

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. 84-02

A RESOLUTION CLARIFYING THE ETHICAL STANDARDS FOR MEMBERS OF THE CITY'S BOARDS, COMMISSIONS AND SIMILAR GROUPS

Recitals.

- A. The various City boards, committees, commissions and other groups are similar in that: the members are typically appointed by the City Council; the mission of each is somehow supportive of the City; and from the perspective of the citizen, the actions and pronouncements of the members of such boards and commissions may be viewed as being the act or pronouncement of the City.
- B. The power and legal responsibilities of several of such City groups rise to the level that the City Council should provide additional guidance and rules, pursuant to the City charter, state and other law.
- C. Members of entities/boards who have one or more of the following powers, duties or opportunities, should be subject to higher scrutiny and care, and will be termed "Authoritative":
- spend money,
 - adopt a budget,
 - buy or sell property,
 - act for or bind the City,
 - sue and be sued,
 - hire/fire and supervise employee(s),
 - make land use decisions, including zoning and/or variances;
 - issue and regulate City licenses, including the power to suspend or revoke a right or privilege to do business with or within the City.
- D. The following are Authoritative:
- Grand Junction Downtown Development Authority
 - Walker Field Public Airport Authority (only for the three City appointees)
 - Grand Junction Housing Authority
 - Grand Junction Planning Commission
 - Grand Junction Planning Commission Board of Appeals
 - Building & Fire Code Board of Appeals
 - Contractor's Licensing Board
 - Parks Improvement Advisory Board (only for the City's appointee)
 - Public Finance Corporation
 - Riverview Technology Corporation
 - Grand Junction Forestry Board

Ridges Architectural Control Committee

- E. A member of a body with advisory powers and duties only could normally not make a decision that is an actual conflict of interest, although a question of appearance of impropriety might arise. Such groups that are normally acting through a City employee or another City group will be termed “Advisory” for this resolution. The following groups and boards are Advisory:

Commission on Arts and Culture
Parks and Recreation Advisory Board
Urban Trails Committee
Riverfront Commission
Historic Preservation Board
Growth Plan members
Study groups
Transit Committees/groups
Visitor & Convention Bureau Board of Directors
Other *Ad Hoc* Committees

- F. All members City’s boards and groups are encouraged to discuss such matters with the City Attorney or the Mayor as soon as the member determines that a situation or circumstances has arisen or is likely to.
- G. Some court cases from other jurisdictions have suggested that the ethical and conflict rules for Authoritative groups should be the same as the rules for the City Council. Based on those cases, initial drafts of these rules treated all members of Authoritative groups as being equivalent as members of the City Council.

While having one rule for the Council and all Authoritative groups has the benefit of simplicity, there are quite real and significant limitations. Namely such a rule would mean, for example, that the spouse of an appointee to a City board would be prohibited from bidding on a City job, even though the particular board has no other connection with the bid.

- H. Having considered the benefits and practical impacts of the earlier draft, the Council determines that the earlier draft rule should apply to the members of the Council. For authoritative boards, the rule should be to view each such board on its own, and not act as though totally unrelated boards and groups are the same for these purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. These rules supplement state and other applicable law, especially including §101 of the City charter.

2. The recitals are a substantive part of these rules.
3. A member of an Authoritative board is subject to the same rules as is a Council person, but only with regard to the particular board or group on which the member serves.
4. Rules for members of an Authoritative board are:
 - (a) With regard to the board or group on which the member serves, it is not allowed for the member, or immediate family or business associates of the member, to contract with or have a business relationship with such member's board or group.
 - (b) It is not allowed for a member to act or be involved in a decision or situation in which it could reasonably be perceived that the member's personal or financial interests could influence the decision-making.
 - (c) Regarding the board or group on which a member serves, such member shall not act, influence or be involved in a decision or situation in which the member's immediate family or business associate is involved.
 - (d) Regarding the board or group on which the member serves, it is not allowed for a member's immediate family or business associate to do business with the board or group.
 - (e) Each member must disclose the conflict or appearance of impropriety (including the potential of either) as soon as possible.
 - (f) If a conflict exists, the member must remove him or herself from further involvement in the decision or the process. If an appearance of impropriety exists, the member may remove him/her self or may seek the guidance of the other members of the board or group. In addition, if either a conflict or the appearance thereof reasonably exists, the member must avoid exercise of any attempt to influence any decision-maker.
5. Advisory boards and members are not subject to the rules that apply to Authoritative boards or groups, except that:
 - (a) A member of an advisory board or group must: as soon as possible disclose the conflict, appearance of impropriety, or potential thereof; and such member must absent him/herself from participation or influence regarding the matter.
6. There is no conflict, nor impropriety, for any member of any City Authoritative or Advisory board or group if the matter does not involve the board or group on which the member serves.
7. Some explanatory situations are described on the attached "Ethical Situations and Recommended Actions."

For this resolution:

- (a) “disclosure” or “disclose” means to write or email each member of the respective board or group, and to send a copy to the Mayor and to the City Attorney. The City Attorney shall deliver a copy of all such disclosures, along with any legal opinion that is made available to the public, to the City Clerk who will keep a public record of all such disclosures;
- (b) “immediate family” means a person’s spouse/partner and the person’s children, siblings and others living together as a family unit. Cousins, aunts, uncles, and parents would not be deemed “immediate family” unless living with the person as a part of the same family unit;
- (c) “business associate(s)” means a person who is:
 - (i) an owner of ten percent (10%) or more of a firm, corporation, limited liability company, partnership or other legal entity; and/or
 - (ii) an officer or director of a corporation; a manager or general manager of a member of a limited liability company; a partner of a partnership or a similar position of authority in another entity.

PASSED and ADOPTED this 4th day of September, 2002.

/s/ Cindy Enos-Martinez
President of the Council

ATTEST:

/s/ Stephanie Tuin
Stephanie Tuin
City Clerk

Memo

To: City Council
From: Dan Wilson, City Attorney
CC: Law, Kelly Arnold, David Varley
Date: July, 2002
Re: Ethical Rules Scenarios

Scenario #1: An applicant for an authoritative board is the owner of a firm and routinely does business for the City, but not for the board for which he is applying. The historical sales to the City by the applicant have all been pursuant to public bid process.

Answer: The applicant would be able to do business with the City and with any board other than the authoritative board to which appointed.

Scenario #2: An applicant for an authoritative board is not the owner, but is the number three person in a ten person firm that routinely does business with the City, but not for the board for which he is applying. The sales to the City by the applicant's firm are pursuant to public bid process.

Answer: If the #3 person is not an owner of the firm nor an officer, manager or member of the firm but is in a support role to the CEO/owner, then there is no conflict of interest.

Does this second scenario involve an appearance of impropriety? Stated another way, would a member of the public view the connection of the applicant to the firm as being identical as that of the owner? If so, the #3 person should disclose his/her relationship with the firm during the application process.

Scenario #3 – If the applicant for the authoritative board was one of the primary workers for the ten person firm, but not in a management or supervisory role, would the result change?

Answer: The resolution would allow the arrangement. The person can serve because the person is not exercising decision making authority for the firm.

Scenario #4: – If an applicant for an authoritative board is the owner of a firm that provides services to another City authoritative board (rather than directly to the City), should the result change?

Answer: Because each authoritative board is viewed separately from other City authoritative boards, the applicant would be able to do business with the City and with any authoritative board except the one to which the person was appointed.

Scenario #5: If an applicant for an authoritative board is the husband of an owner of a firm that provides services to another City authoritative board, should the result change?

Answer: The owner/wife would only be barred from doing business with the particular authoritative board on which the husband served.

Scenario #6 – If an applicant for an authoritative board is the sibling of an owner of a firm that provides services to another City authoritative board, should the result change?

Answer: This depends on the relationship between the siblings. Unless the sibling was living in the same house as the owner of the firm, there is no conflict.

An individual applicant or board member might still recuse in a particular instance regarding other members of one's extended family if the relationship is such that it would be difficult to make an independent and objective decision.

Scenario #7: If an applicant's best friend does business with the City, but does not do business with the authoritative board itself, is that a problem?

Answer: No conflict exists. Nevertheless, because the public could reasonably perceive that the close personal relationship would influence decision-making, recusal is appropriate.

Scenario #8: If an applicant's ex-spouse is one of the prime contractors for the City from time to time, but not at the time that the applicant would be appointed, would the applicant's appointment bar another contract during his or her term?

Answer: No, because the "ex-spouse" does not fit within the definition of family or close business associate.

Scenario #9: May the child of a member of an advisory board bid on a City Public Works Department contract authorized by the City Council?

Answer: Because the requirement for members of advisory boards is disclosure, once that has been completed, there is no other bar to such a bid.

Scenario #10: Assume that the Arts Commission was expected to recommend to the Parks Director regarding the Director's purchase of a piece of art. If one of the

members of the Commission was close friends with the creator of one of the pieces of art, the member should disclose the relationship and avoid further involvement with the process of making recommendations and acquiring the artwork.

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