Passed 6-0
(Neher, Sturbaum
Sandberg absent)

RESOLUTION 12-11

TO ADOPT A NEPOTISM IN EMPLOYMENT POLICY IN CONFORMANCE WITH STATE LAW

WHEREAS, the Indiana General Assembly adopted HEA 1005 in the 2012 Regular Session, which added IC 36-1-20.2 to the Indiana Code regarding nepotism in employment; and,

WHEREAS, IC 36-1-20.2-9(a) requires a local unit of government to adopt a nepotism in employment policy that includes at a minimum the requirements set out in the statute; and,

WHEREAS, the Bloomington Common Council has considered the requirements of the Act and wishes to comply with its provisions:

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. The Bloomington Common Council adopts the following policy on nepotism in contracting:

NEPOTISM IN EMPLOYMENT

Section 1. DEFINITIONS

A. "Relative" means any of the following:
(1) A spouse.
(2) A parent or stepparent.
(3) A child or stepchild, including an adopted child or stepchild.
(4) A brother, sister, stepbrother, or stepsister, including a brother or sister by half blood.
(5) A niece or nephew.
(6) An aunt or uncle.
(7) A daughter-in-law or son-in-law.
(8) A brother-in-law or sister-in-law.
(9) A cousin.
(10) A registered domestic partner.
(11) A mate.
(12) A grandparent.

B. "Employed" means an individual who is employed by the City of Bloomington on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the City.

C. "Direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of the City, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the City.

D. "Member of the fire department" means the fire chief or a firefighter appointed to the department.

E. "Member of the police department" means the police chief or a police officer appointed to the police department.

Section 2 EMPLOYMENT POLICY

A. Individuals who are relatives may not be employed by the City in a position that results in one (1) relative being in the direct line of supervision of the other relative.

B. For regular full-time and regular part-time employees, relatives may not be hired to work within the same division of a City department irrespective of reporting lines. In the case of smaller departments without multiple divisions, relatives may not be hired to work within the same department. As long as the Police and Fire Departments otherwise comply with state law and Section 2(A) of this Policy, the Police and Fire Departments are not subject to the aforementioned restrictions on family members working within the same City department or division. Hiring the relative of a City employee to work outside of the incumbent employee's division or department requires approval of the Director of Human Resources and the Mayor or their designees. In extenuating circumstances where deemed beneficial to the City, the Mayor may approve exceptions to the aforementioned unless otherwise prohibited by state or federal law.

C. This subsection applies to an individual who:
   (1) is employed by the City on the date the individual's relative begins serving a term of an elected office of the City; and
   (2) is not exempt from the application under Section 3 of this Policy.

   Notwithstanding, Subsection 2(A), an individual may remain employed by the City and maintain the individual's position or rank even if the individual's employment would violate this Policy. However, an individual described in this subsection may not be promoted, unless such promotion is within the merit ranks of a merit fire or police department, if the promotion would otherwise violate this Policy.

D. This policy does not abrogate or affect an employment contract with the City that:
   (1) an individual is a party to; and
   (2) is in effect on the date the individual's relative begins serving a term of an elected office of the City.

Section 3. EXEMPTIONS

A. An individual who is employed by the City on July 1, 2012, is not subject to this policy unless the individual has a break in employment with the City. The following are not considered a break in employment with the City:

   (1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.
   (2) The individual's employment with the City is terminated followed by immediate reemployment by the City, without loss of payroll time.

Section 4. CERTIFICATION

A. Each elected officer of the City shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this Policy. An officer shall submit the certification to the Executive and Clerk of the City not later than December 31 of each year.

B. The annual report filed by the City with the State Board of Accounts under IC 5-11-13-1 must include a statement by the Mayor of the City stating whether the City has implemented a policy under IC 36-1-20.2.

SECTION II. If any sections, sentences or provision of this resolution, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

SECTION III. This resolution shall be in full force and effect from and after its passage by the common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1st day of August, 2012.

DATED this 1st day of August, 2012.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 2nd day of August, 2012.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 2nd day of August, 2012.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution is intended to bring the City of Bloomington in compliance with newly-enacted state standards regarding nepotism in government employment. It prohibits City employees from directly supervising relatives and prohibits employment of relatives of City employees in other situations unless certain conditions are met.

Note: This resolution was revised after it was distributed in the weekly Council Legislative Packet but before it was introduced at the Council. In order to conform with the procedures set forth in State law, the revision affects Section 4 of the policy and requires that the elected officials file the necessary certifications with the Executive of the City. As a matter of local policy, the elected officials will also be required to file those certifications with the City Clerk.

Signed copies to:
Controller
Legal
Human Resources
Human Rights Atty
Public Works
Clerk (2)
CA/CA