

RESOLUTION 2021-025  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ACCEPTING AND ADOPTING ETHICS OPINION NO. 2021-01  
OF THE ETHICS REVIEW BOARD ADVISING COUNCILMEMBER  
MELANIE POTYONDY IN RESPONSE TO HER REQUEST FOR AN  
ADVISORY OPINION

WHEREAS, the City Council has established an Ethics Review Board (the “Board”) consisting of designated members of the City Council; and

WHEREAS, the Board is empowered under Section 2-569 of the City Code to render advisory opinions and recommendations regarding actual or hypothetical situations of Councilmembers or board and commission members of the City; and after review and investigation, to render advisory opinions or interpretations pertaining to such complaints or inquiries under the relevant provisions of the Charter and Code and the applicable provisions of state law, if any, and to make written recommendations to the City Council and any affected board or commission concerning the same; and

WHEREAS, on January 19, 2021, Councilmember Melanie Potyondy requested that the Board consider and provide an advisory opinion regarding the following questions:

1. Possible conflicts of interest that may arise from her husband, Eric Potyondy, being employed as an assistant city attorney in the City Attorney’s Office; and
2. Possible conflicts of interest that may arise from her employment with Poudre School District; and

WHEREAS, the Board, comprised of Mayor Wade Troxell, chair, Councilmember Ken Summers and Councilmember Julie Pignataro, met on January 29 and February 12, 2021, to consider Councilmember Potyondy’s inquiry; and

WHEREAS, at the conclusion of its review and discussions, the Board unanimously adopted and issued an ethics opinion, Ethics Opinion 2021-01, describing and explaining its advisory conclusions and recommendations to Councilmember Potyondy; and

WHEREAS, Greeley City Attorney Douglas Marek advised the Board as special legal counsel on matters related to the City Attorney’s Office; and

WHEREAS, Section 2-569(e) of the City Code provides that all advisory opinions and recommendations of the Board be placed on the agenda for the next special or regular City Council meeting, at which time the City Council shall determine whether to adopt such opinions and recommendations; and

WHEREAS, the City Council has reviewed the opinion of the Board and wishes to adopt the same.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Opinion No. 2021-01 of the Ethics Review Board, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, has been submitted to and reviewed by the City Council, and the Council hereby accepts and adopts the opinion contained therein.

Passed and adopted at an adjourned meeting of the Council of the City of Fort Collins this 23rd day of February, A.D. 2021.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk



**2021-01**  
**OPINION OF THE ETHICS REVIEW BOARD**  
**OF THE CITY COUNCIL OF THE CITY OF FORT COLLINS**

February 12, 2021

The City Council Ethics Review Board (“the Board”) met on January 29 and February 12, 2021, to consider and render an advisory opinion addressing two questions submitted to the Board by Councilmember Melanie Potyondy on January 19, 2021. Councilmember Potyondy asked for an advisory opinion under City Code Section 2-569(d)(2) regarding:

1. Possible conflicts of interest that may arise from her employment with Poudre School District; and
2. Possible conflicts of interest that may arise from her husband, Eric Potyondy, being employed as an assistant city attorney in the City Attorney’s Office.

**The Board’s conclusions and recommendations are summarized as follows:**

1. With respect to her employment at Poudre School District, Councilmember Potyondy does not have a financial or personal interest under the City Charter in the most Council decisions, with some potential exceptions. Matters that have a close tie to her role with the District may require a closer analysis. It may be helpful for Councilmember Potyondy to seek formal assurance from the District that her actions as a Councilmember will have no bearing on her treatment by the District.
2. Similarly, the Board has concluded that the state law ethics provisions do not bar participation by Councilmember Potyondy in the Council decisions of the sort identified in this Opinion, and further review and analysis would be necessary mainly in the event the details of the Council decision were closely tied to her work or work conditions.
3. With respect to her spouse’s employment as an assistant city attorney in the Fort Collins City Attorney’s Office, Councilmember Potyondy does not have a financial or personal interest under the City Charter in most of the Council decisions related to the City Attorney or the City Attorney’s Office. Matters that relate to budgets and that could have a direct impact on staffing levels and support services for members of the City Attorney’s Office may require closer analysis. It may be helpful for Councilmember Potyondy to evaluate the potential for an actual or perceived conflict-of-interest in advance of City Council’s consideration of any matters related to the City Attorney or City Attorney’s Office and to seek specific advice or an ethics opinion on such matters as the need arises.
4. Councilmember Potyondy does not have a state law ethics bar from participating in the Council decisions related to the City Attorney or City Attorney’s Office as a general matter. It is conceivable that a specific issue might arise that would require City Council action on

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a matter that could lead to an actual or perceived conflict-of-interest due to her spouse's employment as an assistant city attorney. In that event, it would be advisable for Councilmember Potyondy to evaluate the potential for an actual or perceived conflict-of-interest on such a matter in advance of City Council's consideration.

5. The Ethics Review Board does not find at this time that it is necessary or appropriate to establish a specific conflicts management plan for Councilmember Potyondy.

### **Overview of Ethics Opinion 2021-01**

- Background (page 2)
- Councilmember Potyondy's Position and Role at Poudre School District (page 2)
- Council Decisions Related to Poudre School District (page 3)
- Councilmember Potyondy's Spousal Relationship with Assistant City Attorney Eric Potyondy (page 3)
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- Use of Conflicts Management Plan (page 4)
- Conflicts of Interest Authorities for Consideration:
  - City Charter Conflicts Interest (page 4)
  - Conflicts of Interest Under State Law (page 6)
- Application of Conflicts/Ethics Provisions to Council Decisions:
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  - Council Decisions Related to the City Attorney's Office or Eric Potyondy (page 10)
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### **Background**

Under City Code Section 2-569, councilmembers may present to the Council's Ethics Review Board inquiries regarding the application of state or local ethical rules to actual or hypothetical situations involving potential conflicts of interest. Upon completion of its review, the Ethics Review Board adopts an Ethics Opinion that is then presented to the City Council for consideration and possible adoption by the Council by resolution.

The local ethics provisions considered as part of this inquiry are City Charter Article IV, Section 9(a), regarding conflicts of interest, and City Code Section 2-568(a), establishing related definitions. The state ethics provisions considered as part of this inquiry include the following Colorado Revised Statutes: Sections 24-18-102 through -105 and Section 24-18-109. These provisions are discussed and examined below as applicable.

### **Councilmember Potyondy's Position and Role at Poudre School District**

Councilmember Potyondy is employed by Poudre School District as a Psychologist. In this role, she is responsible for the delivery of direct educational and mental health services to create supportive learning and social environments for all students.

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She is responsible for conducting formal and informal assessments for the identification, placement and programming of students for Special Education services and providing effective services to help students succeed academically, socially, behaviorally and emotionally. She collaborates with teachers, support personnel, administrators and colleagues to improve student outcomes and in team- and building-based meetings and discussions and communicates students' progress and needs with parents and other staff as needed. She is assigned to and works at Rocky Mountain High School, although she formally reports to the main School District administration.

In her role as a school Psychologist, Councilmember Potyondy is not involved in School District planning or decision making for facilities, generally curriculum, financial or staffing decisions.

### **Council Decisions Related to Poudre School District**

Council actions in recent decades related to Poudre School District have included the following:

- Real estate transactions, such as leases, easements and transfers;
- Annexation and zoning of School District property;
- Agreements and funding decisions regarding school resource officers;
- Cooperative agreements for construction of transportation-related projects such as “safe routes to schools” and grant-funded projects;
- Agreements for services such as after-school programs, crossing guard programs and email or other services;
- Deferral of plant investment fees;
- Agreements and setting of School District land dedication and fee-in-lieu requirements; and
- Appropriation of funds for cooperative programs, projects and services such as those noted above.

This Opinion addresses the potential conflicts related to these types of Council decisions below.

### **Councilmember Potyondy's Spousal Relationship with Assistant City Attorney Eric Potyondy**

Councilmember Potyondy is married to Assistant City Attorney Eric Potyondy, who is employed by the City Attorney's Office. Mr. Potyondy reports to Senior Assistant City Attorney Judy Schmidt, who in turn reports to City Attorney Carrie Daggett. All deputy and assistant city attorneys in the City Attorney's Office serve at the pleasure of the City Attorney.

The City Attorney reports directly to and serves at the pleasure of the City Council. The City Attorney's performance is reviewed regularly by the City Council and her compensation is set annually by the City Council.

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### **Council Decisions Related to the City Attorney's Office or Eric Potyondy**

The City Council makes the following decisions directly related to the City Attorney or City Attorney's Office:

- Mid-year and formal annual evaluation of the City Attorney;
- Annual compensation for the City Attorney;
- Occasional approval of employment contract revisions for City Attorney;
- Budget offers to fund the City Attorney's Office and appropriations of funds for the City Attorney's Office; and
- Direction to the City Attorney for action on work projects and litigation matters.

In addition, the Council interacts with assistant city attorneys on matters in which each individual attorney has responsibilities. Assistant City Attorney Eric Potyondy works primarily on water rights and related policy matters, Water Utility, Wastewater Utility, and Stormwater Utility and floodplain matters. In this capacity, he advises Council confidentially and responds to questions in public meetings regarding matters coming before Council.

This Opinion addresses the potential conflicts related to these types of Council decisions below.

### **Use of Conflicts Management Plan**

The Ethics Review Board discussed with Councilmember Potyondy the use of conflicts management plans by entities such as Colorado State University to assist employees in anticipating and managing conflicts of interest on an annual basis. Although it was noted that in some instances this approach could be useful, the Board concluded, with agreement from Councilmember Potyondy, that under the City's process this advisory review process and opinion serve a similar purpose and at this time that it is not necessary or appropriate to establish a specific conflicts management plan for Councilmember Potyondy.

### **Conflicts of Interest Authorities for Consideration:**

#### **1. City Charter Conflicts of Interest:**

**Article IV, Section 9(b)(3) of the City Charter requires any officer or employee who has, or whose relative has, a financial or personal interest in any decision of any public body of which he or she is a member or to which he or she makes recommendations, to upon discovery disclose that interest in the manner described and refrain from voting on, attempting to influence, or otherwise participating in the decision as an officer or employee.**

The Charter defines "financial interest" and "personal interest" as follows (emphasis added):

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***Financial interest*** means any interest equated with money or its equivalent. Financial interest shall not include:

- (1) the interest that an officer, employee or relative has as an employee of a business, or as a holder of an ownership interest in such business, in a decision of any public body, when the decision financially benefits or otherwise affects such business but entails no foreseeable, measurable financial benefit to the officer, employee or relative;
- (2) the interest that an officer, employee or relative has as a non-salaried officer or member of a nonprofit corporation or association or of an educational, religious, charitable, fraternal or civic organization in the holdings of such corporation, association or organization;
- (3) the interest that an officer, employee or relative has as a recipient of public services when such services are generally provided by the city on the same terms and conditions to all similarly situated citizens, regardless of whether such recipient is an officer, employee or relative;
- (4) the interest that an officer, employee or relative has as a recipient of a commercially reasonable loan made in the ordinary course of business by a lending institution, in such lending institution;
- (5) the interest that an officer, employee or relative has as a shareholder in a mutual or common investment fund in the holdings of such fund unless the shareholder actively participates in the management of such fund;
- (6) the interest that an officer, employee or relative has as a policyholder in an insurance company, a depositor in a duly established savings association or bank, or a similar interest-holder, unless the discretionary act of such person, as an officer or employee, could immediately, definitely and measurably affect the value of such policy, deposit or similar interest;
- (7) the interest that an officer, employee or relative has as an owner of government-issued securities unless the discretionary act of such owner, as an officer or employee, could immediately, definitely and measurably affect the value of such securities; or
- (8) the interest that an officer or employee has in the compensation received from the city for personal services provided to the city as an officer or employee.

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**Personal interest** means any interest (other than a financial interest) by reason of which an officer or employee, or a relative of such officer or employee, would, in the judgment of a reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public. Personal interest shall not include:

- (1) the interest that an officer, employee or relative has as a member of a board, commission, committee, or authority of another governmental entity or of a nonprofit corporation or association or of an educational, religious, charitable, fraternal, or civic organization;
- (2) the interest that an officer, employee or relative has in the receipt of public services when such services are generally provided by the city on the same terms and conditions to all similarly situated citizens; or
- (3) the interest that an officer or employee has in the compensation, benefits, or terms and conditions of his or her employment with the city.

Related **key terms** (from Section 2-568(a) of the City Code) include:

- (2) *Benefit* = an advantage or gain.
- (6) *Different in kind from that experienced by the general public* = of a different type or nature not shared by the public generally and that is not merely different in degree from that experienced by the public generally.
- (7) *Direct* = resulting immediately and proximately from the circumstances and not from an intervening cause.
- (8) *Detriment* = disadvantage, injury, damage or loss.
- (13) *Public services* = city services provided to or made available for the public's benefit.
- (15) *Relative* = the spouse or minor child of the officer or employee, any person claimed by the officer or employee as a dependent for income tax purposes, or any person residing in and sharing with the officer or employee the expenses of the household.
- (18) *Substantial* = more than nominal in value, degree, amount or extent.

## **2. Conflicts of Interest Under State Law**

Colorado law provides ethics provisions for local government officials, including Colorado

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Revised Statutes: Sections 24-18-102 through -105 and Section 24-18-109.

1. As defined for the purpose of the **statutory ethics provisions**:
  - i. Councilmembers are “**local government officials**” (as defined in Section 24-18-102(6)).
  - ii. “**Financial interest**” means a substantial interest held by an individual which is:
    - (a) An ownership interest in a business;
    - (b) A creditor interest in an insolvent business;
    - (c) An employment or a prospective employment for which negotiations have begun;
    - (d) An ownership interest in real or personal property;
    - (e) A loan or any other debtor interest; or
    - (f) A directorship or officership in a business. (Section 24-18-102(4)).
2. **Section 24-18-103**, C.R.S., when read in conjunction with the rest of the statutory standards of conduct, is interpreted to establish an ethical standard of conduct concerning activities that could allow covered individuals to improperly benefit financially from their public office. However, it is general in nature and does not specify a standard or rule to determine what is permissible.
3. **Section 24-18-104**, C.R.S., prohibits disclosure or use of confidential information acquired in the course of official duties and acceptance of certain gifts.
4. **Section 24-18-105**, C.R.S., sets out ethical principles that are “intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.”
  - i. Section 24-18-105(2) provides that:
    - (2) A ... local government official ... should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantial authority.
  - ii. Section 24-18-105(4) provides that:
    - (4) A ...local government official ...should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest **in a competing firm or undertaking**. (Emphasis added.)
5. **Section 24-18-109(2)**, C.R.S., provides that a local government official or employee shall not (in relevant part):
  - i. Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties (§ 24-18-109(2)(a)); or

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- ii. Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking **in which he either has a substantial financial interest or is engaged as counsel, consultant, representative or agent** (§ 24-18-109(2)(b));
6. A member of a governing body of a local government who has a **personal or private interest** in any matter proposed or pending before the governing body shall disclose such interest and refrain from participating in the decision unless necessary to obtain a quorum (§ 24-18-109(3)).
- i. Although the key term from this statute “personal or private interest” is not defined, guidance from other uses of this term in related Colorado law may be helpful. As noted in a 2004 *Colorado Lawyer* article describing this statute, this “standard of conduct” was likely adapted from a provision of the Colorado constitution that is applicable to members of the General Assembly (Colo. Constitution Art. V, § 43). According to that article, the limits focus primarily on financial relationships in determining whether an impermissible personal or private interest exists.
  - ii. In light of the relationship between this provision and the constitutional limit on members of the General Assembly, the way the constitutional limit has been applied to the General Assembly may provide some useful guidance in considering the meaning of “personal or private interest.” Further elaborating on this limit on members of the General Assembly is Joint Rule 42, which states a legislative interpretation of the limit.

**To summarize, Joint Rule 42 provides that:**

- a) **If the passage or failure of a measure will result in the legislator deriving a direct financial or pecuniary benefit that is greater than any such benefit derived by or shared by other persons in the legislator’s profession, occupation, industry or region, the legislator is considered to have a personal, private or financial interest in the measure.**
- b) **If the interest a legislator has in a measure affects the entire membership of a class to which the legislator belongs, the interest is not deemed to be a personal, private or financial interest.**

Merriam-Webster’s online definition of the term “pecuniary” is: **1.** consisting of or measured in money; such as *pecuniary* aid *pecuniary* gifts; **2:** of or relating to money.

7. **Article XXIX of the Colorado constitution – also referred to as “Amendment 41,”** sets out limits for state and local officers and employees, by establishing limits on the acceptance of gifts and forming an Independent Ethics Commission to hear complaints about conduct of

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covered officials. While the amendment applies to municipalities in general, Section 7 provides, “Any county or municipality may adopt ordinances or charter provisions with respect to ethics matters that are more stringent than any of the provisions contained in this article. *The requirements of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article.*” (Emphasis added.)

Since the enactment of Amendment 41, it has been generally understood that Section 7 exempts home-rule cities that have enacted their own local charter and code ethics provisions, like Fort Collins, from its provisions.

In September 2010, the City Council adopted Resolution 2010-063, finding and determining that the City’s Charter and Code adequately and appropriately address those matters covered by Amendment 41, that no further action by the City Council is warranted or necessary in order to further the purposes of Amendment 41 or address the matters contained therein, and that the requirements of Amendment 41 shall not be applicable to the City of Fort Collins.

### **Application of Conflicts/Ethics Provisions to Council Decisions**

#### **Council Decisions Related to Poudre School District**

##### *Financial Interest Under City Charter*

Considering the circumstances presented by Councilmember Potyondy, the Board readily concluded that there is not a financial interest presented by any of the identified Council decisions regarding Poudre School District. This is because there is no connection between the funding for her position at Poudre School District and the decisions, nor any identifiable indirect connection, so there is no **foreseeable, measurable financial benefit** to her.

##### *Personal Interest Under City Charter*

Whether Councilmember Potyondy has a personal interest in the types of decisions Council makes regarding Poudre School District by virtue of her employment with the District is governed by the standard of whether as a result of the Council decision she would experience **some direct and substantial benefit or detriment, different in kind from that experienced by the general public.**

Although in recent years there has been much speculation as to whether an employee is under pressure to act as a Councilmember in a manner that will please their employer, it is commonly speculative to attribute a direct and substantial benefit or detriment to the employee/Councilmember unless the specific circumstances indicate some relationship between the employer’s interest in the decision and how the employer will treat the

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employee/Councilmember. In other words, Councilmember Potyondy is unlikely to have a personal interest in a decision related to Poudre School District, unless there is an evidence-based and not speculative reason to think the School District will take action of some kind for or against her as a result of a specific decision she makes as a Councilmember.

It is imaginable that the Council could at some point consider an action, such as the funding of mental health resources for the School District, that may relate directly and closely enough to Councilmember Potyondy's role and work with the School District to merit a close look as to whether a personal interest is presented.

It may be helpful for Councilmember Potyondy to seek assurance and commitment from the School District that her actions as a City Councilmember will not influence in any way her treatment, compensation or other circumstances in connection with her employment.

In addition, there may be instances in which Councilmember Potyondy has concerns about the significance of an issue to the School District and chooses to declare a personal interest in the matter in order to avoid the appearance of or potential for a conflict of interest.

#### *State Ethics Provisions*

Similarly, the state law ethics provisions each relate to personal or private interests in which some financial or pecuniary impact may be experienced by a local government official from official actions. The Board did not identify any direct or indirect financial or economic impact to Councilmember Potyondy likely to result from decisions generally involving her employer Poudre School District.

Councilmember Potyondy would be required under state law to disclose a **personal or private interest** in any matter proposed or pending before the Council and refrain from participating in the decision unless necessary to obtain a quorum. Under the guidance related to this provision, it is unlikely that a decision related to Poudre School District would trigger this prohibition unless the specific circumstances suggested an impact directly to Councilmember Potyondy from the decision. Accordingly, the Board has concluded that the state law ethics provisions do not bar participation by Councilmember Potyondy in the Council decisions of the sort identified above, and further review and analysis would be necessary mainly in the event the details of the Council decision were closely tied to her work or work conditions.

#### Council Decisions Related to the City Attorney's Office or Eric Potyondy

##### *Financial Interest Under City Charter*

Considering the circumstances of Councilmember Potyondy's relationship to Assistant City Attorney Eric Potyondy and of his roles and responsibilities within the City Attorney's Office, the Board readily concluded that there is not a financial interest, as defined in the City Charter, presented by the majority of the Council decisions related to the City Attorney or City Attorney's

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Office. It is conceivable that at some point the City Council might consider funding issues that would have an impact on staffing levels within the City Attorney's Office. Such an event, if it were to result in a reduction in force for example, could give rise to an actual or perceived measurable financial benefit or detriment.

It may be helpful for Councilmember Potyondy to evaluate the potential for an actual or perceived conflict-of-interest in advance of City Council's consideration of each funding matter related to the City Attorney or City Attorney's Office and to seek specific advice or an ethics opinion on such matters as the need arises. It will be incumbent upon the City Attorney to provide information to the City Council sufficient to give them notice of potential impacts of their funding decisions on staffing at the City Attorney's Office so that Councilmember Potyondy is aware of the potential for a conflict of interest. There may be instances in which Councilmember Potyondy has concerns about the significance of budget issues affecting the City Attorney's Office and chooses to declare a personal interest in the matter in order to avoid the potential for a conflict of interest.

#### *Personal Interest Under City Charter*

Whether Councilmember Potyondy has a personal interest in the types of decisions Council makes regarding the City Attorney's Office is governed by the standard of whether as a result of the Council decision she would experience **some direct and substantial benefit or detriment, different in kind from that experienced by the general public**. Because the Council's role in making decision related to the City Attorney's Office generally is limited to reviewing performance and setting compensation and terms of employment of the City Attorney, there is little likelihood of any issues generating a direct and substantial benefit or detriment to Councilmember Potyondy.

Although the City Council does interact with and receive legal advice from Assistant City Attorney Eric Potyondy on matters concerning water rights, utilities, and related utility matters, it is difficult to imagine any of Council's decisions on those matters giving rise to any direct and substantial benefit or detriment to Councilmember Potyondy that would be different in kind from that experienced by the general public.

Because the City Attorney's Office has access to confidential information and may advise managers and employees of the City on matters over which they have authority, there may be a perception by some that a Councilmember whose spouse is an assistant city attorney may have access to confidential information not otherwise available to the City Council. For example, the City Attorney's Office may provide advice and representation to City managers and employees on matters that are confidential and not within the direct authority of City Council, such as personnel and employment issues or criminal justice information. It may be advisable to have the City Attorney adopt policies and institute appropriate safeguards such as intra-office "ethical walls" to prevent any appearance that a member of City Council whose spouse is an assistant city attorney might have access to otherwise confidential information.

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*State Ethics Provisions*

State law ethics provisions each relate to personal or private interests in which some financial or pecuniary impact may be experienced by a local government official from official actions. The Board did not identify any direct or indirect financial or economic impact to Councilmember Potyondy likely to result from decisions generally involving the City Attorney's Office. As discussed above, there is the possibility that at some point the City Council might consider funding issues that would have an impact on staffing levels within the City Attorney's Office. It is conceivable that a funding decision could result in a financial or pecuniary impact to Councilmember Potyondy because of her spouse's employment as an assistant city attorney.

Councilmember Potyondy would be required under state law to disclose a **personal or private interest** in any matter proposed or pending before the Council and refrain from participating in the decision unless necessary to obtain a quorum. Accordingly, the Board has concluded that the state law ethics provisions do not bar participation by Councilmember Potyondy in the Council decisions related to Council decisions related to the City Attorney or the City Attorney's Office. Only if the ramifications of a decision could impact her spouse's employment status would this require further review and analysis.

**Board Conclusions and Recommendations:**

1. **With respect to her employment at Poudre School District, Councilmember Potyondy does not have a financial or personal interest under the City Charter in the most Council decisions, with some potential exceptions.**

**The Board finds that Councilmember Potyondy is unlikely to have a financial interest under the City Charter in any of the types of Council decisions identified above, based on the facts as presented in this review.**

**The Board finds that Councilmember Potyondy is unlikely to have a personal interest in any of the types of Council decisions identified above, based on the facts as presented in this review. However, in the event the Council is faced with a decision involving facts directly and closely related to Councilmember Potyondy's role and work with the School District, such as funding of mental health support services, a closer look for potential personal interest would be warranted.**

**It may be helpful for Councilmember Potyondy to seek assurance and commitment from the School District that her actions as a City Councilmember will not influence in any way her treatment, compensation or other circumstances in connection with her employment.**

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2. **Councilmember Potyondy does not have a state law ethics bar from participating in the Council decisions related to Poudre School District as a general matter.**

The Board has concluded that the state law ethics provisions do not bar participation by Councilmember Potyondy in the Council decisions of the sort identified above, and further review and analysis would be necessary mainly in the event the details of the Council decision were closely tied to her work or work conditions.

3. **With respect to her spouse's employment as an assistant city attorney in the Fort Collins City Attorney's Office, Councilmember Potyondy does not have a financial or personal interest under the City Charter with most City Council decisions, with some possible exceptions.**

The Board finds that Councilmember Potyondy is unlikely to have a financial interest under the City Charter in most types of Council decisions identified above, based on the facts as presented in this review.

Matters that relate to budgets and that could have a direct impact on staffing levels and support services for members of the City Attorney's Office may require closer analysis. It may be helpful for Councilmember Potyondy to evaluate the potential for an actual or perceived conflict-of-interest in advance of City Council's consideration of any matters related to the City Attorney or City Attorney's Office and to seek specific advice or an ethics opinion on such matters as the need arises.

4. **Councilmember Potyondy does not have a state law ethics bar from participating in the Council decisions related to the City Attorney or City Attorney's Office.**

The Board finds that state law ethics provisions do not bar Councilmember Potyondy from participating in in the Council decisions related to the City Attorney or the City Attorney's office as a general matter.

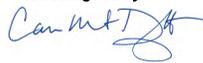
It is conceivable that a specific issue might arise that would require City Council action on a matter that could lead to an actual or perceived conflict-of-interest due to her spouse's employment as an assistant city attorney. In that event, it would be advisable for Councilmember Potyondy to evaluate the potential for an actual or perceived conflict-of-interest on such a matter in advance of City Council's consideration.

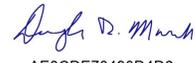
5. **The Ethics Review Board does not find at this time that it is necessary or appropriate to establish a specific conflicts management plan for Councilmember Potyondy.**

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This advisory opinion was reviewed and approved by Mayor Wade Troxell and Councilmembers Ken Summers and Julie Pignataro, as the designated regular members of the Ethics Review Board, at a meeting of the Ethics Review Board on February 12, 2021. Pursuant to Section 2-569(e) of the City Code, this opinion and recommendation is to be immediately filed with the City Clerk and made available for public inspection. This opinion shall be considered by the City Council at an adjourned meeting on February 23, 2021.

Dated this 12th day of February, 2021.

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Carrie M. Daggett, City Attorney

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Douglas M. Marek, Greeley City Attorney  
(Special Counsel to the Board)