

Ethics Review Board Meeting Minutes
July 15, 2020
6:00 p.m. Via Zoom Meeting

Ethics Review Board members in attendance: Councilmembers Julie Pignataro, Ken Summers and Mayor Pro Tem Kristin Stephens

Staff in attendance: Carrie Daggett, City Attorney; Jeanne Sanford, Paralegal.

Other Attendees: Councilmember Emily Gorgol; Kevin Jones, Fort Collins Chamber of Commerce

A meeting of the City Council Ethics Review Board (“Board”) was held on Wednesday, July 15, 2020, at 6:00 p.m. via Zoom Meeting.

The meeting began at 6:00 p.m. Chair, Mayor Pro Tem Kristin Stephens, called the meeting to order and reviewed the Agenda which contained the following items:

1. Consideration of a request by Councilmember Emily Gorgol for an advisory review and opinion by the Ethics Review Board pursuant to City Code Section 2-569(d)(2) of the following questions:
 - (a) Under the conflicts of interest provisions in the City Charter, does my employment and role at the Family Center/La Familia prevent me from participating in the City Council’s decision(s) regarding (1) the establishment of manufactured housing zone district; or (2) the rezoning of particular manufactured housing communities?
 - (b) Under the ethics provisions in the laws of the State of Colorado, does my employment and role at the Family Center/La Familia prevent me from participating in the City Council’s decision(s) regarding (1) the establishment of manufactured housing zone district; or (2) the rezoning of particular manufactured housing communities?
2. Other Business.
4. Adjournment.

City Attorney Carrie Daggett made introductory comments outlining the agenda item summary which included a summary of Councilmember Emily Gorgol’s statement and job description and various attachments which go through the Code, Charter and State law provisions that relate to Ms. Gorgol’s questions to the Board.

Ms. Daggett further explained a checklist was emailed out guiding the Board through the ethics standards as they relate to the inquiry. Ms. Daggett pointed out that Council will be considering various actions – most significantly Council is expected to consider a Land Use Code change to create a new zone district and a series of quasi-judicial decision regarding properties to be rezoned into this new district. Ms. Daggett explained in contrast to the consideration of ethics complaints, this meeting is informal, so the Board members are able to ask Ms. Gorgol any questions they may have. Ms. Daggett suggested the Board ask Ms. Gorgol to walk through her job descriptions and then ask questions as they come up.

Chair Stephens asked Ms. Gorgol to briefly talk about her current position, which she understands is different now in nature than in the past.

Emily Gorgol stated that her position at The Family Center/La Familia has changed and where she used to be in more of an advisory role working directly with the community, she has now moved into a project/grant manager role. She is an advisor for the team that is in her old role, working on issues such as how to talk to elected officials, and how to participate in city/county processes. She creates bridges between the Spanish speaking community with those in a role of power. Ms. Gorgol stated she now works more with staff on how to navigate these areas.

Questions from Councilmember Julie Pignataro:

- Ms. Gorgol stated her compensation is not tied to the success of the program, but rather in meeting certain deliverables. Is that true in your current position?
 - Ms. Gorgol Response: Because my salary is funded from the CDHP, yes it is. Our grant contract outlines the number of meetings that need to be held, or certain number of resident grocery cards for participating; it is not tied to whether the program leads to successful outcomes.
- Do the number of meetings increase or decrease due to the number of mobile home parks in the city?
 - Gorgol response: No, our work with the mobile home parks only get so much money per year and we can only afford like 6 meetings; that's how it works. The success of our program is tied to whether we met our deliverables.
- Does Sarah Zule (sp?) work for you? She reached out to me.
 - Gorgol response: No, I just advise her. In my role, I do not tell people to call certain Councilmembers.
- Ms. Pignataro asked Carrie Daggett if a creation of mobile home zone falls under the land preservation designation umbrella and for confirmation that currently, there is no mobile home zoning designation.
 - Ms. Daggett replied yes, it probably does fall under “preservation” as it is designed to preserve manufactured housing communities. There is no mobile home zoning currently within the City.
- Ms. Pignataro asked Ms. Gorgol if a creation of a mobile home zoning increases or decreases her job duties or compensation.

- Ms. Gorgol replied there is no impact for either. Financially, there is no bearing on finances due to the grant. Our program focuses on community navigation and teaching individuals how to participate in that process.

Questions from Councilmember Ken Summers:

- It sounds like your role is a political consultant or lobbyist to advise others. Do you meet with City staff?
 - Ms. Gorgol replied, yes, sometimes I do meet with City staff, but I do not advise on lobbying; I advise on a process.
- Mr. Summers stated your title is still Policy Advisory on the La Familia website.
 - Ms. Gorgol replied yes, and Policy and Grants Director.
- Mr. Summers stated the website talks about the council priorities of mobile home park preservation.
 - Ms. Gorgol replied, yes those are accomplishments of the program.
- Mr. Summers asked if Ms. Gorgol's role is directly involved with that.
 - Ms. Gorgol replied, yes.

Chair Stephens asked City Attorney Daggett why she picked the Opinion re: Wanner and why that was relevant to this situation.

City Attorney Daggett replied she looked for an opinion in the archives that was similar to this situation. Most past advisory opinions involved questions around property ownership that was close to property owned by a Councilmember which was the subject of some action. The Wanner opinion was the only past advisory opinion that related to something other than property ownership.

Chair Stephens stated she was having a hard time seeing a financial interest in Ms. Gorgol's participation in the mobile home park Council decision, but she could see the case for a personal interest.

Chair Stephens asked the Board if anyone had more questions for Ms. Gorgol.

City Attorney Daggett suggested Ms. Gorgol describe the actions she takes in the course of doing her job.

Ms. Gorgol replied that the mobile home parks is just a piece of her job; she does other things such as grant management, managing state level grants, finding them and applying for grants. She advises on long term goals and finding funds that fit those goals. Ms. Gorgol explained she is a bridge between the Spanish speaking community and the leaders in our community – the people in power. Her job is to focus on the mobile home parks but also economic mobility and meeting with the economic developers of the City or work force. She educates on the barriers the Spanish speaking people are facing and she works with entities creating programming so the

Spanish community can participate. She also focuses on how residences can create a park; she works with the Parks Department, she creates connections so they form relationships. Once that happens, her role is no longer needed. She also works with non-profits in this role.

Ms. Daggett asked, in speaking about mobile home park issues, what that would look like?

Ms. Gorgol replied that part of her role when community issues are identified in mobile home parks, is to work with the residents to identify the issues, which takes a lot of community trust to build up to get to that point. Ms. Gorgol stated she coordinates with groups for trainings and works with residents on how to look at the Council's 6-12 month calendars; she advises how they can connect with Council by providing options.

Chair Stephens stated that in a way, many of us do that not just for our jobs, but lots of times advising community members how to speak to council, how to participate in public comment, etc.; we guide people through the process so I don't feel that piece of your job is different than this situation. That's not unusual.

Councilmember Summers stated we are talking about something different, this is part of someone's job. Engaging with the groups, working with them and then being in on a decision-making board that then decides those issues you are advocating for – that is where the rub comes in. This is an issue in State law and part of Amendment 41. The issue is more about safeguarding the integrity of the process.

City Attorney Daggett clarified that the provision in Amendment 41 is narrowly viewed and wanted to call attention to the definition of "personal interest" in the Charter that is "...interest equated with money or its equivalent..." Ms. Daggett explained when looking at opinions over the years, it struck her that very seldom were there issues about financial interests – those are easier to spot. The situations that don't raise these facts end up being Ethics Review Board fodder for opinions. Ms. Daggett focused on the definition of "personal interest".

The Board discussed past situations of financial interest. Ms. Daggett explained there are two broad categories of decisions – code change decisions or rezoning decisions.

Chair Stephens stated with rezoning or creating a new zone district, she does not see a conflict.

City Attorney Daggett affirmed that creating a zone district does not change anything for a particular property until an action is taken to put properties into that zone district. Ms. Gorgol may have a personal interest then with the particular mobile home parks she worked with different from an interest in the zone district itself.

Councilmember Pignataro asked to that point, when would Council have a list of the specific mobile home parks?

City Attorney Daggett responded the Council work session discussion is planned for July 28th. That Work Session is to talk about legal issues related to mobile home parks, district design, process of rezoning properties and moratorium. The current schedule is for those items to come forward on August 18th. The Board will need to give Emily guidance before the list comes out to see if she has a conflict with any of those mobile home parks.

Ms. Daggett reiterated that is the point of this meeting, to give Emily guidance to make that call when those items are discussed or come forward.

City Attorney Daggett read the personal interest definition. Ms. Daggett reminded the Board that benefit means advantage or gain; different in kind means a different type or nature not shared with the public. Those are the steps to be thinking about when deciding Ms. Gorgol's questions.

The Board discussed the checklist and the state law provisions that needed to be discussed, most which were about economic benefit. Ms. Daggett stated it may be fair to say that Emily Gorgol operates as an agent for the community she is working with, but it is not clear if that economic benefit is here.

Chair Stephens stated it is hard with a nonprofit to see an economic benefit. Is there an economic benefit here to mobile home park residents if they are rezoned? That would be the beginning of my analysis.

Ms. Pignataro stated that Emily's job is complicated and we will probably not find all the answers we are seeking. Because of the situations of the past year and the number of ethics complaints coming in, she would encourage Emily to step down based on the appearance part which keeps coming back to this Board. She knows it's not quantifiable, but she wanted to speak her opinion.

Chair Stephens asked Ms. Pignataro if she felt that way about both questions.

Ms. Pignataro stated yes she does.

Chair Stephens stated she does not see the conflict in the rezoning of districts. That is just a zoning mechanism we use in the community. Ms. Stephens does see a personal conflict in the individual mobile home park, manufactured housing and Ms. Gorgol might not vote on the zoning in those.

Councilmember Summers stated he concurs with Ms. Pignataro's expression of wisdom on this. Ms. Gorgol is still involved with advocating to work with communities to preserve mobile home parks, lobby communities and sits on the board that makes that decision; that is a classic example of a conflict of interest. Councilmember Summers further stated that Ms. Gorgol works with staff and her employer has specific goals to engage support to facilitate the actions coming before the City Council. Further, Ms. Gorgol is getting paid state funds in her job which creates more of a complication, which seems pretty sticky.

City Attorney Daggett stated the purpose of this process is to provide Ms. Gorgol with a thoughtful analysis of the issues to help her think through issues to lead her to a good decision on how to proceed. Ms. Daggett stated sometimes the most challenging Ethics Review Board discussions lead to really good advisory opinions as there are a lot of different factors that weigh in.

Ms. Pignataro stated Ms. Gorgol recusing herself would be a good decision based on the appearance of this situation. Because she works with mobile home parks specifically named, it gets to the appearance part, although it may not go against any of our specific ethics codes, but she would suggest to leave it up to Ms. Gorgol to recuse herself or not.

City Attorney Daggett stated she is hearing a general sense that most are not comfortable with saying it's okay to go ahead as there's not an issue. Ms. Daggett stated she is hearing a range of positions regarding whether participation is not allowed or would violate specific language in the Charter, but is hearing a sense that participation would violate the intent of the Charter – at least from Mr. Summers and Ms. Pignataro on both decisions and from Chair Stephens on at a minimum the rezoned mobile home properties Emily has relationships with.

Ms. Daggett proposed to the Board that she has heard the discussion and can write up two versions of an opinion or one opinion with option language so the Board can see it in written form which may help them choose an option, then the Board will vote on it or suggest changes.

Chair Stephens and Councilmember Pignataro stated they thought that was a great idea on how to proceed.

City Attorney Daggett stated she will get to work on a draft of public documents to be sent out that this Board will work on at the next meeting on Friday. Any feedback requested by any Board members should be directed to Carrie and she will try to be as prepared as she can on Friday to make changes as the discussion is finalized.

City Attorney Daggett asked Councilmember Gorgol, when you say you “advise staff”, do you mean La Familia staff?

Ms. Gorgol replied yes, also the Spanish speaking community and those working on policy issues.

Chair Stephens asked if anything else was on the agenda under other business to which there was no replies.

Meeting adjourned 7:30 pm.