



Yampa Valley Sustainability Council Conflict of Interest Policy

Article I

Purpose

Yampa Valley Sustainability Council (YVSC) is a non-profit 501(c)3 organization. YVSC and its board, officers, and management employees have a fiduciary duty to the public, which carries with it a broad and unbending duty of loyalty and fidelity. The board, officers, and management employees have the responsibility of administering the affairs of YVSC honestly and prudently, and of exercising their best care, skill, and judgment for the sole benefit of YVSC. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and they shall not use their positions with YVSC or knowledge gained there for their personal benefit. The interest of the organization must be the first priority in all decisions and actions.

The purpose of the conflict of interest policy is to protect YVSC's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director or management employee of YVSC or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II

Definitions

1. Interested Person

Any director, principal officer or management employee, who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through any business, investment, or family relationship:

- a. An ownership or investment interest in any entity with which YVSC has a transaction or arrangement;
- b. A compensation arrangement with YVSC or with any entity or individual with which YVSC has a transaction or arrangement; or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which YVSC is negotiating a transaction or arrangement. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

3. Potential Conflicts

Conflicts of interest may arise in the relations of directors, officers, and management employees with any of the following third parties:

- a. Persons and firms supplying goods and services to YVSC.
- b. Persons and firms from whom YVSC leases property and equipment.
- c. Persons and firms with whom YVSC is dealing or planning to deal in connection with the gift, purchase or sale of real estate, securities, or other property.
- d. Competing or affinity organizations.
- e. Donors and others supporting YVSC.
- f. Agencies, organizations, and associations that affect the operations of YVSC.
- g. Family members, friends, and other employees.

A conflicting interest may be defined as an interest, direct or indirect, with any persons or firms mentioned above. Such an interest might arise through:

- a. Owning stock or holding debt or other proprietary interests in any third party dealing with YVSC.
- b. Holding office, serving on the board, participating in management, or being otherwise employed (or formerly employed) with any third party dealing with YVSC.
- c. Receiving remuneration for services with respect to individual transactions involving YVSC.
- d. Using YVSC's time, personnel, equipment, supplies, or good will for other than YVSC approved activities, programs, and purposes.
- e. Receiving personal gifts or loans from third parties dealing or competing with YVSC. Receipt of any gift is disapproved except gifts of a value less than \$50, which could not be refused without discourtesy. No personal gift of money should ever be accepted.
- f. Any interest in a potential transaction with YVSC.

Article III Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and/or members of committees with governing board delegated powers, and/or the executive director of YVSC considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person(s), he/she/they shall leave the board or committee meeting while the determination of a conflict of interest is discussed and voted upon. For any management employee conflict of interest determination, the executive director shall determine whether a conflict of interest exists. The remaining board or committee members shall decide if a conflict of interest exists in all other situations.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at the board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- b. The Executive Director or President of the Board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the board or committee shall determine whether YVSC can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in YVSC's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.
- e. For any determination of a conflict of interest regarding a management employee, the executive director of YVSC shall use/ engage in appropriate due diligence measures in order to determine whether YVSC can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest. If such more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, then the executive director shall determine whether the transaction or arrangement is in YVSC's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the executive director shall make his/her decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

If the Executive Director or Board has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the management employee/board member of the basis for such belief and afford the management employee/board member an opportunity to explain the alleged failure to disclose. If, after hearing the management employee/board member's response and after making further investigation as warranted by the circumstances, the board or committee or Executive Director (as applicable) determines the management employee/board member has failed to disclose an actual or possible conflict of interest, he/she/it shall take appropriate disciplinary and corrective action.

Article IV

Records of Proceedings

The minutes of the board or committee meeting (or the Executive Director's documentation/notes for any management employee) shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the board's or committee's or Executive Director's decision as to whether a conflict of interest in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V

Compensation

- a. A voting member of the board who receives compensation, directly or indirectly, from YVSC for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from YVSC for services is precluded from voting on matters pertaining to that member's compensation.

- c. No voting member of the board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from YVSC, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI

Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers, along with each management employee, shall annually sign a disclosure form which affirms such person:

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands YVSC is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.
- e. All parties agree that signatures delivered by facsimile or other electronic transmission may be used in lieu of an original signature and shall be valid and binding for all purposes hereof as if such electronically transmitted signature was an original.

Article VII

Periodic Reviews

To ensure YVSC operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to YVSC's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII

Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, YVSC may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.