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AGENDA
Ethics Review Board Meeting
May 17, 2023
4:00 p.m.
Via Zoom Webinar

Please click the link below to join the webinar:

<https://fcgov.zoom.us/j/96232036568>

Webinar ID: 962 3203 6568

1. Call to Order
2. Roll Call
3. Review and Approval of the December 14, 2022 Minutes of the Ethics Review Board
4. Discuss the definition and examples of “personal interest” within the City’s ethical rules of conduct and with respect to quasi-judicial proceedings.
5. Other Business
6. Adjournment

**Ethics Review Board Meeting Minutes
December 14, 2022, Meeting Via Zoom**

Alternate Ethics Review Board members in attendance: Councilmember Julie Pignataro, Councilmember Tricia Canonico, Mayor Jeni Arndt

Staff in attendance: Carrie Daggett, City Attorney; Briana McCarten, Paralegal

Other Attendees: Brian Carnahan, Michelle Haeefe, Kevin Jones-FC Chamber, Rebecca Everett, "Community Members"

A meeting of the City Council Alternate Ethics Review Board (the "Board") was held on Wednesday, December 14, 2022, at 3:30 p.m.

City Attorney Daggett called the meeting to order at 3:33 pm. The Board reviewed the Agenda which contained the following items:

1. Call to Order
2. Roll Call
3. Selection of Presiding Officer for Ethics Review Board as it considers the pending complaint.
4. Review and Approval of the October 12, 2022 Minutes of the Ethics Review Board.
5. Initial screening of a November 18, 2022 ethics complaint filed by Brian Carnahan alleging that Planning and Zoning Commissioner Michele Haeefe behaved unethically with respect to an application for a lot line adjustment at 3006 Rockborough Court when she: 1) had a conflict of interest at the August 18, 2022 appeal hearing due to a personal relationship with the appellant; and 2) made biased statements against the applicants at the August 11th work session.
6. Other Business.
7. Adjournment.

Paralegal Briana McCarten took roll call for the Board. All members were in attendance.

Mayor Arndt moved for Councilmember Pignataro to preside over the meeting as Chairperson Gutkowsky had recused. Councilmember Canonico seconded the motion. The motion passed by unanimous vote.

Councilmember Canonico moved to approve the October 12, 2022 minutes. Mayor Arndt seconded the motion. The Minutes were approved by unanimous vote.

The Board moved on to Agenda Item 5.

Councilmember Pignataro asked City Attorney Daggett to clarify the purpose of today's meeting with respect to the ethics complaint. City Attorney Daggett clarified that the Board's task is to determine if what is alleged in the complaint, assuming all allegations are true, would constitute an ethics violation.

**Ethics Review Board Meeting Minutes
December 14, 2022, Meeting Via Zoom**

Councilmember Pignataro asked why the minutes from the August 11, 2022 Planning and Zoning Commission (the “Commission”) meeting were not included in their packet. Paralegal McCarten clarified that there were no minutes to provide because August 11, 2022 was a work session and minutes are not taken at work sessions.

City Attorney Daggett provided an overview of the complaint. The complaint alleges that Planning and Zoning Commissioner Michele Haeefe (“Haeefe”), because of a personal relationship with the appellant in the matter before the Commission on August 11 and 18, 2022, had a personal interest in the appeal and should not have participated in the hearing. The basis of the complaint is not that she had a financial interest, but a personal interest. The complaint makes a general reference to an abuse of power; however, there is no language in City Code regarding abuse of power. There are State provisions for abuse of power, but they are extreme and focus on criminal activity. Biggest question before the Board today is whether Haeefe had a conflict of interest in the appeal before the Commission on August 11 and 18, 2022.

Councilmember Pignataro asked the other Board members to share any similar experiences. Mayor Arndt stated that she always recuses from a decision if there is any kind of personal relationship with a party and pointed out that, as Councilmembers, they will inevitably know people who come before City Council.

Mayor Arndt asked about the definition of personal gain if it is not a financial gain. City Attorney Daggett reflected that recent ethics complaints have begged this same question. There could be times when a decision might have an effect on someone’s home or how they use their property. Sometimes a decision could have an impact on a person’s professional reputation.

Councilmember Canonico stated that she also recuses if there is any hint or appearance of conflict.

Councilmember Pignataro recalled that the most recent ethics complaints were mostly against City Councilmembers. Everyone’s individual willingness to take on risk is different.

Councilmember Pignataro wondered what the Board needed to answer to determine if further investigation needs to happen. City Attorney Daggett suggested the Board focus on the City’s provision about personal interest. Allegations of abuse of power were very general and the complaint cited Code provisions related to personal interest. The main question before the Board is: assuming the facts set forth in the Complaint are true and in the judgment of a reasonable prudent person, would Haeefe have realized or experienced a substantial benefit or detriment different in kind from that experienced by the general public?

Mayor Arndt stated that her answer to that question is no. Haeefe had a right to her own point of view and could vote accordingly and has the right to try to persuade other Commissioners. That is public process. In the end, vote was unanimous so there was no personal benefit or gain. Councilmember Canonico stated that her answer to the question is also no. The allegations in the complaint don’t meet the definition of personal interest because there was no financial gain and no personal gain. It might have been cleaner for Haeefe to recuse but she wasn’t required to. Councilmember Pignataro reiterated that people choose their own level of risk and stated that the current policy allows for differences of opinion.

**Ethics Review Board Meeting Minutes
December 14, 2022, Meeting Via Zoom**

Councilmember Pignataro noted that two of the three Board members are on the City's Board and Commissions *ad hoc* committee and might want to talk about the definitions of abuse of power and personal gain.

City Attorney Daggett discussed the process for making a determination. There will be a vote on a motion. If the Board finds that no further investigation is warranted, a letter explaining such a determination is sent to the complainant, the subject of the complaint, and anyone else who received the complaint initially. She went on to discuss that the Boards and Commissions *ad hoc* committee or this Board could consider creating a standard in the Code regarding participation in quasi-judicial proceedings.

Mayor Arndt moved to dismiss the complaint based on the grounds of the screening review by Board today. Councilmember Canonico seconded the motion. The motion passed by unanimous vote.

Councilmember Pignataro suggested the Board have a philosophical discussion about what might be a personal interest. Councilmember Canonico wondered if the definition is limited to familial relationship. Councilmember Pignataro reflected that Fort Collins is in many ways a small town. City Attorney Daggett suggested consideration of a heightened standard for quasi-judicial proceedings. City Attorney Daggett noted the Board could meet again to discuss these ideas. Mayor Arndt stated that it would be good to look at other municipalities' definitions and standards.

City Attorney Daggett requested the next Board meeting be scheduled for no earlier than March.

The Meeting adjourned at 4:04 p.m.

AGENDA ITEM SUMMARY
City Council – Ethics Review Board



STAFF

Carrie Daggett, City Attorney

SUBJECT

Discuss the definition and examples of “personal interest” within the City’s ethical rules of conduct and with respect to quasi-judicial proceedings.

EXECUTIVE SUMMARY

The purpose of this item is to discuss scenarios that could constitute a “personal interest” and would preclude a City board or commission member from carrying out their official duties.

STAFF RECOMMENDATION

Not applicable.

BACKGROUND / DISCUSSION

The Ethics Review Board (the “Board”) screened a complaint alleging a conflict of interest against a City commission member at a meeting on December 14, 2022 (the “Meeting”). After determining no conflict existed, the Board asked the City Attorney about the definition of “personal interest” within City Code. The Board asked the City Attorney to gather other municipalities’ definitions for consideration at a discussion in the spring. Attached is a sampling of a variety of definitions.

In addition, it may be helpful to note that definitions were added to the City Code in 2014 to aid in the interpretation of the term “personal interest”. Ordinance No. 145, 2014, adopting those definitions, is attached for reference. The approach used in adding definitions related to “personal interest” has been to give words and terms the meaning that the Colorado courts are likely to give them.

Since the words and terms from the “personal interest” definition that we are proposing to define in Code Section 2-568(a) are words and terms used, but not defined, in the City Charter, the meaning we give are hopefully consistent with how the Colorado courts would interpret and apply them. In other words, because the City’s Charter provisions prevail over City Code provisions, the courts are not bound by the meaning the Code gives to words and terms used in the Charter if those meanings are not consistent with the intent of the language in the Charter. As a result, the purpose of the Ordinance was to define these words and terms in the “personal interest” definition in a way consistent with how the courts would likely define or use them.

A synopsis of selected Board opinions addressing and applying the “personal interest” standard is attached.

The Board had also expressed some interest in discussing the separate standard for determining bias or prejudice in quasi-judicial proceedings. City Code limits Councilmember communications about quasi-judicial proceedings:

Sec. 2-52. – Scheduling of the hearing/no ex parte contacts.

. . .

(d) In order to afford all parties-in-interest a fair opportunity to respond to the information upon which the City Council is to base its decision on appeal, and in order to preserve the impartiality of Councilmembers hearing the appeal, all Councilmembers who intend to participate in hearing the appeal shall, to the extent reasonably possible, avoid communications with parties-in-interest and members of the general public regarding the merits of the appeal prior to the hearing on the appeal.

The City's website also informs the public about process and permitted communications related to quasi-judicial proceedings (see attached).

CITY FINANCIAL IMPACTS

Not applicable.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

1. Other municipalities' definitions of "personal interest"
2. Ordinance No. 145, 2014
3. Synopsis of Selected Ethics Review Board Opinions Regarding Personal Interest Conflicts
4. Information About Legislative and Quasi-Judicial City Council Proceedings from fcgov.com

City's definition of personal interest:

Sec. 2-568(a) Definitions

(11) Personal interest shall have the meaning given to this term in Section 9(a) of the Charter Article IV, which states:

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:

- a. 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;
- b. 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
- c. the interest that an officer or employee has in the compensation, benefits, or terms and conditions of his or her employment with the city.

Other definitions:**Superior 2-8-20**

Personal interest means an interest having value unique to a particular board member, whether the value is pecuniary or nonpecuniary, which interest is not shared by the general public.

Greenwood Village 2-7-20

(e) No elected official, board member or employee shall receive any compensation, gift, payment of expense, reward, gratuity or any item of value tendered by a person who has an interest in any matter pending before the City which, in the judgment of a reasonably prudent person, would tend to impair the elected official's, board member's or employee's independence or impartiality of judgment in the performance of the elected official's, board member's or employee's official duties with regard to any such pending matter.

Golden 2.32.020

Personal interest or private interest means a benefit, advantage or right of, or pertaining to or peculiar to a certain individual.

Central City 2-4-30

Personal interest means an interest arising from blood or marriage relationship or close business or political association.

Brighton 2-10-70

Substantial interest: a situation, including without limitation a financial stake in the outcome of a decision in which, considering all of the circumstances, would tend to influence the decision of a reasonable person faced with making the same decision.

Broomfield 2-70

Appearance of impropriety means an action that would give a reasonably prudent person the impression that an elected official or appointee is using his or her public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting city business.

Lafayette 42-2

Personal interest shall mean a direct or indirect interest, not shared by the general public, having value peculiar to a particular employee or board member, whether or not the value is related to monetary, financial, commercial, or property matters, which value may accrue to such employee or board member or result in such employee's or board member's deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant. Personal interest does not include any matter in which a similar benefit is conferred to all persons or property similarly situated to that of the employee or board member.

Federal Heights 2-265

Personal interest shall mean a direct or indirect interest, not shared by the general public, having value peculiar to a particular councilor, whether or not the value is related to monetary, financial, commercial, or property matters, which value may accrue to such councilor or result in such councilor's deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant. Personal interest does not include any matter in which a similar benefit is conferred to all persons or property similarly situated to that of the councilor.

5 CFR § 2635.702 Use of public office for private gain

Example 1:

Offering to pursue a relative's consumer complaint over a household appliance, an employee of the Securities and Exchange Commission called the general counsel of the manufacturer and, in the course of discussing the problem, stated that he worked at the SEC and was responsible for reviewing the company's filings. The employee violated the prohibition against use of public office for private gain by invoking his official authority in an attempt to influence action to benefit his relative.

Example 2:

An employee of the Department of Commerce was asked by a friend to determine why his firm's export license had not yet been granted by another office within the Department of Commerce. At a department-level staff meeting, the employee raised as a matter for official inquiry the delay in approval of the particular license and asked that the particular license be expedited. The official used her public office in an attempt to benefit her friend and, in acting as her friend's agent for the purpose of pursuing the export license with the Department of Commerce, may also have violated 18 U.S.C. 205.

ORDINANCE NO. 145, 2014
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 2-568(a) OF THE CODE OF THE CITY OF FORT COLLINS
PERTAINING TO DEFINITIONS APPLICABLE TO ETHICAL RULES OF CONDUCT

WHEREAS, Section 2-568(a) of the City Code currently defines a number of words and terms as they are used in the ethical rules of conduct set out in Section 2-568(c) and as they are used in City Code Section 2-569, which establishes the Ethics Review Board (the "Review Board") and sets out the procedures under which the Review Board operates; and

WHEREAS, after reviewing the definitions contained in Section 2-568 of the City Code, the Review Board believes that several new definitions should be added to this Section to clarify the meaning of "personal interest" as this term is used in Section 9(a) of Article IV of the City Charter and in Section 2-569; and

WHEREAS, the City Council therefore finds and intends that these new definitions be applied to and used in Section 9 of Article IV of the City Charter to further the purposes of Section 9 and to facilitate the enforcement of its provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 2-568(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-568. Ethical rules of conduct.

(a) *Definitions.* The following words, terms and phrases, when used in this Section, Section 2-569 and Section 9 of the Charter Article IV, shall have the following meanings:

Benefit shall mean an advantage or gain.

Board and commission member shall mean a member of any appointive board or commission of the City.

Confidential information or information received in confidence shall mean:

- a. Information contained in any writing that may properly be withheld from public inspection under the provisions of the Colorado Open Records Act and that is marked "confidential" when provided to the officer or employee;
- b. All information exchanged or discussed in any executive session properly convened under § 2-31 or 2-71 of the Code, except to the extent that such information is also contained in a public record available to the general public under the provisions of the Colorado Open Records Act; or

- c. All communications between attorneys representing the City and officers or employees of the City that are subject to the attorney-client privilege, whether oral or written, unless the privilege has been waived.

Councilmember shall mean a member of the City Council.

Different in kind from that experienced by the general public shall mean 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.

Direct shall mean resulting immediately and proximately from the circumstances and not from an intervening cause.

Detriment shall mean disadvantage, injury, damage or loss.

Financial interest shall have the meaning given to this term in Section 9(a) of Charter Article IV, which states:

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 nonsalaried 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.

Officer or employee shall mean any person holding a position by election, appointment or employment in the service of the City, whether part-time or full-time, including any member of the City Council and any member of any authority, board, committee or commission of the City, other than an authority that is:

- a. Established under the provisions of the Colorado Revised Statutes;
- b. Governed by state statutory rules of ethical conduct; and
- c. Expressly exempted from the provisions of Article IV of the City Charter by ordinance of the City Council.

Personal interest shall have the meaning given to this term in Section 9(a) of the Charter Article IV, which states:

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.

Public body shall have the meaning given to this term in Section 9(a) of Charter Article IV, which states:

Public body means the Council or any authority, board, committee, commission, service area, department or office of the city.

Public services shall mean city services provided to or made available for the public's benefit.

Relative shall have the meaning given to this word in Section 9(a) of Charter Article IV, which states:

Relative means 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.

Similarly situated citizens shall mean citizens in like circumstances having comparable legal rights and obligations.

Substantial shall mean more than nominal in value, degree, amount or extent.

...

Introduced, considered favorably on first reading, and ordered published this 21st day of October, A.D. 2014, and to be presented for final passage on the 4th day of November, A.D. 2014.

ATTEST:

Wanda Nelson
City Clerk



Steven Weitzman
Mayor

Passed and adopted on final reading on the 4th day of November, A.D. 2014.

Karen Weikman
Mayor

ATTEST:

Wanda Nelson
City Clerk



Summary of Selected Ethics Review Board Opinions Regarding Personal Interest Conflicts

May 11, 2023

Scenario: Councilmember is an employee of Poudre School District.

Board decision: It is speculative to attribute a benefit or detriment of a Council action to the Councilmember unless the specific circumstances indicate a relationship between an employer's interest and how the employer will treat the Councilmember as the result of Council action. Specific Council decisions or circumstances may present a conflict.

Scenario: Councilmember is married to an Assistant City Attorney.

Board decision: Council typically only makes decisions about the City Attorney, not the COA as a whole or its staff; generally no personal interest conflict. The ACA's legal advice to Council would not result in benefit or detriment to the Councilmember that would be different in kind from that experienced by the general public; generally no personal interest conflict. Specific Council decisions or circumstances may present a conflict. Suggests imposing an "ethical wall" to prevent the appearance that the Councilmember has access to confidential information to ensure there is no personal interest conflict.

Scenario: Councilmember is employed by La Familia while Council is called upon to make decisions about the establishment of manufactured housing zone district and the rezoning of particular manufactured housing communities.

Board decision: No general conflict regarding the establishment of manufactured housing zone district. However, the Councilmember may have a personal interest conflict and potential bias with respect to rezoning decisions for properties where the Councilmember works directly with and promotes the advocacy of residents of manufactured housing communities

Scenario: Councilmember hosts a website offering lobbying and political consulting services.

Board decision: No personal interest conflict. The Councilmember had not carried out any lobbying or political consulting activities during their time on Council and the website did not relate to any City decisions.

Scenario: Councilmember is employed by CSU while Council is called upon to make decisions about Hughes stadium.

Board decision: No personal interest conflict. Notes that the standard requires that the potential benefit or detriment be "direct and substantial" and not merely indirect or speculative.

Scenario: Councilmember is employed by CSU while Council is called upon to make decisions about CSU's new football stadium.

Board decision: The possibility of Council's decision affecting the Councilmember's employment is speculative, and therefore, there is no personal interest conflict.

Decisions Prior to Adoption of Guiding Definitions:

Scenario: Councilmember owns property close to a proposed development project.

Board decision: Split decision, the majority finding no personal interest conflict.

Scenario: Councilmember owns property within a neighborhood that is the subject of an ordinance making amendments to the Land Use Code.

Board decision: No personal interest conflict. The opinion analyzed four criteria for determining whether a personal interest exists.

Scenario: Councilmember owns property close to a proposed redevelopment.

Board decision: A personal interest conflict exists because the redevelopment could negatively impact the Councilmember's property in terms of traffic, lighting, noise, and views in a way that would be different in kind from those experienced by the rest of the community.

Scenario: Councilmember owns property within the "notice zone" of a proposed redevelopment.

Board decision: No personal interest conflict. The opinion analyzes the four criteria for determining whether a personal interest exists in this kind of situation: 1) the size of the group that will be affected; 2) magnitude of the impact; 3) how close the connection is between the decision and the impact; and 4) need to represent constituents.

Please note that this information is not legal advice
and those seeking legal advice on any of the topics
addressed should consult with their legal counsel.

Certain City Council decisions are legally characterized as “administrative” or “legislative” and others are legally characterized as “quasi-judicial.” (In addition, a number of City boards and commissions such as the Planning and Zoning Board, Zoning Board of Appeals, and Landmark Planning Commission, also make quasi-judicial decisions as part of their responsibilities.)

The law requires special procedures for quasi-judicial matters. The following information addresses common questions about legislative and quasi-judicial procedures:

I. City Council Administrative and Legislative Matters

City Council typically operates as a policy-making body.

- In its administrative and legislative capacities, the Council gathers information at public hearings, as well as from informal conversations and correspondence with community members, information prepared by City staff, and other sources.
- The Council then approves an action or deliberates and implements a citywide policy by adopting a resolution or ordinance.
- Examples of Council legislative actions include reviewing and adopting City Plan, the City budget, and amendments to the Municipal Code.
- *Ex parte* communications (described below) are permitted for legislative matters.

II. City Council Quasi-Judicial Matters

Less frequently, the Council makes decisions regarding “quasi-judicial” matters and in doing so, acts in a manner like a judge in a court of law.

- In a quasi-judicial proceeding, the Council applies established City Code or Land Use Code standards to facts presented at a public hearing to reach a decision.
- Examples of quasi-judicial decisions include designating Fort Collins landmarks, appeals to City Council under City Code Chapter 2, Article II, and zonings or rezonings of 640 acres in size or less.
- Quasi-judicial decisions generally affect the rights of a specific person, or few specific persons, and are not applicable citywide.

III. Special Rules for Quasi-Judicial Decisions

In making quasi-judicial decisions, the right to due process (a constitutionally fair procedure) and good legal practices generally require that Council follow certain rules, including:

- The Council must provide advance notice and a reasonable opportunity for interested parties to present evidence and argument at a public hearing.
 - “Interested parties” may be specified, as in the case of an appeal to City Council

pursuant to City Code Chapter 2, Article II.

- The Council must make a record of the proceeding that includes all the information it considers in making its decision.
 - City staff collects all letters, emails and documents submitted before the hearing and includes them in the record of the hearing for Council to consider in making its decision.
 - If the Council decision is appealed, a reviewing court will review whether evidence in the record supports the Council decision.
- The Council must avoid *ex parte* contacts and Council should only receive information that is presented at the public hearing and through the record compiled by City staff, described above.
 - ***Ex parte*** contacts are communications between a Councilmember and an interested party or member of the public outside of the public hearing where a quasi-judicial matter will be decided.
 - *Ex parte* contacts can deny due process and be unfair to supporters or opponents of a quasi-judicial matter because the information communicated is not part of the record and one side is not present to hear, consider, and rebut statements being made to such Councilmember.
 - Courts generally regard *ex parte* contacts with suspicion and such contacts may provide the legal basis for overturning a decision.
 - The prohibition on *ex parte* communications promotes transparent, impartial decisions by ensuring the disclosure of all evidence and argument presented to the Council for its deliberation and decision.
 - The rule also gives everyone involved in a quasi-judicial proceeding a fair chance to respond to all of the information that may affect Council's decision.

IV. Participating in a Quasi-Judicial Decision

While *ex parte* communications are prohibited, members of the public can still provide information and argument to Council by either speaking at the public hearing or providing information in advance to be included in the materials that staff prepares for Council as part of the public hearing record.

Some quasi-judicial hearings, such as appeals to Council under City Code Chapter 2, Article II, require that you qualify as a "party-in-interest" in order to submit materials for consideration or speak to Council about the matter.

If you wish to speak at a public hearing on a quasi-judicial matter before the City Council or provide information prior to the Council's public hearing, please contact the [City Clerk's Office](#) for further information.