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## MEMORANDUM

Date: December 29, 2020

To: Mayor Troxell and City Councilmembers

From: Carrie Daggett, City Attorney *CD*

Re: December 22, 2020, Work Session Summary: Ethics Standards and Process

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Councilmembers present were Mayor Troxell, Mayor Pro Tem Stephens, and Councilmembers Cunniff, Gorgol, Gutowsky, Pignataro and Summers.

My staff presentation reviewed the City's conflict of interest standards and the ethics review process, together with some history regarding the pattern of ethics review requests and complaints over the years. It also included an explanation of Ethics Review Board activity during 2019 and 2020 and how that has led to interest in considering ways to improve the current standards and processes.

Council then discussed interest in and ideas for changes to the Fort Collins City Charter and City Code related to defining conflicts of interest and the process for reviewing ethics complaints. The items reviewed and related summary follows:

1. Amending the Charter definition of "personal interest" or more generally the concept of "conflict of interest:"
  - a. Councilmembers discussed how the relationship of a Councilmember's employment to matters of interest to that employer has come up repeatedly during the past year, mainly, but not exclusively, in relation to the Hughes Stadium item.
  - b. There was general consensus that the clearer and easier the standards are to apply, the better able officers and employees are to identify, disclose and appropriately act on conflicts.
  - c. Several Councilmembers expressed interest in continuing to review the standard for possible revision at a later time, noting that it is important to be thoughtful and work through any changes with care before taking action.
  - d. Several Councilmembers noted the difficulty in applying the "personal interest" standard and suggested that it would be beneficial to revisit and improve that aspect of the conflicts of interest provisions.

- e. It was noted that the current Charter definitions may exclude situations that would commonly be viewed as conflicts of interest, also something to consider in connection with an overall review of the conflicts of interest standard.
      - f. There was not support expressed for bringing an item forward for the April election and instead there was some interest in taking more time to consider what changes may be beneficial. There was also some thought expressed that the standard is not “broken” and no action is needed.
2. Amending the City Code to change the ethics review body for complaints against Councilmembers to an “alternative ethics review board:”
  - a. There was substantial discussion about the idea of extending the role of the “alternate ethics review board” in current Code to consider all complaints against Councilmembers, and particularly about ways to improve on the alternate board configuration:
    - i. An idea discussed at length was to select this body from among the chairs of the boards and commissions (rather than all board and commission members); and
    - ii. Additionally, it was discussed that such an alternate board could be appointed annually after the boards and commissions have selected their chairs for the year.
  - b. Ultimately, the discussion evolved and there was not clear interest in moving forward with this approach as the discussion moved to other possibilities.
3. Amending the City Code to change the composition of the ethics review board generally was also discussed.
  - a. One idea that was of some interest was to appoint members of the public with expertise in ethics or law, including retired judges, attorneys or other experts, as all or part of the ethics review board.
    - i. It was noted that this would offer the benefit of having board members better able to independently consider and apply the standards.
    - ii. Some expressed an interest in this approach because it would appear more objective.
  - b. It was noted that other jurisdictions have different approaches that it would be worth learning more about, particularly with respect to the experiences with the system, the successes and advantages and disadvantages that have been experienced.
  - c. There was interest in developing more information related to the options for a different structure for an ethics review board, recognized as likely a discussion for the next Council given the timing and need to be deliberative about any

changes. There was also the view expressed that the current process works well and there is not an immediate need to change it.

Some additional general comments and suggestions included:

- It was suggested that Council consider forming a Council governance committee to take on the role of some of the current Council committees, including some of the policy-oriented functions of the Ethics Review Board.
- It was suggested that Council consider a practice of developing management plans for individual Councilmembers that would look forward to areas of potential conflicts of interest and anticipate how those would be handled, to be updated annually or periodically.
- There was a clear expression of desire to ensure a clear and effective ethics standard and process to assist officers and employees with compliance and ensure public confidence in the Council's decisions and other actions of City officers and employees.
- The general outcome of the discussion was that the City Attorney's Office will continue to gather information about options for both updating the standards and the ethics review process, for discussion with Council at an unspecified later time.

pc: Darin Atteberry, City Manager  
Delynn Coldiron, City Clerk  
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