

Ethics Review Board Meeting Minutes
July 24, 2020
3:00 p.m. Meeting Via Zoom

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

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 Friday, July 24, 2020, at 3:00 p.m. via Zoom Meeting.

Ethics Review Board Chair, Mayor Pro Tem Kristin Stephens, called the meeting to order at 3:01 p.m. and reviewed the Agenda which contained the following items:

1. Review and Approval of the July 24, 2020 Minutes of the Ethics Review Board.
2. Review and Approval of the revised draft Ethics Opinion 2020-02, with continued consideration of an inquiry by Councilmember Gorgol pursuant to City Code Section 2-569(d)(2) requesting that the Board consider and provide an advisory opinion regarding the questions of:
 - (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?
3. Other Business.
4. Adjournment

Paralegal Jeanne Sanford did role call: Kristin Stephens: present, Julie Pignataro: present, Ken Summers: present.

Chair Stephens then called the first item, which was approval of the 7/24/2020 Minutes.

Councilmember Julie Pignataro made a motion to approve the Minutes and Councilmember Ken Summers seconded the motion.

Paralegal Jeanne Sanford took a role call of the vote. Chair Stephens: yes, Councilmember Pignataro, yes, Councilmember Ken Summers, yes. The approval of the Minutes was passed by unanimous vote.

Chair Stephens called for the second agenda item which was the review and approval of the revised draft Ethics Opinion. 2020-02.

City Attorney Daggett stated that last Wednesday, 7/15, the Agenda Item Summary (“AIS”) included a description of Councilmember Gorgol’s role at LaFamilia with background on the City Charter and State law requirements. Ms. Daggett continued that last Friday, 7/17, the Board met with no additional Agenda Item Summary (“AIS”), but a draft opinion. This meeting, Ms. Daggett stated a new AIS has been prepared and would call the Board’s attention to bates stamp page 8 on the new AIS. The questions have been reframed a little bit to help the Board walk back through the issues where there has been difficulty reaching a shared agreement. Ms. Daggett explained she also provided additional information, in follow up to Councilmember Summers’s questions related to State law provision 24-18-109(3,) regarding *personal or private interest*. Additional resources were attached on how these questions are being interpreted and answered on the state level.

City Attorney Daggett provided an explanation at page 11, under question 3. This provision is understood to be the local government version of language in our state constitution that applies to members of the General Assembly. The General Assembly has stated an interpretation of this limit in Joint Rule 42, which explains the meaning of “personal or private interest”.

City Attorney Daggett read her summary of the rule. Ms. Daggett explained the example and language on the legislative website gave a guidance document which can be found at bates stamp pages 70-73. The Board reviewed those questions on the referenced pages. Ms. Daggett further explained if the Board was to apply those questions to Councilmember Gorgol’s issue, a way to formulate the question might be does the measure apply differently to her vs. others in her class?

Ms. Daggett stated she provided the Board with three options to the draft opinion. The first option, Option A, found at bates stamp page 75, was an updated version of the prior Option from July 17, which was a determination that Councilmember Gorgol has a personal interest in all the listed Council actions.

Option B provides that a personal interest exists only in the rezonings of properties where Councilmember Gorgol has a work relationship with the property owners.

Option C states there is no conflict in any of Councilmember Gorgol’s questions, but the Board recommends she continue to evaluate her ability to participate in rezoning decisions in an unbiased way.

City Attorney Daggett directed the Board to the conclusion language and last page and a half of the Opinion versions, which is the heart of the decision stated in each version.

Chair Stephens asked Councilmembers for feedback about whether any of the versions capture their thinking.

Councilmember Summers replied he was leaning toward Option A or perhaps B. Mr. Summers stated in this situation, Councilmember Gorgol is not part of a class, she is an employee of a specific entity. Councilmember Summers stated he felt there is an interest that Councilmember Gorgol has, by virtue of her history with residents in particular and in her modified role being Director of Public Policy and Grants, providing advice and counsel on the success of these endeavors. Mr. Summers further stated that

Ms. Gorgol also has a role as City Council person and in this situation, those two interest are in conflict with one another; that is his opinion.

Councilmember Pignataro stated she could get her head around Option B, but for different reasons; it is more about Councilmember Gorgol's role as an advisor to those who reach out to policy makers. Because that group has reached out to her to vote in a particular way, even though Councilmember Gorgol did not, she still advises that group how to reach out to Council.

Councilmember Gorgol stated she is not a supervisor or above them, but yes she does advise on process questions such as who the right public contact is.

Councilmember Summers asked Councilmember Gorgol about the title of her job and what in the job description of a policy director applies to her.

Councilmember Gorgol replied that outcomes are community-led projects and she works with staff members on meeting agendas and building bridges with elected officials; she is further removed from community outcomes aspect.

Chair Stephens asked Councilmember Gorgol is she used to be more involved with residents?

Councilmember Gorgol replied when she was working more closely to residents, she was working more on building relationships.

Councilmember Summers asked her if that was when she was on Council?

Councilmember Gorgol stated yes, there was some overlap.

Chair Stephens suggested perhaps the Board could coalesce around Option B then. Chair Stephens stated regarding conflicts with individual zonings, in contrast to personal relationships with those folks, Councilmember Gorgol has relationships that are tied to her work and it could be tricky for her to vote on specific zonings related to those relationships, and that could be perceived as a conflict. The zone district Code amendment decision in general is less tricky.

City Attorney Daggett suggested that if it looks like Option B is the option that makes the most sense to focus on, she suggested the Board look at that language and talk about whether the Board would like to see any revisions to the language of Option B.

Councilmember Pignataro stated it was fine for the Board to walk through Option B. She may, however, under Other Business, talk about how councilmembers make their money outside of Council and clear up the questions about the employment aspect of conflicts of interest to avoid a lot of time administratively on this as there have been so many ethics complaints on this topic.

Councilmember Summers agreed.

Chair Stephens agreed that it is one of the issues that becomes tricky as Council is making laws about the Fort Collins community since Councilmembers need to have outside jobs because there is not really a salary while being on Council. Chair Stephens stated she would like clarity around this as the Board is

dealing with questions that are not so clear cut; it's more nuanced. Ms. Stephens gave Gino Campana's outside employment as an example while he was on Council.

The Board discussed the philosophical nature of conflict of interest and the employer's piece in it.

City Attorney Daggett pointed to some of the specific language in the Charter that defines the term "financial interest" and noted that similar kinds of more specific provisions could be suggested that would address the employment/employee issues more specifically. Ms. Daggett noted that the Council has asked for more on this and other ethics issues that will be coming forward later this year for Council discussion.

City Attorney asked the Board if their support is for Ethics Opinion 2020-02 Option B?

Councilmember Summers stated yes, it is the best place for us to be on this. Chair Stephens and Councilmember Pignataro agreed.

City Attorney read the part of the Opinion, under Option B conclusion section and noted the concern about particular rezonings.

Councilmember Summers stated he was comfortable with the addition of clarifying language: "decision for the rezonings".

The Board discussed how to reference the Council decisions discussed in the Opinion and worked on getting the language of Option B to everyone's agreement.

City Attorney Daggett stated as far as the rezonings, she guessed there are about 7-9 mobile home parks coming up for rezoning and Councilmember Gorgol may only have a conflict with a few of those; Ms. Gorgol will have to recuse herself as those specific properties come up.

City Attorney Daggett stated she would work with the City Clerk over the weekend to get an agenda item added to the agenda and posted for next Tuesday's meeting.

Chair Stephens asked if any other Board members had questions.

Councilmember Pignataro stated no, but she wanted to state that all these decisions are complicated and full of nuances, so she appreciates all the efforts of staff and Councilmember Gorgol being patient with all the questions.

Chair Stephens thanked Councilmember Gorgol for asking for this opinion as these are important factors to think about ahead of time.

Councilmember Summers stated he was good with all the suggested changes.

Councilmember Pignataro made a Motion to adopt Option B of the Ethics Opinion, as edited. Councilmember Summers seconded the Motion.

Paralegal Jeanne Sanford took a roll call of the vote: Chair Stephens – yes, Councilmember Pignataro – yes, Councilmember Summers – yes.

The motion to adopt Option B, with the discussed revisions, of the Ethics Opinion 2002-02 passed with unanimous vote.

Under *Other Business*, City Attorney Daggett updated the Board that she has been working on ethics-related material to bring to Council which includes the structure of the Ethics Review Board and also the question of what is in our Charter. There has been a slight delay due to all that has been going on, but Ms. Daggett stated she hoped to get this to Council within the next month or two.

City Attorney Daggett also updated the Board that she has arranged for special legal counsel, Clay Douglas, formerly the City Attorney of Longmont, on Michael Pruznick's complaints as Mr. Pruznick's complaint raises questions about evaluations and compensation of the City Attorney. Mr. Douglas will be working to get materials out next week in advance of the July 31 Board meeting for the screening step of his complaints. Ms. Daggett noted that Mayor Troxell will be the alternate on the Board and will participate instead of Mayor Pro Tem Kristin Stephens on the Pruznick complaints.

Meeting adjourned at 4:23 pm.

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Meeting adjourned at 3:01.ppm