

Ethics Review Board Meeting Minutes

November 18, 2014

8:30 a.m.

Members in Attendance: Board members Karen Weitkunat, Gino Campana, and Ross Cunniff (alternate).

Also present: Wade Troxell

Staff in Attendance: Carrie Daggett, Interim City Attorney; Cary Carricato Alton, Paralegal.

A meeting of the City Council Ethics Review Board ("Board") was held on Tuesday, November 18, 2014, in the City Attorney's Office Large Conference Room, to consider the following issue:

Does Councilmember Troxell's position as a tenured faculty member in the mechanical engineering department at Colorado State University ("CSU" or the "University") limit his participation as a City Council member representing District 4 in any discussion and any vote related to a CSU stadium?

The meeting began at 8:33 a.m. The Board reviewed the Agenda which contained the following items:

1. Appointment of Chair for Meeting of the Ethics Review Board for November 18, 2014, Meeting.
2. Discussion of an inquiry submitted by Councilmember Troxell under Section 2-56(c)(2) of the City Code as to whether he has a conflict of interest related to in any decisions of the City Council related to the proposed stadium at Colorado State University.
3. Other Business.
4. Adjournment.

The Board discussed appointment of a chairperson for the meeting. The Board selected the Mayor to chair the meeting. It was noted that Councilmember Cunniff was asked to participate in the Board's consideration of the pending inquiry because Councilmember Poppaw, a regular member of the Board, was not available for the meeting.

Interim City Attorney Daggett distributed copies of Ordinance No. 145, 2014, Ordinance No. 146-2014, Ethics Opinion 2003-1, for review and reference by the members of the Board. Then she provided an overview of the Board process and related Code provisions, as well as the background for Councilmember Troxell's inquiry. Officials of CSU have been considering development of a possible new CSU football stadium, and the Board of Governors of the CSU System is expected to consider four options for moving forward at its meeting in early December. In light of potential impacts to the City and its citizens of a new stadium, City Council has directed staff to analyze the expected impacts and to present a resolution expressing the Council's position related to the stadium for Council consideration at the December 2, 2014, Council meeting.

The Mayor summarized the question being brought before the Ethics Review Board, and then asked Councilmember Troxell to make an opening statement.

Councilmember Troxell stated that beginning approximately three (3) years ago when the original CSU Stadium issue was brought forward, he had not had any concerning about being outspoken and stating his opinion publicly as either a CSU faculty member or Councilmember. Councilmember Troxell indicated that he is not participating in any decision making process at Colorado State as a faculty member, nor does he plan to attend CSU's Board of Governor's meeting when they consider the stadium issue. He stated that being a faculty member at CSU, he has no tie to the athletic department. He briefly explained how CSU is governed and how his role as a tenured faculty member is removed from the general administrative decision making at CSU. Councilmember Troxell went on to explain that he has no responsibilities related to the athletic department beyond teaching classes to some of the student athletes, and that the athletic programs are an auxiliary enterprise of the University. He reported that he had reviewed the provisions of the Code, and the recent modifications to the definitions of terms as they relate to conflicts of interest and does not believe that his employment creates a conflict.

Councilmember Cunniff asked for clarification as to the tenure process. Councilmember Troxell further explained the tenure process. He indicated that professors are typically hired into a tenure track position under which they have six (6) years to achieve tenure, and that he had achieved tenure status in 1984. He indicated that academic faculty members are mainly responsible for teaching and research and do not serve upper administrative and decision making functions. Councilmember Cunniff followed up with questions concerning protections for tenured faculty, and there was further explanation from Councilmember Troxell in that regard. He indicated that no discussion or decision made by the City Council would affect his employment at the University. The Mayor noted that based on information received; it did not appear that either Councilmember Troxell's employment or his salary could be adversely affected by his participation in Council discussion or consideration of the proposed stadium.

Interim City Attorney outlined the concepts of "financial interest" and "personal interest" to help frame the issues being discussed, and noted the definitions of the terms "direct" and "substantial" that were recently adopted by the City Council in Ordinance No. 145.

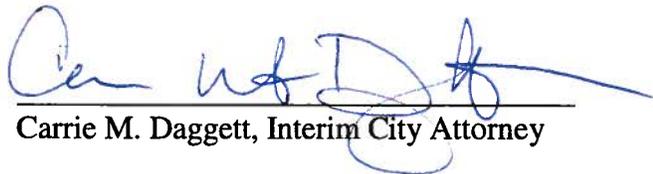
Councilmember Campana moved that the Board issue an opinion that Councilmember Troxell does not have a conflict of interest in participating in the City Council's deliberations and vote with regard to the proposed CSU football stadium, based on the review of the Board as to personal interest or financial interest, as defined by the Code. The Motion was seconded, and passed unanimously.

Interim City Attorney indicated that she would write up the Board's opinion and provide it to the members of the Board for review prior to publication. She indicated that the opinion would be put in the Council packet for the November 25, 2014, adjourned meeting.

Other Business

1. Councilmember Campana informed the Board that he had identified a potential conflict of interest related to the budget item coming before Council that evening as he noticed that there was a line item for funding of a park related to a development in which he has an interest. After a brief discussion, Councilmember Campana indicated that he would be following up further on the matter prior to the council meeting.
2. Mayor Weitkunat requested that the Ethics Review Board meet prior to the end of the year to discuss and review whether she has a conflict of interest in the various matters related to redevelopment of the Foothills Mall. She explained that the original decision was made two years ago and it was a blanket exclusion of her participation in all decisions related to the Foothills Mall. The Mayor indicated that as the project moves on and issues come before Council, she believes that an updated opinion clarifying the scope of her conflict of interest, if any, is necessary.

Meeting adjourned at 8:58 a.m.



Carrie M. Daggett, Interim City Attorney

