

**Ethics Review Board Meeting Minutes**  
**July 17, 2020**  
**2:00 p.m. Meeting Via Zoom**

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

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

Other Attendees: Councilmember Emily Gorgol; Kevin Jones, Fort Collins Chamber of Commerce and Michael Pruznick.

A meeting of the City Council Ethics Review Board (“Board”) was held on Friday, July 17, 2020, at 2:00 p.m. via Zoom Meeting.

Ethics Review Board Chair, Mayor Pro Tem Kristin Stephens, called the meeting to order at 2:05 p.m. and reviewed the Agenda which contained the following items:

1. Review and Approval of the July 15, 2020 Minutes of the Ethics Review Board.
2. Review and Approval of 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

Chair Stephens called the first item, which was approval of the 7/15/2020 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: aye, Councilmember Pignataro, aye, Councilmember Ken Summers, aye. 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 draft Ethics Opinion.

City Attorney Carrie Daggett described the draft Ethics Opinion and stated page 2 contained factual statements she wanted to confirm with Councilmember Emily Gorgol were correct.

Councilmember Gorgol indicated the words “and Mi Vos” should be removed from the highlighted reference and otherwise replied the facts, as stated, were correct.

City Attorney Daggett summarized what she heard from the Board in its July 17 discussion, in the form of an Ethics Opinion providing two options, Options A and B. Option A concludes that Councilmember Gorgol has a conflict arising from all the listed activities Council will hear on manufactured/mobile home park housing and Option B concludes that there she has a personal interest and resulting conflict only in the rezoning items related to parks she has actively engaged with in her work for The Family Center/La Familia. Ms. Daggett stated she would take the Board’s suggestions to revise the Opinion, if necessary, to get to a final conclusion on this.

In response to additional inquiries about the description of her role, Councilmember Gorgol responded that the dates were correct in the highlighted part, but wanted to be clear that in her current position she more advises staff on how to proceed than advises residents directly. Councilmember Gorgol explained her role is to advise staff with strategic planning on key identified projects and she advises mobile home park residents on how to navigate policy processes and works with staff on that long-term.

Chair Stephens asked the Board if they had any questions on the Opinion.

Councilmember Pignataro asked Councilmember Gorgol why it mattered that she doesn’t work with the community directly and how that would change things?

Councilmember Gorgol responded that she felt there was the impression that she taught workshops on how to navigate policy. Ms. Gorgol stated she just organizes the trainings, but does not run them.

Councilmember Summers called attention to the reference to CRS 24-18-109(2) and (3), addressing private or personal interests in matters before the governing body and indicated that he thinks this is applicable in Councilmember Gorgol’s situation as a staff member of a non-profit whose job is policy advising. Mr. Summers stated he believes there is a connection between the stated purpose of the non-profit and the role fulfilled by its employees.

City Attorney Daggett stated Councilmember Summers raised a good issue which is unclear in the law. There are two ways of interpreting this statute; one interprets “personal or private interest to refer to the matters listed earlier in the section; the second is to interpret that as referring to additional types of interests that require an official to disclose and refrain from participating. The term “personal or private interest” is not defined anywhere in the statute, there is nothing to support what that means so it raises the question as to what is meant by the undefined concept of “personal or private interest.” The Board should consider that there may be a conflict under state law that is different from a “personal interest” in the City Charter.

Councilmember Gorgol stated that in her job, she does not advocate for policy; her job is not to tell people about policy, but to identify solutions in the community. Ms. Gorgol stated her role is different than what Councilmember Summers stated she does.

Councilmember Summers replied is the manufactured housing policies are among those policies Ms. Gorgol is helping support and establish strategies to get implemented in her paid employment, where her role is to influence local and public policy. Ms. Summers stated Ms. Gorgol is helping advocate for that policy.

Councilmember Gorgol stated she provides options, but strategy and direction is chosen by the community members.

Councilmember Pignataro asked if Ms. Gorgol advises people on how to empower community members and if she is teaching how to advocate?

Councilmember Gorgol stated in a way, yes; she connects the possibilities, not exactly empowers.

The Board discussed the language in the Opinion. Option A is set up to reflect the Board's opinion if it determines there is a conflict; Option B states for the most part there is not a conflict, but the rezonings are the exception. The Opinion is forward looking and does not look at the past decisions or voting by Councilmember Gorgol.

Councilmember Pignataro stated she does not think the two options captured her feelings. Ms. Pignataro's opinion is that while there is nothing in the Charter that states Councilmember Gorgol cannot vote, she would highly encourage her to recuse herself due to the appearance clause. Ms. Pignataro stated she believes Amendment 41 talks about this.

City Attorney Daggett stated that Amendment 41 has language exempting home-rule municipalities. She noted there is litigation pending over the issue of whether this is a blanket exception or one that has to be evaluated and applied on a case by case basis. Ms. Daggett further talked about the reference to "appearance" in Amendment 41; that is not stated as part of a requirement but rather is part of the explanation of the purposes in adopting the restrictions in Amendment 41. The City does not have an "appearance" provision in its Charter and the statutes do not prohibit the "appearance" of a conflict.

City Attorney Daggett discussed the "personal interest" definition in the Charter and noted that a personal interest is distinct from a "financial interest."

Each member of the Board expressed their preference with Councilmember Summers leaning toward Option A, Chair Stephens leaning toward Option B and Councilmember Pignataro leaning toward Option B with caveat that our ethics/charter provisions don't cover what we are talking about here as nothing prevents Councilmember Gorgol from voting, because there is nothing in the Charter about the appearance of conflict.

City Attorney Daggett clarified that in Option B, the only conflict would be the rezoning for particular properties Councilmember Gorgol is involved with.

City Attorney Daggett asked the Board if they needed more time discussing this matter to lead the Board to a conclusion. Ms. Daggett stated she is not hearing an opinion that a majority of the Board supports. Ms. Daggett stated one approach would be for the opinion to recognize there is a difference of opinion and references those ambiguities and differences. However, that approach would not provide helpful guidance for Councilmember Gorgol and may be difficult for the Council to act upon.

Chair Stephens noted Councilmember Pignataro has a 3:00 meeting so the Board should schedule another meeting before July 28<sup>th</sup>. Ms. Stephens noted it might be worth discussing Amendment 41 further as a policy matter. City Attorney Daggett reminded the Board that the Council will be discussing whether to update the Charter conflicts provisions later this year and as part of that discussion will also have a chance to consider Amendment 41 further.

City Attorney Daggett stated she would work on alternate versions of the opinion and will find a time next week to schedule another meeting to bring this forward at that time with revised materials.

Meeting adjourned at 3:01.pm