and Employees.* A public official or public
22 employee shall not request or receive, directly or indirectly, a gift or other financial benefit, including,
23 but not limited to, travel and accommodations, from any person or entity which, to the knowledge of
24 the public official or public employee, has any prospect of direct or indirect pecuniary gain or loss
25 from any official act to be performed by the public official or public employee, other than a gain or

1 loss shared with a substantial segment of the general public. If a public official or public employee
2 has received a gift or other financial benefit from a person or entity within the last calendar year and
3 then discovers that this person or entity has any prospect of direct or indirect pecuniary gain or loss
4 from any official act to be performed by the public official or public employee, that public official or
5 public employee shall return the gift or shall be deemed to have a conflict of interest and shall deal
6 with that conflict under the provisions of subsection 1-7.7 L. SFCC 1987. However, nothing in this
7 paragraph A. shall be deemed to prohibit any of the following:

8 (1) An occasional meal or nonpecuniary gift with a fair market value not to
9 exceed fifty dollars (\$50.00) valued in a manner consistent with Internal Revenue Service
10 (IRS) rules.

11 (a) If relevant to the performance of his or her official duties, members
12 of the governing body, the city manager, the city attorney, or the city clerk may
13 receive an occasional non-pecuniary gift not to exceed two hundred fifty dollars
14 (\$250.); however, such person shall report the gift, its value and the provider to the
15 city clerk's office within ten (10) days of receipt of the gift, and such gift report shall
16 be immediately posted by the city clerk, on the city's website.

17 (b) If relevant to the performance of his or her official duties, a public
18 employee may receive an occasional non-pecuniary gift not to exceed two hundred
19 fifty dollars (\$250.); however, such person shall report the gift, its value and the
20 provider to the city manager and the public employee shall obtain the manager's
21 approval prior to receiving the gift, and if approved, such gift report shall be
22 immediately posted by the city clerk, on the city's website;

23 (2) An award, publicly presented in recognition of public service, having a fair
24 market value not to exceed fifty dollars (\$50.00) valued in a manner consistent with IRS rules
25 except for employee of the month recognition or non-profit or civic recognition of a public

1 employee that does not otherwise violate the Code of Ethics;

2 (3) A campaign contribution that is properly received and reported in the manner
3 required by Section 9-2 SFCC 1987;

4 (4) A commercially reasonable loan made in the ordinary course of business by
5 an institution authorized by the laws of the state to engage in the business of making loans; or

6 (5) Compensation for services rendered or capital invested or payment for a sale
7 of property which is normal and reasonable in amount, commensurate with the value of the
8 property sold or services rendered or the magnitude of the risk undertaken on the investment,
9 and in no way increased or enhanced by reason of the recipient's position as a public official
10 or public employee.

11 B. *Improper Transactions with the City.* A public official or public employee shall not
12 enter into a contract or transaction with the city of Santa Fe during his or her term of office or
13 employment or for a period of one (1) year following the leaving of public office or public
14 employment when the contract or transaction is a result of an official act by that public official or
15 public employee; provided, however, that nothing in this paragraph B. shall be deemed to prohibit a
16 present or former public official or public employee from seeking or obtaining, on his or her own
17 behalf, a city permit, license or service that is provided by the city on the same terms and conditions
18 to a substantial segment of the general public.

19 C. *Representation of Private Interests.*

20 (1) A governing body member, the city manager, the city attorney and the city
21 clerk shall not, during his or her term of office or within one (1) year after the termination
22 thereof, accept monetary compensation from a third party for consulting with, representing or
23 advising that party regarding any transaction with the city or matter before the city.

24 (2) A public employee shall not, during his or her term of employment or within
25 one (1) year after the termination thereof, accept monetary compensation from a third party

1 for consulting with, representing or advising that party regarding any transaction with the city
2 department that the public employee is or was employed by or any matter before such city
3 department in which the public employee has had or reasonably should expect to have any
4 influence or personal involvement in his or her capacity as a city employee.

5 (3) A governmental body member, excluding members of the governing body,
6 shall not, during his or her term of office or within one (1) year after the termination thereof,
7 accept monetary compensation from a third party for consulting with, representing or
8 advising that party regarding any transaction with such governmental body or matter before
9 such governmental body in which he or she has had or reasonably should expect to have any
10 influence or personal involvement in his or her capacity as a governmental body member.

11 D. *Misuse of Confidential Information.* A public official or public employee shall not
12 use or disclose confidential information when he or she knows or reasonably should know that the use
13 or disclosure will or may result in a financial gain or the avoidance of a financial loss on the part of
14 any person or entity other than the city.

15 E. *Misuse of City Resources.* A public official or public employee shall not use city
16 services, personnel or equipment for personal benefit, convenience or profit, except when such use is
17 generally available to the public.

18 F. *Nepotism.* A public official or public employee shall not perform any act to obtain the
19 employment or to influence the employment by the city of a member of his or her family. No public
20 official or public employee shall serve as the immediate supervisor of a member of his or her family.

21 G. *Financial Dealings with Subordinates.* A public official or public employee shall not
22 knowingly require, expressly or impliedly, or authorize another person to require that any subordinate
23 of the public official or public employee engage in a non-official financial transaction, including a
24 personal loan or charitable contribution.

25 H. *Improper Political Campaigning.* A public official or public employee shall not

1 knowingly request or authorize another person to request that any subordinate of the public official or
2 public employee make a campaign contribution or provide services to a political campaign, and shall
3 not engage in political campaigning while on duty for the city, or use city funds, supplies, vehicles or
4 facilities to benefit or assist a political campaign.

5 I. *City Employment as a Political Reward.* A public official or public employee shall
6 not promise an appointment or the use of his or her influence to obtain an appointment to any position
7 with the city as a reward for any political activity or contribution.

8 J. *Honoraria.* A public official or public employee shall not request or receive an
9 honorarium for a speech or service rendered in the performance of his or her duties as a public official
10 or public employee. For the purposes of this paragraph J., "honorarium" means payment of money, or
11 any other thing of monetary value, but does not include reasonable reimbursement for meals, lodging
12 or actual travel expenses incurred in making the speech or rendering the service. However, the public
13 official or public employee shall report all such reimbursement to the city clerk within ten (10) days
14 of receipt.

15 K. *Workplace Bullying by Governing Body Members.* A governing body member shall
16 not intentionally bully any public employee, including the city manager, city attorney or city clerk.
17 For purposes of this paragraph, workplace bullying means intentional behavior intended to create an
18 abusive work environment for a public employee or public employees. Bullying behavior is behavior
19 in the workplace that a reasonable person would find hostile, offensive, and not obviously related to
20 the city of Santa Fe's legitimate business interests. Workplace bullying includes, but is not limited to
21 the following:

22 (1) Use of disrespectful and devaluing language;

23 (2) Persistent or constant criticism in front of other persons (including co-
24 workers, vendors, contractors or members of the public) for the purpose of humiliating an
25 employee;

1 (3) Behavior or language that frightens, humiliates, belittles or degrades,
2 including criticism that is delivered with yelling and screaming;

3 (4) Threats and intimidation, including threats to discipline or terminate a public
4 employee.

5 [K]L. *Retaliation and Whistleblower Protection.* A public official or public
6 employee shall not be dismissed, threatened with dismissal, or otherwise singled out for retaliation for
7 the reason that the person has filed a complaint of violation of this Code of Ethics or any other
8 violation of a legal prohibition or requirement or has given evidence or participated in an
9 investigation of any such violation. Any act in violation of this paragraph K. shall be deemed a
10 violation of the Code of Ethics. The outcome of the original ethics complaint shall not be deemed
11 relevant to the complaint of retaliation itself.

12 [L]M. *Conflicts of Interest.* The following shall govern conflicts of interest:

13 (1) A public official or public employee who has a conflict of interest as defined
14 in subsection 1-7.5 SFCC 1987 shall immediately disclose the conflict in the following
15 manner:

16 (a) In the case of a member of a governmental body, to the
17 governmental body at a public meeting;

18 (b) In the case of the city manager, the city attorney or the city clerk, to
19 the governing body at a public meeting, and

20 (c) In the case of a public employee, to the city manager.

21 (2) A public official or public employee shall not perform an official act or
22 attempt to influence another person to perform an official act in any matter in which he or she
23 has a conflict of interest.

24 (3) If compliance with paragraph L.(2) above by a public official or public
25 employee would deprive a governmental body of a quorum for taking necessary action or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

would render the city unable to take necessary action on any matter, and it is deemed an emergency, the public official or public employee shall be excused from such compliance when he or she has made the disclosure required by paragraph L.(1) above.

APPROVED AS TO FORM:


KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: X Resolution: _____

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): **A BILL RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS.**

Sponsor(s): Councilor Wurzbarger

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 02/03/13 Phone: 955-6501

Reviewed by City Attorney: *Valley A. Brennan* Date: 2/3/14
(Signature)

Reviewed by Finance Director: *[Signature]* Date: 2/3/14
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of the bill is to amend the current ordinance to include workplace bullying by Governing Body members of all public employees. Governing Body members will not be allowed to use disrespectful language, use persistent criticism in front of other persons, have behavior or language that frightens, humiliates, belittles or degrades an employee, including yelling and screaming or threaten to discipline or terminate a public employee.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
	All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Total:	\$ _____			\$ _____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	Total:	\$ _____		\$ _____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

None that staff is aware of

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None that staff is aware of.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

A Governing Body member could assert negative behavior directed at City employees.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None that staff is aware of

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Amending the code of ethics to include workplace bullying would protect employees from being bullied by a Governing Body member. This would assist in reassuring employees that bullying practices will not be tolerated, therefore, potentially renewing confidence in City employees to give their best work product and thus benefiting the community.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08