
M E M O R A N D U M

DATE: September 8, 2009
TO: City Council Members
FROM: Jennifer Bruno, Deputy Director
RE: Amendment to Salt Lake City Code 2.52.250 relating to political activity by City Employees

****NOTE: Due to timing of the Primary Election, this item is on the Council's formal meeting agenda on this night for consideration under "Unfinished Business."****

POTENTIAL MOTIONS

1. **["I move that the Council"]** Adopt an ordinance amending section 2.52.250 of the Salt Lake City code, relating to political activities of employees.
- OR-
2. **["I move that the Council"]** Not adopt an ordinance amending section 2.52.250 of the Salt Lake City code, relating to political activities of employees.

KEY ELEMENTS

The Administration has forwarded an ordinance for Council consideration in order to bring the City code in line with State code in a few areas:

1. The reference to "career service appointment" in Salt Lake City code differs from the wording in State code, and does not apply broadly enough to include all SLC employees. The Administration is proposing to amend City code to be consistent with the state provisions.
2. City Code (2.52.250) currently prohibits any non-elective employee from holding the office of any political party.
 - a. However, state code (UCA 10-3-1108) protects the ability of employees to engage in any political activity, providing that "*an officer or employee's partisan political activity, political opinion, or political affiliation may not provide the basis for the officer or employee's employment, promotion, disciplinary action, demotion, or dismissal.*"
 - b. The proposed ordinance removes this prohibition from City code, as it is inconsistent with the provisions in state code, provided that "*...no such actions shall unreasonably disrupt the operations of the City, undermine the authority of any City employee or officer, or destroy working relationships within the City.*" (proposed language)
3. City Code (2.52.250C) currently requires any non-elective employee who wishes to run for the Salt Lake City Council or a full time elective office, take a leave of absence or use available vacation benefits in the time period between the Primary Election and the General Election.
 - a. However, this is inconsistent with state code (UCA 10-3-1108 - 3), which states the employee may be given a leave of absence or use available vacation benefits, but is not required to.

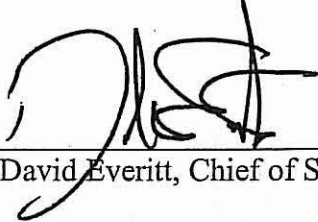
- b. The proposed ordinance amends City code to be consistent with State code on this matter.
- c. It should be noted that this amendment does not allow the employee to engage in campaign activities while also performing their City job. Under the proposed ordinance, if they can manage and engage in their campaign activities entirely on their personal time, then they are free to do so without taking a leave of absence or vacation. The proposed amendment includes the provision that the employee is subject to all the applicable laws against using City time.
- d. The Council may wish to consider adding a similar clause as noted above in 2b, that any campaign activities shall not *“unreasonably disrupt the operations of the City, undermine the authority of any City employee or officer, or destroy working relationships within the City, subject to UCA section to 10-3-1108, and first amendment protections for employee speech.”* This was a policy concern raised by Council Staff. The attorney’s office indicates that due to first amendment protections and state code the City’s ability to regulate may be very limited.

SALT LAKE CITY CORPORATION

EDWIN P. RUTAN, II
CITY ATTORNEY

LAW DEPARTMENT

RALPH BECKER
MAYOR



David Everitt, Chief of Staff

CITY COUNCIL TRANSMITTAL


RECEIVED
AUG 11 2009
By SKB

Date Received:

Date sent to Council: 08/20/2009

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: August 11, 2009

FROM: Edwin Rutan, City Attorney 

SUBJECT: Amendment to SLCC Section 2.52.250 Relating to Political Activity by City Employees

STAFF CONTACT: Boyd Ferguson, Senior Attorney
Ext. 7796

DOCUMENT TYPE: Ordinance

RECOMMENDATION: That the City Council pass the proposed ordinance.

BUDGET IMPACT: None

BACKGROUND DISCUSSION: Section 2.52.250 of the Salt Lake City Code provides specified prohibitions against political activity by city employees. This is a longstanding provision which predates the adoption of the current city code. We believe that two parts of Section 2.52.250 are inconsistent with UCA Section 10-3-1108 which was adopted by the legislature in 2000. These inconsistent City provisions need to be removed.

Section 2.52.250A provides in part that "no non-elective officer or employee shall hold the office ... of any political party."

UCA Section 10-3-1108 protects municipal employees in subsection (b) by providing that "an officer or employee's partisan political activity, political opinion, or political affiliation may not provide the basis for the officer or employee's employment, promotion, disciplinary action, demotion or dismissal."

The prohibition against holding office in a political party in SLCC Section 2.52.250A is inconsistent with the protection for employee political activity in UCA Section 10-3-1108(b). Therefore this prohibition should be removed.

SLCC Section 2.52.250C provides that “Any non-elected officer or employee who wishes to seek election to the Salt Lake City Council, or to full time elective office, shall request and obtain a leave of absence from the career service appointment or use available vacation benefits no later than the day following the primary election for such office.”

The requirement that a city employee running for full time public office must take a leave of absence is inconsistent with the basic protection provided for employee political activity in UCA Section 10-3-1108(3), which provides that “A municipal employee who has filed a declaration of candidacy may: (a) be given a leave of absence for the period between the primary election and the general election; and (b) use any vacation or other leave available to engage in campaign activities.”

Furthermore, the reference in Section 2.52.250C to “career service appointment” differs from the wording of UCA Section 10-3-1108(3) and does not apply broadly enough (e.g., not all City employees are in a “career service appointment”). We recommend that the ordinance be amended to be consistent with the statute, including a clarification as to the length of time of the leave of absence.

We recommend that SLCC Section 2.52.250C be amended to follow UCA Section 10-3-1108(3)(a).

At the same time, we point out that the amendment of the requirement that a leave of absence must be taken does not mean that the City employee may use City time to pursue his or her campaign for office. The prohibition against the use of City time for political activities by City employees remains in place. See UCA Section 10-3-1108(2)(c) and SLCC Section 2.52.250B. The practical effect of the proposed amendment is that if a City employee running for office is able to manage his or her day so that they can do so entirely on their own personal time, they are free to do so without having to take a leave of absence.

PUBLIC PROCESS: Not applicable.

RECEIVED SEP 0 8 2009

SALT LAKE CITY ORDINANCE
No. _____ of 2009
(Prohibition Against Political Activity)

An ordinance amending section 2.52.250 of the Salt Lake City Code, relating to the prohibition against political activity.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 2.52.250 of the Salt Lake City Code, relating to the prohibition against political activity be, and the same hereby is, amended as follows:

2.52.250 Prohibition Against Political Activity:

A. No non-elected~~ive~~ officer ~~or~~ and no employee of the city shall hold elective or full time appointive public office during his or her employment except as an assigned part of that employment. This section shall not apply to voting district officers and delegates, members of the Utah state legislature, or other part time elective or appointive public office; provided, however, no non-elected~~ive~~ officer ~~or~~ and no employee shall hold the office of city council, ~~or of any political party~~. No city employee or official shall solicit orally, or by letter, or be in any other manner concerned in obtaining any assessments, contributions, or services for any political party from any city employee.

B. Nothing contained in this chapter shall be construed to restrict the right of the employee to hold membership in, and support, a political party, to vote as he or she chooses, to express his or her personal opinions on all political subjects and candidates, to maintain political neutrality, and to attend political meetings after working hours; provided, no such actions shall unreasonably disrupt the operations of the city, undermine

the authority of any city employee or officer, or destroy working relationships within the city.

C. Any non-elected officer ~~or~~ and any employee who wishes to seek election to the Salt Lake City council, or to full time elective public office, ~~shall~~ may request and obtain a leave of absence without pay from ~~the career service appointment~~ city employment or use available vacation benefits ~~no later than the day following~~ (1) between the primary election and the earlier of the general election for such office; and the date the person ceases to be a candidate for that office, and (2) during the person's term of office on the city council or full time elective public office. Such a non-elected officer or employee who does not request a leave of absence remains subject to any applicable prohibition against the use of city time or equipment for political activity.

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2009.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 9-3-09
By Bond Ferguson

(SEAL)

Bill No. _____ of 2009.
Published: _____.

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