

# ANNUAL REPORT 2022

## BOISE CITY ETHICS COMMISSION

### **Introduction**

The City of Boise Ethics Commission (“Ethics Commission”) was established in 2004 to provide the City of Boise (“City”), its employees and the public with a forum to discuss issues of workplace and governmental ethics.

The Ethics Commission applies the City Ethics Code to factual issues and provides specific advice to City employees.

The Ethics Commission strives to bring ethics and ethical conduct into the everyday consciousness of Boise citizens and City employees. With assistance from the offices of the City Attorney, Human Resources, and the City Clerk, we on the Commission believe this goal has been substantially achieved.

### **The Importance of Ethics in Government**

The City of Boise continues to be the only city in Idaho with an Ethics Commission. In other states, however, many municipalities have established their own boards or commissions tasked with enforcing codes of ethics.

Though Idaho is one of only eight states without a statewide ethics commission, the Legislature does have a resource in the *Ethics Handbook of the Idaho Legislature*, which lists “Ethics Guidelines ~ Procedures ~ Rules and Statutes.” The Attorney General has also drafted a manual titled “Idaho Ethics in Government Manual,” which includes the Ethics in Government Act.

Boise’s Ethics Commission continues to engage members of the public as well as City employees and officials in a dialogue about ethics and ethical conduct in the workplace.

## **Ethics Commission Members**

The Ethics Commission consists of five volunteer members. The Commissioners and their respective terms of service are as follows:

### **Appointed by the Mayor:**

Tony Roark: Four-year term expires February 2025  
Monica Church: Four-year term expires February 2023

### **Appointed by the City Council:**

Luke Howarth: Four-year term expires February 2025 (Vice Chair)

Vacant: Katelynn Penney, whose four-year term was set to expire in February 2023, resigned from the Commission.

### **Appointed by the Ethics Commission (on the recommendation of the Boise City Human Resources Team):**

Addison King: Two-year term expires February 2023 (Chair)

## **Support Staff**

The Ethics Commission works closely with City staff members who assist the Commission by preparing agendas, minutes and draft opinions. Staff members also attend meetings and provide advice and information during deliberations. The Ethics Commission relies on and appreciates this assistance. Advisors to the Commission include:

- Sarah Martin, Human Resources Department
- Patrick Sebastian, Human Resources Department
- Doug Tyler, Legal Department
- Jamie Heinzerling, City Clerk's Office
- Kylie Boazman, City Clerk's Office
- Kimberly Moore, City Clerk's Office

## Getting the Word Out

During new-employee orientation, City employees are informed about the City's commitment to ethical conduct and the various methods employees can use to report ethical concerns or ask for advice.

The Ethics Commission has a section of the City website <https://www.cityofboise.org/departments/mayor/ethics-commission/>. On these pages, employees and the public can review:

- City Ethics Handbook;
- Ethics Commission annual reports;
- Request for Advisory Opinion and Inquiry forms;
- Advisory Opinions issued by the Ethics Commission (either by reference to a particular Boise City Code section or by date issued);
- Inquiry decisions; and
- Brief biographical information about each Commissioner

The Ethics Commission also has a dedicated email address ([ethicscommission@cityofboise.org](mailto:ethicscommission@cityofboise.org)) for questions or inquiries and a toll-free telephone hotline to report concerns. A summary of email messages received in 2022 is attached as *Exhibit F*.

Commission meetings are open to the public and are regularly scheduled for the second Thursday of odd number months (January, March, May, July, September, and November) at 3:30 p.m. at City Hall. When no pending Request for Advisory Opinion or other new business is before the Commission for decision, the regular meetings may be cancelled or postponed. The Commission may also hold special meetings where necessary and appropriate to address certain matters.

The Commission continues to recommend outreach and education regarding workplace ethics to enable the Commission to better support the City's work.

## **Ethics Questions**

Ethics-related questions can be presented to the Ethics Commission in the following forms:

- Request for Advisory Opinion Form (copy attached as *Exhibit D*)
- Request for Inquiry Form (copy attached as *Exhibit E*)
- Email message
- Toll-free telephone hotline that allows employees to remain anonymous

The City contracts with NAVEX Global (NVX) to provide a confidential telephone hotline (the “Alert line”) and an online platform known as EthicsPoint to report potential ethical violations at a cost of \$4,900 per year. The NVX agreement is for one year and automatically renews each year unless either party decides otherwise. The Ethics Commission and the Mayor’s Office support this expenditure as necessary to provide employees and community members a convenient, confidential, and independent avenue to voice concerns about perceived unethical behavior.

The Boise City Human Resource and Legal Departments screen the Alert line and EthicsPoint reports. At each regular meeting, the Ethics Commission is provided an update of activity and a summary of the nature and disposition of each report received. Calls deemed to be unrelated to Ethics Commission responsibility are delegated to the appropriate City department for follow-up. There were no Alert line calls in 2022.

City employees, elected and appointed officials, and members of the public may communicate ethical concerns through any of these methods.

### **Requests Received by the Ethics Commission in 2022**

The Ethics Commission received zero (0) requests for advisory opinions in 2022 and therefore issued no written opinions. The Ethics Commission did receive five (5) Inquiries in 2022 and issued three (3) written Inquiry determinations.<sup>1</sup> Copies of the determinations are attached as *Exhibit G*.

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<sup>1</sup> Requests No. 22-01 and 22-02 were duplicate requests filed by different parties, and requests 22-03 and 22-04 were duplicate requests filed by different parties as well.

## **Conclusion**

The Ethics Commission is committed to fostering integrity in public service for the benefit of the City of Boise and its citizens. The Commissioners look forward to another year of service and the opportunity to resolve challenging issues as Boise continues to set the standard as the most ethically conscious municipality in Idaho.

## **REPORT EXHIBITS:**

- A. Boise City Code, Title 1, Chapter 8 (Code of Ethics)
- B. Boise City Code, Title 2, Chapter 12 (Ethics Commission)
- C. Boise City Ethics Commission Rules of Procedure
- D. Request for Advisory Opinion Form
- E. Request for Inquiry Form
- F. Summary of 2022 Email Messages
- G. Inquiry Determinations 22-01, 22-02, 22-03, 22-04, and 22-05

# **EXHIBIT A**

**Boise City Code, Title 1, Chapter 8 (Code of Ethics)**

## CHAPTER 8

### CODE OF ETHICS

#### SECTION:

##### **1-8-1: Policy**

##### **1-8-2: Definitions**

##### **1-8-3: Standard Of Conduct**

##### **1-8-4: Disclosure Of Conflicts Of Interest**

##### **1-8-5: Prohibited Influence And Conduct**

##### **1-8-6: Prohibition Of Financial Interest**

##### **1-8-7: Exception**

##### **1-8-8: Appointments To Boards And Commissions; Terms**

##### **1-8-9: Penalty**

##### **1-8-1: POLICY:**

It is hereby declared to be the policy of the City, and the Council hereby finds and declares such policy to be necessary in order to promote and provide efficient and good government, where government is based on the consent of the governed, that the proper operation of democratic government requires the public officials and employees be independent, impartial and responsible to the people, that government decision and policy be made in the best interest of the people, the community and the government, that public office not be used for personal gain, and that the public have confidence in the integrity of its government. (1952 Code § 1-21-01)

##### **1-8-2: DEFINITIONS:**

As used in this chapter, each of the terms herein defined shall have the meanings given in this section, unless a different meaning is clearly required by the context. All words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural number the singular, unless the natural construction of the sentence indicates otherwise, and the word "shall" is mandatory, not directory:

**BUSINESS:** Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any legal entity.

**BUSINESS WITH WHICH HE OR SHE IS ASSOCIATED:** Any business of which the person or a member of his or her household is a director, officer, owner, employer or holder of more than one percent (1%) of the outstanding stock, and any business which is a client of the person.

**CITY OFFICIAL:** Any elected official, employee, any member of a board or commission appointed by the Mayor or City Council, or any agent of the City.

**EMPLOYEE:** An individual drawing a salary from the City, whether elected or not, and any noncompensated individual who performs personal services for the City.

**VALUABLE GIFT:** Any gift with a value in excess of fifty dollars (\$50.00), and any gift with a value of less than fifty dollars (\$50.00) where the item is durable and/or transferable and is offered within six (6) months of similar gifts. The purpose of this definition is to ensure that employees do not seek nor receive multiple gifts that total more than fifty dollars (\$50.00) over a relatively short period of time. Gifts that are durable and/or transferable do not include food items, meals and the like. (1952 Code § 1-21-02)

##### **1-8-3: STANDARD OF CONDUCT:**

No City official shall knowingly:

A. Use his or her official position or office to obtain financial gain for him or herself, any member of his or her household, or any business with which he or she or a member of his or her household is associated.

B. Use or disclose confidential information gained in the course of or by reason of his or her official position or activities in any way that could result in financial gain for him or herself or for any other person. (Ord. 53-15, 12-8-2015)

C. Accept any valuable gift, whether in the form of service, loan, thing or promise from any person or business that is interested directly or indirectly in any manner in a business dealing with the City if that City official has any discretionary function related to the business dealing; provided, however, any City official who is a candidate for public office may accept campaign contributions and services in connection with such campaign. Gifts of any kind shall not be accepted where there exists a substantial risk that the gift would undermine official impartiality. (Ord. 53-15, 12-8-2015; amd. 2019 Code)

D. Violate the fiduciary duty owed to the City under this standard of conduct. The fiduciary duty is defined as a duty to act for the benefit of the citizens of the City of Boise, while subordinating one's personal interest to those of the City as a whole. When an employee expends any resources of the City, this duty requires that the expenditure be reasonable, prudent and for the benefit of the City and not for personal gain. (Ord. 53-15, 12-8-2015)

##### **1-8-4: DISCLOSURE OF CONFLICTS OF INTEREST:**

A. Conflict Of Interest Defined: For purposes of this section, an actual "conflict of interest" is defined as a set of circumstances

wherein a City official would be required to take an action or make a decision that would affect his or her personal financial or pecuniary interests, or those of a member of his or her household, or a business with which he or she is associated. An apparent conflict of interest is one that does not affect a City official's personal financial or pecuniary interests, but nevertheless calls into question his or her objectivity and independence. Any City official who has either an actual conflict of interest or an apparent conflict of interest, shall:

1. If a City official, other than an appointed or elected member of a commission, board or council, verbally discloses such interest to the Mayor (or if such City official is the Mayor, then to the City Council), who may require the assignment of the matter creating the conflict to another City official of the same department of the City who does not have a conflict of interest, or determine such conflict de minimus, as defined in subsection B of this section. (1952 Code § 1-21-04)

2. If an appointed or elected member of a commission, board or council, discloses such interest on the records of said commission, board or council and shall disqualify him or herself from participating in any decision or vote relating thereto, unless following such disclosure a majority of the remaining members of such commission, board or council determined by official action at a public meeting of such commission, board or council that such conflict of interest is de minimus, as defined in subsection B of this section.

B. De Minimis Conflict Defined: A pecuniary benefit is de minimis if it does not exceed the value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality, as defined in Idaho Code section 18-1359. An officer's interest in a contract is deemed de minimis if it is a remote interest. "Remote interest" means that of a nonsalaried officer of a nonprofit organization; that of an employee of a contracting party where the compensation consists entirely of fixed wages; that of a landlord or tenant of a contracting party; or that of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party, all as defined in Idaho Code section 74-502. There is no conflict of interest if the City official's personal interest is so remote that it would be unreasonable to question his or her ability to impartially serve the City's best interests. (Ord. 31-15, 7-28-2015)

#### **1-8-5: PROHIBITED INFLUENCE AND CONDUCT:**

A. Valuable Gift: No City official shall solicit or receive any valuable gift, or anything of value, including favors, services or promises of future employment, based on any understanding that such City official's vote, official action or judgment would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the City official in the discharge of his or her duties, or as a reward for the discharge of his or her duties.

B. Money: No person shall offer or pay to a City official, and no such City official shall solicit or receive, any money in any amount in addition to that received as wages or salary by the City official in his or her official capacity, for advice or assistance given in the course of the City official's employment or relating to the employment. (1952 Code § 1-21-05)

#### **1-8-6: PROHIBITION OF FINANCIAL INTEREST:**

A. Requirement: No public official having any discretionary function to perform in connection with an expenditure, purchase, sale, or contract shall have any personal beneficial interest, either directly or indirectly in such expenditure, purchase, sale, or contract made by the City or in any firm, corporation or association that furnishes or bids on such purchase, sale or contract.

B. Standard Of Conduct: Every officer, employee or agent of the City is expressly prohibited from knowingly:

1. Underestimating or exaggerating requirements to certain prospective bidders in order to influence bids.
2. Misrepresenting a competitor's prices, quality or service to obtain concessions.

3. Splitting invoices or orders, etc., in an effort to avoid the competitive bid requirements of Idaho Code and City of Boise ordinances. (Ord. 53-15, 12-8-2015)

#### **1-8-7: EXCEPTION:**

A City official shall not be deemed to have a financial interest in a matter if his or her interest is solely that of a general taxpayer or solely that of a recipient of public services generally provided by the City on the same terms and conditions as if he or she were not an official. (1952 Code § 1-21-07)

#### **1-8-8: APPOINTMENTS TO BOARDS AND COMMISSIONS; TERMS:**

A. Appointments: Appointments to boards and commissions of the City shall be made with a view to minimizing potential conflicts of interest described in this chapter, and no person shall be appointed to any such board or commission if his or her potential conflicts of interest are of such a degree that they are likely to substantially interfere with the performance of his or her duties as an official. Appointments to such boards and commissions have memberships which approximate the diverse interests of the residents of the City. (1952 Code § 1-21-08)

B. Terms Of Office: The terms of office for each board and/or commission shall be provided by ordinance. Reappointment for a successive term or terms shall be subject to the approval of the Mayor and Council. Prior to the expiration of a term of office, the board or commission upon which a member serves may submit a majority recommendation to the Mayor and Council for the reappointment of such member or the appointment of a new member for Council consideration. (1952 Code § 1-21-09)

#### **1-8-9: PENALTY:**

Any person or business violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this title. (Ord. 31-13, 8-27-2013; amd. 2019 Code)



# **EXHIBIT B**

**Boise City Code, Title 2, Chapter 12 (Ethics Commission)**

## CHAPTER 12

### ETHICS COMMISSION

#### SECTION:

#### **2-12-1: Ethics Commission**

#### **2-12-2: Advisory Opinions**

#### **2-12-3: Inquiries**

#### **2-12-4: Procedure For Inquiries**

#### **2-12-5: Subpoenas**

#### **2-12-6: Annual Report**

#### **2-12-1: ETHICS COMMISSION:**

A. Purpose: The purpose of the commission shall be to issue advisory opinions related to title 1, chapter 8, "Code Of Ethics", of this Code; and to hear inquiries and issue findings regarding alleged violations of the previously cited provisions.

B. Creation And Appointment: There is hereby created an Ethics Commission to consist of five (5) members. One member of the Ethics Commission shall be an employee of the City. This member shall not be an elected or appointed official, a member of the Mayor's Office, the City Attorney or his/her staff, the internal auditor or his/her staff, a department head or any employee of Human Resources. Three (3) members of the commission shall constitute a quorum. (1952 Code § 2-24-01)

#### C. Method Of Appointment:

1. The Mayor shall appoint two (2) members. The City Council shall appoint two (2) members.
2. The employee member of the commission shall be appointed by a majority of the four (4) members appointed by the Mayor and City Council. The commission shall receive input from the Department of Human Resources prior to selection. (Ord. 6-18, 2-6-2018)

#### D. Terms Of Appointment:

1. Nonemployee members shall be appointed to terms of four (4) years; however, the first member appointed by the Mayor and the first member appointed by the City Council shall initially serve two (2) year terms to achieve staggered ending dates. The City employee member shall serve a term of two (2) years, which may be renewed by reselection by the commission.
2. If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced.

#### E. Termination Or Removal:

1. The unexcused absence of any member of the commission from three (3) consecutive meetings, unless the commission has excused the absence for good and sufficient reasons as determined by the commission, shall constitute termination from the commission.
2. The Mayor may remove a member appointed by him for inappropriate conduct before the expiration of the member's term. The City Council may remove a member appointed by the City Council for inappropriate conduct before the expiration of the member's term. The commission may remove the member appointed by the commission for inappropriate conduct before the expiration of the member's term. Before removing a member, the Mayor or City Council, or commission, shall specify the cause for removal and shall give the member the opportunity to make a personal explanation.

F. Compensation: Members of the Ethics Commission shall serve without compensation in a volunteer capacity. The member who is an officer or employee of the City shall not receive any additional compensation for serving on the Ethics Commission.

#### G. Consultation With City Attorney:

1. The Ethics Commission shall be provided with the services of the City Attorney or designee to assist it with legal questions, questions of procedure and to act as parliamentarian at their meetings. The Ethics Commission may consult with the City Attorney or designee regarding legal issues and may request advisory assistance in conducting hearings on inquiries during any stage of the process.
2. In the event that the City Attorney or a member of the City Attorney's Office is the subject of an inquiry, the Ethics Commission is hereby authorized to retain conflict counsel. The Mayor and City Council shall assist the commission in retaining conflict counsel.
3. The commission shall have the ability to request assistance from Human Resources. When an inquiry involves a member of the Human Resources staff, the commission shall not request or receive their assistance. (1952 Code § 2-24-01)

#### **2-12-2: ADVISORY OPINIONS:**

A. Current Employees: Any current officer, official, appointee or employee may submit a written request to the Ethics Commission for advisory opinions on whether any conduct by that person would constitute a violation of the City Code of Ethics.

B. Persons Intending To Become Employees: The Ethics Commission may render advisory opinions to individuals who intend to

become employees, officers, or officials upon written request of the person. The commission may make further inquiry of the potential future relationship the requester may have with the City to determine the appropriateness of proceeding on the request.

C. **Publication Of Opinions:** The Ethics Commission may publish its advisory opinions. It shall do so in compliance with the provisions of the Idaho Public Records Act. The commission may publish guidelines based on advisory opinions.

D. **Conduct In Accordance With Advisory Opinion:** A person whose conduct is in accordance with an advisory opinion or a published advisory opinion of the commission that has not been superseded by a subsequent advisory opinion shall not be found in violation of any of the provisions of the City Code of Ethics.

E. **Noncompliance With Advisory Opinions:** When the Ethics Commission has reason to believe that an advisory opinion has not been complied with, it shall inform the person, the person's Supervisor, the department head, the City Attorney, Human Resources and the Mayor. The Supervisor, department head, the City Attorney, Human Resources and the Mayor shall take all steps necessary to ensure compliance or address the matter as a performance issue through the progressive discipline process. This provision does not provide authority for the commission to independently investigate matters of compliance with advisory opinions.

F. **De Minimis Opinion:** The commission may issue advisory opinions declaring the intended conduct de minimis. The requesting party is entitled to rely on the advisory opinion of the commission. Notwithstanding that determination, the Supervisor or department head of the affected employee can supersede that determination as department policy. De minimis is defined as a trivial benefit not to exceed the value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

G. **Authority Of Commission To Decide:** The Ethics Commission shall have the sole authority to decide whether to consider, investigate or issue an advisory opinion to any party seeking such opinion. The Ethics Commission shall render an advisory opinion pursuant to written rules adopted by the commission. (1952 Code § 2-24-02)

### **2-12-3: INQUIRIES:**

Any person may file an inquiry with the Ethics Commission asking whether a current officer, official or employee has failed to comply with the City Code of Ethics. The City Clerk or designee shall accept inquiries on behalf of the Ethics Commission and shall immediately transmit such inquiry to the commission or its designee. The City Clerk is responsible to schedule meetings and post notice of said meeting pursuant to Idaho open meeting requirements. Subject to section 2-12-4 of this chapter, the Idaho Public Records Act, and the rules adopted by the commission pursuant to section 2-12-4 of this chapter, the Ethics Commission shall follow all the appropriate law and procedures, to include the following:

A. **Hearing:** May conduct a hearing pursuant to the Idaho open meetings requirements on all inquires which have not been dismissed pursuant to subsection 2-12-4F of this chapter or resolved in accordance with subsection 2-12-4G of this chapter. The affected officer, official or employee shall have the right to a closed hearing if allowed by law.

B. **Written Findings:** Except as otherwise provided by law, written findings and recommendations, if any, on inquiries will become public record. The commission findings should characterize the seriousness of the violation, if any.

C. **Notice Of Findings And Recommendations:** Except as otherwise provided by law, the commission shall inform the person who is the subject of the inquiry and the person who submitted the inquiry of its findings and recommendations.

D. **Supervisor, Department Head Notified:** If the person who is the subject of the inquiry is an employee, nonelected officer or appointed official, notify the person's Supervisor and department head of its findings and recommendations. (1952 Code § 2-24-03)

### **2-12-4: PROCEDURE FOR INQUIRIES:**

The Ethics Commission shall adopt written rules for inquiries that create a process that is fair to both the person who submits the inquiry and the person who is the subject of the inquiry. In addition to rules which the commission may, in its discretion adopt, the rules shall:

A. **Time Line:** Establish time lines for all aspects of its handling of inquiries. The time lines shall be sufficiently long to enable a person who is the subject of an inquiry to have adequate time to understand the inquiry and prepare a response. The rules shall allow the commission to alter the time lines upon a request of the subject of the inquiry for more time to prepare.

B. **Filing:** Require the inquiry to be filed with either the City Clerk or the 1-800 telephone reporting line with sufficient identifying information to enable the Ethics Commission and staff to identify and contact the complaining party. The Ethics Commission will provide for a form which shall contain a statement that states, to the best of the person's knowledge, information and belief formed after reasonable reflection, the information in the inquiry is true. The rules shall require the inquiry to describe the facts that constitute the alleged violation of the Code of Ethics in sufficient detail so that the commission and the person who is the subject of the inquiry can reasonably be expected to understand the nature of any offense that is being alleged.

C. **Actions More Than One Year:** Prohibit the commission from accepting inquiries about actions that took place more than one year prior to the date of filing.

D. **Notification:** Require the commission to notify the person who is the subject of the inquiry that an inquiry has been filed. The rules shall require the commission to provide notification in a timely manner. The rules shall require the notification to include a copy of the full inquiry; a copy of any portion of the Code of Ethics that is alleged to have been violated; and the commission rules for dealing with inquiries.

E. **Public Release Of Inquiry:** Require the commission to provide the subject of the inquiry with a copy of the inquiry before it provides copies to any other parties. The rules shall recognize that distribution to the public of an inquiry prior to screening by the commission or its designee could harm the reputation of an innocent person and is contrary to the public interest; therefore, the rules shall prohibit the public release of the inquiry until the screening process has been completed.

F. **Review Time Period; Dismissal:** Require the commission, a committee of the commission or a designee of the commission to review the inquiries within the time period as adopted by the commission. The rules shall require the dismissal and the reason for

dismissal to be in writing and available to the public. The rules shall allow the inquiry to be dismissed if:

1. The commission has no jurisdiction over the subject matter or the alleged violator;
2. The alleged violation, if true, would not constitute a violation of the Code of Ethics;
3. The alleged violation is a minor or de minimis violation;
4. The inquiry is, on its face, frivolous, groundless or brought for purposes of harassment;
5. The matter has become moot because the person who is the subject of the inquiry is no longer an officer, official or employee, unless the commission determines that the public interest would be served by publishing an advisory opinion;
6. The person who is the subject of the inquiry had obtained a determination that the issue was de minimis or an advisory opinion under section 2-12-2 of this chapter permitting the conduct; or
7. The Supervisor or department head has already taken action as a result of finding a violation.

G. **Finding Without Public Hearing:** Allow the commission, at its discretion, to make a finding solely on the basis of written arguments without holding a public hearing, if it determines that there is no significant discrepancy in the facts as presented by the person filing the inquiry and the person who is the subject of the inquiry; and the commission determines that it does not need any additional information. However, the person alleged to have violated the Code of Ethics retains the right to demand a hearing, which may be open to the public.

H. **Open Meetings:** Require the commission to have hearings on inquiries at meetings which may open to the public, when said inquiries have not been dismissed or resolved pursuant to this section.

I. **Representation:** Allow any person who is the subject of an inquiry to designate a representative if he or she wishes to be represented by another, to present evidence, and to cross examine witnesses. The rules shall allow the person who submitted the inquiry and the subject of the inquiry sufficient time to examine and respond to any evidence not presented to them in advance of the hearing. While the intent of the process is to provide all parties sufficient time to prepare for a hearing, in no circumstance shall the inquiry hearing be held more than sixty (60) days from receipt of the inquiry.

J. **Open Deliberations:** Require deliberations on inquiries to be conducted in an open public session unless the hearing is closed pursuant to law.

K. **Dismissal Without Finding:** Allow the commission to dismiss an inquiry without a finding for or against the subject of the inquiry if the person committed the violation due to oversight and comes into voluntary compliance.

L. **Failure To Appear:** Allow the commission to dismiss an inquiry if the person who submitted it does not appear at the hearing and if, in the opinion of the commission, it would be unfair to the subject of the inquiry not to have the opportunity to cross examine the person. The rules shall, however, require the City Clerk to schedule the hearing at a time reasonably convenient to both the person who submitted the inquiry and the subject of the inquiry.

M. **Compelling Attendance:** Allow the commission to compel the attendance of any City officer, official or employee to testify at a hearing before the commission.

N. **Subpoenas:** Allow the commission to request that City Council, with the assistance of the Mayor, issue subpoenas to individuals the commission reasonably believes are necessary to fully appreciate the facts and circumstances related to an inquiry. The issuance and service of said subpoena shall be in accordance with the process set forth in Idaho Code section 50-216.

O. **Evidence:** Require the commission to base its finding of a violation upon clear and convincing evidence.

P. **Referral When Evidence Of Crime:** Require the commission to stay the inquiry and refer the entire matter to the appropriate prosecuting attorney and/or law enforcement agency when credible evidence of a crime under State law is discovered.

Q. **Frivolous Inquiries:** Require the commission to inform the person who submitted the inquiry and the subject of the inquiry in writing if it believes an inquiry is frivolous, groundless or brought for purposes of harassment.

R. **Prohibited Participation:** Prohibit members who have not been present for the hearing from participating in the findings or recommendations.

S. **Majority Required:** Require that findings and recommendations be made only by a majority of the commission.

T. **Considerations By Commission:** Allow the commission to consider, when it makes findings and recommendations, the severity of the offense; the presence or absence of any intention to conceal, deceive or mislead; whether the violation was deliberate, negligent or part of a pattern.

U. **Advisory Opinion:** Allow the commission to issue an advisory opinion in response to any inquiry, in lieu of making findings and recommendations, where deemed appropriate by the commission. (1952 Code § 2-24-04)

#### **2-12-5: SUBPOENAS:**

The Ethics Commission shall have the authority to request that City Council, with the assistance of the Mayor, subpoena witnesses to come before them to testify at a hearing or produce documentation. Any hearing conducted where one or more witnesses are compelled to attend pursuant to this provision shall be presided over by the Mayor or President of the City Council. Neither the Mayor nor the President of the City Council shall participate in the deliberations, findings or recommendation of the commission at such a meeting. The subpoena procedure shall be in accordance with Idaho Code section 50-216. Prior to requesting that a subpoena be issued by the City Council and the Mayor, every reasonable attempt should be made to secure the person or documents voluntarily. (1952 Code § 2-24-05)

**2-12-6: ANNUAL REPORT:**

By February 15 of each year, the Ethics Commission shall submit an annual report to the Mayor and City Council summarizing its activities during the previous calendar year. The report shall include any recommendations for modifying the Code of Ethics. (1952 Code § 2-24-06)

# **EXHIBIT C**

**Boise City Ethics Commission Rules of Procedure**

## **Boise City Ethics Commission Rules of Procedure**

### I. Intent

It is the intention of the Boise City Ethics Commission in these Rules of Procedure (Rules) to establish procedures that are fair to officers, officials, and employees of the City of Boise in the reporting, investigation and resolution of ethics-related questions or concerns. The Ethics Commission extends these procedures and the same sense of fairness to citizens who wish to report possible violations of the Code of Ethics. The Ethics Commission is committed to a procedure that is responsive, open, and consistent so that all who use the process will have confidence in it. These Rules are intended to set forth the procedures to implement the requirements of Title 2, Chapter 12, of the Boise City Code.

### II. Definitions

- A. Advisory Opinion – An opinion issued by the Ethics Commission regarding whether past, present or proposed conduct by an official, officer, or employee of the City violates or would violate the provisions of Title 1, Chapter 8, of the Boise City Code or any related provision.
- B. Boise City Ethics Commission (Ethics Commission) – The members of the Ethics Commission appointed pursuant to Title 2, Chapter 12, of the Boise City Code.
- C. Complainant – The individual who files an Inquiry.
- D. Ethics Commission’s purview – Those provisions of the Boise City Code contained in Title 1, Chapter 8.
- E. Employee – An individual drawing a salary from the City, whether elected or not, and any non-compensated individual who performs personal services for the City.
- F. Inquiry – Any communication seeking an investigation by the Ethics Commission into the past or present conduct of a named person or persons on either a signed, approved form submitted to the City Clerk or by any other manner which contains the same degree of reliability and detail. At a minimum, such communications shall contain the name(s) and home address(es) of the person(s) seeking such an investigation; the name(s) of the person(s) who is(are) the subject of the investigation; a detailed statement of the facts and reasons why the subject(s) should be investigated; a description of the City code(s) which may have been violated; and a statement that the person(s) requesting such an investigation knows and/or believes such information is true.
- G. Inquiry Subject – The individual who is the subject of the Inquiry.
- H. Officer – The Mayor, members of the City Council, any and all department heads, City Clerk, City Attorney, Community Ombudsman, Director of Internal Audit, City Treasurer, City Budget Manager, and City Purchasing Manager.

- I. Official – any elected official, employee, member of a board or commission appointed by the Mayor or City Council, or any agent of the City.
- J. Referral or Referred Matter - Any communication in any form and from any source intended for the Ethics Commission to review for any reason.

### III. The Ethics Commission

- A. There shall be a Chair and a Vice Chair elected by the Ethics Commission each year at the first meeting after February 15 or at a meeting as close to that date as practicable.
- B. The Chair, and in the absence of the Chair, the Vice Chair, shall:
  - i. Preside at all meetings;
  - ii. Administer oaths to or accept affirmations from all persons who wish to testify at hearings;
  - iii. Decide all points of order, procedure, and evidence;
  - iv. Request that the Mayor and City Council issue a subpoena and thereafter relinquish the Chair position to the Mayor or President of the City Council for all hearings where an individual is present pursuant to a subpoena issued in accordance with Boise City Code § 2-12-05 and Idaho Code § 50-216.
- C. In absence of both the Chair and the Vice Chair, a Chair Pro Tem shall be elected by a majority of the members present.

### IV. Meetings

- A. Meetings shall be scheduled by the City Clerk. Regular meetings of the Ethics Commission shall be held bi-monthly on the second Thursday of every other month at 3:30 P.M. at Boise City Hall. Nothing shall prevent the Ethics Commission from amending this schedule to provide for more than bi-monthly meetings if warranted by the caseload.
- B. Written minutes of all Ethics Commission meetings shall be taken by the City Clerk or designee in accordance with the requirements of Idaho Code § 67-2344.
- C. A quorum shall consist of three (3) members.
- D. All meetings shall be open to the public pursuant to Idaho Code § 67-2342, except for matters properly identified for discussion in Executive Session pursuant to Idaho Code § 67-2345.
- E. If any member of the Ethics Commission desires to abstain from participating in a particular case, the member shall disclose such on the record as well as the reason for the abstention.
- F. Special meetings may be called and scheduled with proper notice given under Idaho Code § 67-2343(2).



## V. Intake and Screening

- A. Referrals to the Ethics Commission must be submitted to the City Clerk, the City Attorney's Office, the City's Human Resources Department, the Mayor's Office or the Ethics Commission directly.
- B. All referrals to the Ethics Commission shall initially be reviewed by one or more designees from the City Human Resources Department and one or more designees from the City Attorney's Office.
- C. A record shall be made and kept of all such referrals.
- D. Referrals that fall within the Ethics Commission's purview to any degree shall be forwarded to the Ethics Commission and placed upon the agenda for consideration at the next regularly scheduled meeting.
- E. Referrals deemed not to fall within the Ethics Commission's purview shall be forwarded to such other departments within the City or other authorities as is appropriate. Summaries outlining the substance of these referrals shall be prepared by designees from either the City Human Resources Department or the City Attorney's Office. These summaries shall be presented to the Ethics Commission and placed upon the agenda for review at the next regularly scheduled meeting. The Ethics Commission may, however, review any referral in its entirety. At the Ethics Commission's request, any matter presented in summary fashion shall be presented in entirety and placed upon the agenda for the next regularly scheduled meeting.
- F. The Ethics Commission may call special meetings to consider referrals deemed by the Chair or Vice-Chair to demand attention more quickly than the regular hearing schedule.

## VI. Advisory Opinions

- A. Any current or prospective officer, official, or employee or the supervisor or Department Head of a non-elected officer, official, or employee, may submit a request that the Ethics Commission issue an Advisory Opinion.
- B. The request for an Advisory Opinion may be submitted on the approved form to the City Clerk's Office, or in any other manner that contains the same information. A request for an Advisory Opinion will be deemed "received" by the Ethics Commission when it is first reviewed by the Ethics Commission pursuant to Section V(D), *above*.
- C. The Ethics Commission or its designee may request any additional information deemed necessary to render an Advisory Opinion.

- D. The Ethics Commission shall render an Advisory Opinion in writing at the next regularly scheduled meeting, unless the person who requests the opinion has withdrawn the request in writing, or unless the requested additional information has not been received by the Ethics Commission, or unless the Ethics Commission has given written notice to the requestor explaining the reason for the delay and stating an expected issuance date. The Advisory Opinion will be issued to the person who requests the Opinion.
- E. The Ethics Commission may publish Advisory Opinions with such deletions as may be lawful and necessary to prevent disclosure of records exempt pursuant to the Idaho Public Records Act. The Ethics Commission may also publish guidelines based on an Advisory Opinion if the subject of the opinion may be of general interest and guidance.
- F. If the Ethics Commission has a belief, based in fact, that an Advisory Opinion has not been followed, it shall inform the person, the person's supervisor or Department Head, and the City Attorney in writing and request that the supervisor or Department Head take appropriate disciplinary action after consulting with the City Attorney's designee.

## VII. Inquiries

- A. Any person may file an Inquiry with the Ethics Commission.
- B. Inquiries will be deemed "filed" when they are received by the City Clerk in writing or when received by Human Resources or City Attorney's Office from the 1-800 telephone reporting line. Inquiries will be deemed "received" by the Ethics Commission when they are first reviewed by the Ethics Commission.
- C. The Ethics Commission or its designee may request any additional information deemed necessary to screen the Inquiry or to render a decision.
- D. No inquiries shall be accepted or considered which relate to actions that took place more than one (1) year prior to the date of filing unless recurring benefits or consequences attributable to such actions are apparent.
- E. The City Attorney's designee must notify the person who is the subject of the Inquiry no more than three (3) business days from the day the Inquiry was filed. The notification shall include a copy of the full Inquiry; a copy of any portion of the Code of Ethics that is alleged to have been or that may be violated; and the Ethics Commission's Rules of Procedure.
- F. The Ethics Commission shall provide the subject of the Inquiry with a copy of the Inquiry before it provides copies to any other parties. The Ethics Commission may recognize that distribution to the public of an Inquiry prior to screening by the Ethics Commission as required below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the public release of the Inquiry is prohibited until the screening process has been completed by the City Attorney's designee.

- G. Screening pursuant to Section V(B), *above*, shall occur no more than three (3) business days from the date an Inquiry is filed. If the Inquiry is deemed to fall within the purview of the Ethics Commission pursuant to Section V(D), *above*, the Ethics Commission shall review the Inquiry at its next regularly scheduled meeting or sooner if the Chair deems it necessary.
- H. The Ethics Commission may immediately dismiss an Inquiry at any time if:
- i. The Ethics Commission has no jurisdiction over the subject matter or the alleged violator;
  - ii. The alleged violation, if true, would not constitute a violation of the Code of Ethics;
  - iii. The alleged violation is *de minimis*;
  - iv. The Inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment;
  - v. The matter has become moot because the person who is the subject of the Inquiry is no longer an officer, official, or employee. If the Ethics Commission determines that the public interest would be served by publishing an Advisory Opinion, it shall subsequently issue an opinion;
  - vi. The person who is the subject of the Inquiry had obtained a determination that the issue was *de minimis* or an Advisory Opinion under Boise City Code § 2-24-02 permitting the conduct; or
  - vii. The supervisor or Department Head has already taken action as a result of finding a violation;

All dismissals shall be in writing, contain the reason for the dismissal and be made available to the public.

- I. If, after initial review by the Ethics Commission, the Inquiry has not been dismissed pursuant to Boise City Code §§ 2-12-04(A)(6) or (7), the City Attorney's designee shall prepare and issue a Notice of Hearing, which shall set forth in reasonable detail the alleged violations of the Code of Ethics and the facts supporting the allegations. The Notice of Hearing shall be mailed to the person filing the Inquiry (Complainant) and to the subject of the Inquiry (Inquiry Subject) within five (5) days of its approval by the Chair of the Ethics Commission. The Notice shall provide the Inquiry Subject an opportunity to prepare and file an Answer to the Notice of Hearing within ten (10) days, unless an extension is granted for good cause. When received by the Ethics Commission, the Answer shall be promptly mailed to the Complainant.
- J. Within ten (10) days of the receipt of the Answer, the City Attorney's designee shall issue a notice setting forth a date and place for the hearing, which may be open to the public. The Ethics Commission will attempt to accommodate the parties in selecting a date that is mutually agreeable.
- K. The Ethics Commission shall stay the Inquiry and refer the entire matter to the appropriate prosecuting attorney and/or law enforcement agency when credible evidence of a crime under Idaho State law is discovered.

- L. At least ten (10) days before the hearing, the parties or their representatives shall submit to the Ethics Commission a proposed list of witnesses and a list of possible documentary evidence to be introduced at the hearing, as well as an estimate of the length of time needed to present the testimony and evidence. The Ethics Commission may schedule a pre-hearing conference, at which time a schedule and hearing order may be adopted. Such order shall include the exchange of proposed exhibits and witness lists. The Ethics Commission shall attempt to resolve any outstanding procedural or evidentiary issues at this time.
- M. The Ethics Commission may request that the City Council and Mayor subpoena witnesses and documents after having made a written request to appear or provide the records.
  - i. Subpoenas shall be issued pursuant to Idaho Code § 50-216. Persons who are subpoenaed or whose records are subpoenaed may object to testimony or the production of documents on the grounds that such information is privileged under Idaho law.
  - ii. In hearings where witnesses or documents have been subpoenaed pursuant to Idaho Code § 50-216, the Mayor or President of the City Council shall preside over the meeting in an ex-officio capacity. Neither the Mayor nor President of the City Council shall participate in the deliberations or decision.
- N. Any officer, official, or employee of the City of Boise who is called before the Ethics Commission for a hearing shall be required to participate in providing information unless such information is protected by a privilege under Idaho law.
- O. After the Notice of Hearing has been issued, none of the parties or their representatives may communicate on an *ex-parte* basis with the Ethics Commission or any Ethics Commission member on any manner pertaining to the Inquiry. All communications pertaining to the Inquiry shall be sent to the City Attorney's designee.
- P. At any time after the issuance of the Notice of Hearing, the Ethics Commission, at its discretion, may make a finding solely on the basis of written arguments without holding a public hearing if it determines that there is no significant discrepancy in the facts. However, the Inquiry Subject shall have the right to demand a hearing which may be open to the public.
- Q. At any time after the issuance of the Notice of Hearing, the Ethics Commission may dismiss an Inquiry without a finding for or against the Inquiry Subject if it finds that the person committed the violation due to oversight and comes into voluntary compliance.
- R. The Ethics Commission may dismiss an Inquiry if the complainant does not appear at the hearing and if, in the opinion of the Ethics Commission, it would be unfair to the Inquiry Subject not to have the opportunity to examine the Complainant. Nothing herein shall prevent the Ethics Commission from conducting the hearing where there is reason to believe that the Code of Ethics has been violated.
- S. At the hearing, the Complainant or the Complainant's representative will be provided the opportunity to make an opening statement and presentation of the evidence in support of the allegations set forth in the Notice of Hearing. In the alternative, at the request of the Ethics

Commission, the City Attorney's designee shall make the opening statement and present the evidence supporting the allegations. In the event the City Attorney or designee has a conflict of interest, outside counsel shall present the case. The Inquiry Subject or their representative shall be entitled to cross-examine witnesses called by the Complainant, the City Attorney's designee, or conflict counsel.

- T. At the conclusion of the evidence offered by the Complainant or the Complainant's representative, the City Attorney's designee, or conflict counsel, the Inquiry Subject or their representative shall have the opportunity to make an opening statement and present evidence. The Complainant or their representative, the City Attorney's designee, or conflict counsel shall have the opportunity to cross-examine witnesses called by the Inquiry Subject. Either party shall be allowed sufficient time to examine and respond to any evidence not presented to them in advance of the hearing. At the conclusion of the evidence, the parties may make closing statements or, with the consent of the Ethics Commission, submit briefs or written summaries of their respective positions.
- U. The Chair of the Ethics Commission and, in the absence of the Chair, the Vice-Chair shall preside at the hearing, administer oaths or accept affirmations from witnesses, and decide all points of order, procedure, and evidence. The hearing need not be conducted according to technical rules of evidence, and any relevant evidence, including hearsay, of probative value shall be admitted at the discretion of the Chair. Incompetent, immaterial, or unduly repetitious evidence may be excluded.
- V. An electronic or stenographic record of the hearing shall be made and kept by the City Clerk.
- W. At the conclusion of the hearing, the Ethics Commission shall deliberate towards a decision. Upon a majority vote of the members present for the hearing, the matter shall be decided. The Ethics Commission shall then direct the City Attorney's designee to draft findings, conclusions, and recommendations for approval at the following regularly scheduled meeting.
- X. The Ethics Commission shall conduct a hearing of all inquiries within sixty (60) days of receipt of the Inquiry by the Commission. Procedural delays caused by the Inquiry Subject shall toll the sixty (60) day time limit.
- Y. At the next regularly scheduled meeting, the Ethics Commission shall issue and publish its decision which shall include findings, conclusions and recommendations. In the alternative, the Ethics Commission where it deems appropriate, may issue an Advisory Opinion in lieu of making findings and recommendations.
- Z. If the Inquiry Subject is an elected officer, the Ethics Commission may propose actions appropriate to the finding, including but not limited to a recommendation that the person abstain from further action in the matter, or adoption of a resolution reprimanding the officer.
- AA. The City Attorney's designee shall send a written copy of the Ethics Commission's findings and recommendations to the Inquiry Subject and the Complainant and, unless

provided otherwise in these Rules, in the Code of Ethics, or in State law, shall make the findings and recommendations public.

#### VIII. Parliamentary Authority

The latest version of Robert's Rules of Order shall be followed to the extent practicable and applicable, except as modified by provisions of these Rules of Procedure and of the Boise City Code.

#### IX. Posting of Agenda

A copy of the Ethics Commission's meeting agenda shall be posted at the location of the meeting, at any other appropriate locations, and at the first-floor bulletin board of the Boise City Hall building.

#### X. Case Numbers

Case numbers shall be assigned chronologically for each written request for Advisory Opinion, Request for Waiver, and Inquiry, with a new sequence to commence on the first day of each calendar year. The calendar year shall be the first two digits of the case number followed by a hyphen (for example 04-01 for the first case filed in 2004).

# **EXHIBIT D**

**Request for Advisory Opinion Form**





## Sections of the Code of Ethics

No city official shall knowingly:

**1-8-3(A)** – Use his or her official position or office to obtain financial gain for him or herself, any member of his or her household, or any business with which he or she or a member of his or her household is associated.

**1-8-3(B)** – Use or disclose confidential information gained in the course of or by reason of his or her official position or activities in any way that could result in financial gain for him or herself or for any other person. (Ord. 53-15, 12-8-2015)

**1-8-3(C)** – Accept any valuable gift, whether in the form of service, loan, thing or promise from any person or business that is interested directly or indirectly in any manner in a business dealing with the city if that city official has any discretionary function related to the business dealing; provided, however, any city official who is a candidate for public office may accept campaign contributions and services in connection with such campaign. Gifts of any kind shall not be accepted where there exists a substantial risk that the gift would undermine official impartiality. (Ord. 53-15, 12-8-2015; amd. 2019 Code)

**1-8-3(D)** – Violate the fiduciary duty owed to the city under this standard of conduct. The fiduciary duty is defined as a duty to act for the benefit of the citizens of the City of Boise, while subordinating one's personal interest to those of the city as a whole. When an employee expends any resources of the city, this duty requires that the expenditure be reasonable, prudent and for the benefit of the city and not for personal gain. (Ord. 53-15, 12-8-2015)

**1-8-4(A)** – Conflict Of Interest Defined: For purposes of this section, an actual "conflict of interest" is defined as a set of circumstances wherein a city official would be required to take an action or make a decision that would affect his or her personal financial or pecuniary interests, or those of a member of his or her household, or a business with which he or she is associated. An apparent conflict of interest is one that does not affect a city official's personal financial or pecuniary interests, but nevertheless calls into question his or her objectivity and independence. Any city official who has either an actual conflict of interest or an apparent conflict of interest, shall:

1. If a city official, other than an appointed or elected member of a commission, board or council, verbally discloses such interest to the Mayor (or if such city official is the Mayor, then to the City Council), who may require the assignment of the matter creating the conflict to another city official of the same department of the city who does not have a conflict of interest, or determine such conflict de minimus, as defined in subsection B of this section.
2. If an appointed or elected member of a commission, board or council, discloses such interest on the records of said commission, board or council and shall

disqualify him or herself from participating in any decision or vote relating thereto, unless following such disclosure a majority of the remaining members of such commission, board or council determined by official action at a public meeting of such commission, board or council that such conflict of interest is de minimus, as defined in subsection B of this section.

**1-8-4(B)** – De Minimis Conflict Defined: A pecuniary benefit is de minimis if it does not exceed the value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality, as defined in Idaho Code section 18-1359. An officer's interest in a contract is deemed de minimis if it is a remote interest. "Remote interest" means that of a non-salaried officer of a nonprofit organization; that of an employee of a contracting party where the compensation consists entirely of fixed wages; that of a landlord or tenant of a contracting party; or that of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party, all as defined in Idaho Code section 74-502. There is no conflict of interest if the city official's personal interest is so remote that it would be unreasonable to question his or her ability to impartially serve the city's best interests. (Ord. 31-15, 7-28-2015)

**1-8-5(A)** – Valuable Gift: No city official shall solicit or receive any valuable gift, or anything of value, including favors, services or promises of future employment, based on any understanding that such city official's vote, official action or judgment would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the city official in the discharge of his or her duties, or as a reward for the discharge of his or her duties.

**1-8-5(B)** – Money: No person shall offer or pay to a city official, and no such city official shall solicit or receive, any money in any amount in addition to that received as wages or salary by the city official in his or her official capacity, for advice or assistance given in the course of the city official's employment or relating to the employment. (1952 Code § 1-21-05)

**1-8-6(A)** – Requirement: No public official having any discretionary function to perform in connection with an expenditure, purchase, sale, or contract shall have any personal beneficial interest, either directly or indirectly in such expenditure, purchase, sale, or contract made by the city or in any firm, corporation or association that furnishes or bids on such purchase, sale or contract.

**1-8-6(B)** – Standard of Conduct: Every officer, employee or agent of the city is expressly prohibited from knowingly:

1. Underestimating or exaggerating requirements to certain prospective bidders in order to influence bids.
2. Misrepresenting a competitor's prices, quality or service to obtain concessions.
3. Splitting invoices or orders, etc., to avoid the competitive bid requirements of Idaho Code and City of Boise ordinances. (Ord. 53-15, 12-8-2015)

**1-8-7** – A city official shall not be deemed to have a financial interest in a matter if his or her interest is solely that of a general taxpayer or solely that of a recipient of public services generally provided by the city on the same terms and conditions as if he or she were not an official.

# **EXHIBIT E**

**Request for Inquiry Form**



**CITY of BOISE**  
ETHICS COMMISSION

## INQUIRY FORM

To the best of my knowledge, information, and belief formed after reasonable reflection, I believe that the information given in this inquiry is true. I request the Boise City Ethics Commission evaluate the information given here in accordance with the procedures outlined in the Boise Municipal Code, Chapter 2-12.

**PLEASE NOTE:** A copy of the inquiry will be sent to the person who is the subject of the inquiry and may be made available to the public.

NAME: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

**MY INQUIRY IS ABOUT THE FOLLOWING CITY OF BOISE OFFICER, OFFICIAL, EMPLOYEE, OR VOLUNTEER:**

NAME: \_\_\_\_\_ POSITION OR JOB TITLE (IF KNOWN): \_\_\_\_\_

DEPARTMENT/AGENCY: \_\_\_\_\_ WORK TELEPHONE (IF KNOWN): \_\_\_\_\_

WORK ADDRESS (IF KNOWN): \_\_\_\_\_

**PLEASE NOTE:** If you wish to file an inquiry about more than one person, you must file a separate inquiry form (and any attachments) for each person.

Please describe the facts that you believe constitute a violation of the Boise City Code of Ethics in sufficient detail so that the Boise City Ethics Commission and the person who is the subject of the inquiry can understand the nature of the alleged violation. Give as much detail as possible, including names, relationships, approximate dates, etc. Add extra sheets if needed and attach copies of any pertinent documents.

# **EXHIBIT F**

**Summary of 2022 Email Messages**

## **Summary of 2022 Email Messages Received to the Ethics Commission Inbox**

- Received a question from a Parks and Recreation employee who had been offered football tickets by a personal friend, but who noted the personal friend owns a business that occasionally competes for city bids with City Forestry.
  - Sent the person the Ethics Handbook and the request for advisory opinion form.
  - Person opted not to accept the tickets, so issue was resolved before reaching the Commission.
- Received a question from a member of City Council regarding serving on the board of a non-profit operation without compensation.
  - Responded to advise the person to submit a request for advisory opinion to the Ethics Commission.
  - As of the date of this Report, no Request for Advisory Opinion has been filed.
- Received a question about a Parks and Recreation employee accepting a contract to perform work on the construction of an ice rink in Idaho Falls.
  - Responded saying the person would ordinarily need to submit a request for advisory opinion to the Commission. Also directed the person to the Commission's previous advisory opinions and the Code of Ethics.
  - Person did not submit a Request and did not accept the contract.
- Travel Requests

# **EXHIBIT G**

## **Inquiry Determinations**



**CITY OF BOISE ETHICS COMMISSION**  
**DISMISSAL OF INQUIRIES 22-01, 22-02**

**PURPOSE OF THE ETHICS COMMISSION**

The Ethics Commission's purpose is to issue advisory opinions and to issue findings regarding alleged violations of Boise City Code, Title 1, Chapter 8 (Code of Ethics). Boise City Code, section 2-12-1(A).

**PURPOSE OF AN INQUIRY**

Any person may file an inquiry with the Ethics Commission asking whether a current officer, official, or employee has failed to comply with the Code of Ethics. Boise City Code, section 2-12-3.

**INQUIRIES AT ISSUE**

On or about March 7, 2022, the Hispanic Cultural Center of Idaho (HCCI) filed an inquiry form (#22-01), pursuant to Boise City Code section 2-12-3, seeking a determination that a City of Boise official, City Council Member Lisa Sanchez, violated the City's Code of Ethics, Title 1, Chapter 8 of the City Code, by refusing to return a painting HCCI loaned the official. On the same date, Alma Gomez, the artist who created the painting and donated it to HCCI, filed a separate inquiry form (#22-02) seeking the same relief as HCCI's Inquiry.

The Ethics Commission conducted a preliminary screening and review of the Inquiries at its regularly scheduled March 10, 2022 meeting and determined that it would take further action on the inquiries at its next regularly scheduled meeting, on May 12, 2022, pursuant to Ethics Commission Rule of Procedure VII(G).

**FACTS ALLEGED**

HCCI alleges the following facts in support of inquiry 22-01:

1. In June 2021, Ms. Gomez donated a portrait of Council Member Sanchez to HCCI.
2. Ms. Gomez valued the portrait at \$2,000.00.
3. In August 2021, Council Member Sanchez asked to borrow the portrait from HCCI for use in connection with a campaign fundraiser for Council Member Sanchez to be held on September 16, 2021.
4. HCCI agreed to loan the portrait to Council Member Sanchez on condition that it be returned by September 17, 2021.
5. Council Member Sanchez took possession of the portrait on or about September 14 or 15, 2021.

6. As of March 7, 2022, Council Member Sanchez had “refused to return the portrait because she has implied that since it is her image, she has a right to own it and felt HCCI does not deserve to have it in their possession.”
7. “The HCCI has ownership of this original portrait, as it was donated by the artist to the organization.”
8. “The HCCI believes that Ms. Sanchez is violating ethical guidelines **by keeping the portrait in her possession**. We hope that by sending this inquiry, Ms. Sanchez rethinks her decision and complies with behavior in line with the guidelines within the City of Boise” (emphasis added).

Ms. Alma Gomez alleges the following facts in support of inquiry 22-02:

1. In June 2021, Ms. Gomez donated a portrait of Lisa Sanchez, that Ms. Gomez painted in 2011, to HCCI.
2. In November 2021, Ms. Sanchez contacted Ms. Gomez “telling me that she had picked up the painting at the Hispanic Cultural Center to use for her fundraising campaign event. I reminded her the painting no longer belonged to me and that she would need permission from the Hispanic Cultural Center to keep it. . . I told her to write a letter to the Hispanic Cultural Center stating why she wanted to keep the painting and that I would cosign the letter with her. . . Since I never received that letter to cosign with Lisa, I assumed that she had decided to return the painting to the Hispanic Cultural Center.”
3. “Sometime in January of 2022 I found out that she had still not returned the painting to the Hispanic Cultural Center.”

### **DETERMINATION**

After reviewing the inquiries and the provisions of the Ethics Code, the Commission dismisses inquiries 22-01 and 22-02 because the Commission has no jurisdiction over the subject matter and the facts alleged, if true, would not constitute violations of the Ethics Code. *See*, Boise City Code section 2-12-4(F)(1) and (2); Ethics Commission Rules of Procedure VII(H)(i) and (ii).

### **ANALYSIS**

Pursuant to Boise City Code section 2-12-4(F) and the Commission’s Rules of Procedure VII(H), the Commission may dismiss an inquiry at any time if the Commission determines it has no jurisdiction of the subject matter of the inquiry or if the facts, if true, would not constitute a violation of the Ethics Code. All dismissals must be in writing, state the reasons for dismissal, and be available to the public. Boise City Code section 2-12-4(F); Boise City Ethics Commission Rules of Procedure section V(H).

In reaching this determination, the Commission considered the applicability of the following Ethics Code provisions to the facts alleged: 1-8-3(A) and (C) (Standard of Conduct) and 1-8-5 (Prohibited Influence and Conduct).

## **1. Section 1-8-3: Standard of Conduct**

Ethics Code section 1-8-3(A) prohibits any city official from knowingly using his or her official position or office to obtain financial gain for himself or herself. Neither inquiry alleges that Council Member Sanchez used her official position or office to obtain possession of the painting at issue. Both inquiries allege that HCCI voluntarily loaned the painting to Council Member Sanchez for use in connection with a campaign fundraising event.<sup>1</sup> The inquiries do not provide a sufficient basis to support the conclusion that Council Member Sanchez obtained possession of the painting by use of her official position or office or that Sanchez obtained any financial gain by virtue of the loan.

To the extent it is alleged that Sanchez obtained financial gain by retention of the painting past the original terms of the loan, again, there is no basis to conclude that Sanchez used her official position or office to retain possession of the painting. Instead, both inquiries allege that Sanchez asserted a right to obtain possession independent of her status as a city official. It is not within the Commission's purview to determine the right to possession of non-city property.

Section 1-8-3(C) contains two prohibitions on the conduct of city officials. First, a city official may not knowingly accept any valuable gift from any person or business with an interest in a business dealing with the City, if that city official has any discretionary function related to the business dealing. There is a specific exception to this prohibition which permits a city official who is a candidate for public office to accept contributions and services in connection with such campaign. Again, the inquiries do not appear to question the original loan of the painting to Sanchez. However, to the extent the inquiries assert that the loan constituted a valuable gift, the loan comes within the express campaign exception to the prohibition on valuable gifts to city officials. In addition, even if the above exception did not apply, the inquiries provide no basis for the Commission to conclude that HCCI is interested in any business dealing with the City so as to trigger the prohibition on acceptance of valuable gifts set forth in section 1-8-3(C).

Section 1-8-3(C) also prohibits a city official from knowingly accepting a gift of any kind "where there exists a substantial risk that the gift would undermine official impartiality." Again, to the extent that HCCI's loan of the painting can be considered a "gift," the inquiries provide no basis for the Commission to conclude that the loan would undermine Council Member Sanchez's official impartiality.

Based on the foregoing, the Commission concludes that the facts alleged in the inquiries, even if taken as true, do not support a conclusion that Sanchez violated Ethics Code section 1-8-3.

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1. In fact, neither inquiry appears to object to HCCI's initial loan of the painting to Council Member Sanchez.

## **2. Section 1-8-5(A): Prohibited Influence and Conduct**

Ethics Code section 1-8-5(A) prohibits a city official from soliciting or receiving any valuable gift, or anything of value, based on any understanding that such official's vote, official action, or judgment would be influenced thereby, or where it reasonably could be inferred that the thing of value would influence the city official in the discharge of his or her duties or as a reward for the discharge of his or her duties. Again, both inquiries assert that HCCI loaned the painting to Sanchez for purposes of a campaign fundraising event. Neither inquiry has alleged facts sufficient to support the conclusion that HCCI loaned the painting to Council Member Sanchez with the understanding that the loan would influence Sanchez's vote, official action, or judgment, or otherwise influence Sanchez in the performance of her official duties. Also, again, given the fact that the inquiries are directed at Sanchez's retention of the painting, rather than the original loan of the painting, there is no basis for the Commission to find that Sanchez violated section 1-8-5(A).

### **CONCLUSION**

Based on the foregoing, inquiry 22-01 and inquiry 22-02 are dismissed.

**CITY OF BOISE ETHICS COMMISSION**  
**DISMISSAL OF INQUIRIES 22-03, 22-04**

**PURPOSE OF THE ETHICS COMMISSION**

The Ethics Commission's purpose is to issue advisory opinions and to issue findings regarding alleged violations of Boise City Code, Title 1, Chapter 8 (Code of Ethics). Boise City Code, section 2-12-1(A).

**PURPOSE OF AN INQUIRY**

Any person may file an inquiry with the Ethics Commission asking whether a current officer, official, or employee has failed to comply with the Code of Ethics. Boise City Code, section 2-12-3.

**INQUIRY AT ISSUE**

On or about March 8, 2022, a Boise resident filed two inquiry forms (#22-03 and #22-04) pursuant to Boise City Code section 2-12-3. The first form identifies Mayor Lauren McLean as the inquiry's subject and the second form identifies "Elaine Clegg, Holli Woodings, Lisa Sanchez, Patrick Bageant, [and] Jimmy Hallyburton" as the inquiry's subjects.<sup>1</sup> The email transmitting the inquiry forms to the Commission also includes a narrative, apparently intended to support and to provide the factual basis for both inquiries.

The Ethics Commission conducted a preliminary screening and review of the inquiries at its regularly scheduled March 10, 2022 meeting and determined that it would take further action on the inquiries at its next regularly scheduled meeting on May 12, 2022, pursuant to Commission Rule VII(G).

**ALLEGATIONS**

The narrative in support of the inquiries states:

"The old Smokey's lot on State Street was purchased in December of 2020. The "New Housing Bonus Ordinance" was approved on January 12, 2021 and went into effect on February 15, 2021. It was not until April 15<sup>th</sup> 2021 that a Community Development Team issued a Request for Proposals. City of Boise Claims to have done community outreach starting on March 1<sup>st</sup>, 2021, but funny that most of the surrounding neighbors did not know what was even going on I know personally I was NEVER notified of any of this that they claim. Then the "Famous Survey" they wanted everyone to fill out in the spring/summer 2021 that was portraying a 3 story apartment complex with retail on the bottom asking what kind of design features were like and so on. Never once did anyone

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<sup>1</sup> The Inquiry Form specifically provides: "**PLEASE NOTE:** If you wish to file an inquiry about more than one person you must file a separate inquiry form (and any attachments) for each person."

come out and say the real intentions building a 5 story building complex overlooking and blocking out the neighbors, until signs were put up the third week of February 2022 stating the real intention of the City of Boise. Fast forward to the Hearing on Planning and Zoning March 7<sup>th</sup> when a bomb was sprung on the citizens of Boise who live in that neighborhood that they had this “Bonus Housing Ordinance” everyone on the Board and Developers knew what this was and went ahead a passed this. We as citizens never stood a chance to be heard or had any say in in what they slyly put into place. Mayor Lauren McLean and City Council Members put this in place in secret because ultimately they had a use for it. The rules about zoning were put in place to protect not to break and that is what the Mayor and City Council are doing is changing the rules to break them. Also by doing it this way it creates a huge money maker for the City of Boise, so why wouldn’t they screw over anyone who stands in their way? Mayor Lauren McLean and City Council Members need to be held accountable for screwing over the citizens in Boise. We deserve better from the people who are supposed to represent the citizens of Boise, not liars and cheaters! I am hoping that you will hold them accountable for what they are doing because if they have done it here I’m sure there are many more instances like this.”

The inquiry forms do not identify the provision or provisions of the Ethics Code at issue or any facts that would enable the Ethics Commission and the inquiry subjects to identify the provision or provisions of the Code at issue and the nature of the alleged Ethics Code violation.

### **DETERMINATION**

After reviewing the inquiries and the provisions of the Ethics Code, the Commission dismisses inquiries 22-03 and 22-04 because the Commission has no jurisdiction over the subject matter and the allegations, if true, do not establish any violation of the Ethics Code. *See*, Boise City Code section 2-12-4(F)(1) and (2); Ethics Commission Rule of Procedure VII(H)(i) and (ii).

### **ANALYSIS**

Pursuant to Boise City Code section 2-12-4(F) and the Commission’s Rules of Procedure VII(H), the Commission may dismiss an Inquiry at any time if the Commission determines it has no jurisdiction of the subject matter of the Inquiry or if the facts, if true, would not constitute a violation of the Ethics Code. All dismissals must be in writing, state the reasons for dismissal, and be available to the public. Boise City Code section 2-12-4(F); Boise City Ethics Commission Rules of Procedure section V(H).

Due to the lack of specificity regarding the specific provision or provisions of the Ethics Code at issue, the Commission will briefly address the applicability of the Ethics Code’s substantive provisions to the allegations in support of the present inquiries.

## **1. Timeliness**

First, the Commission will not consider any actions that occurred more than one year prior to the filing of the inquiries at issue. Boise City Code, section 2-12-4(C); Ethics Commission Rules of Procedure VII(D).

## **2. Section 1-8-3: Standard of Conduct**

Ethics Code section 1-8-3 prohibits any city official from knowingly:

- A. Using his or her official position or office to obtain financial gain for himself or herself.
- B. Using or disclosing certain confidential information in a way that could result in financial gain.
- C. Accepting any valuable gift from any person or business interested in a business dealing with the City if the official has a discretionary function related to the business dealing.
- D. Expending any City resource for personal gain or in an unreasonable or imprudent manner.

The Commission concludes that the allegations of the inquiries are not sufficient to support a finding that any of the officials named in the inquiries failed to comply with the Standard of Conduct provisions of the Ethics Code, as set forth in section 1-8-3. Specifically, the allegations, if taken as true, do not establish that any of the inquiry subjects obtained financial gain from the alleged conduct, disclosed any confidential information, accepted any valuable gifts, or improperly expended City resources.

## **3. Section 1-8-4: Disclosure of Conflicts of Interest**

Ethics Code section 1-8-4 requires city officials to disclose conflicts of interest. The section identifies two different types of conflicts of interest: Actual and apparent. An actual conflict of interest “is defined as a set of circumstances wherein a City official would be required to take an action or make a decision that would affect his or her personal financial or pecuniary interests.” An apparent conflict of interest is “one that does not affect the official’s personal financial or pecuniary interests, but nevertheless calls into question his or her objectivity and independence.”

The allegations in support of the inquiries at issue do not establish the existence of a conflict of interest on the part of any of the named officials and, therefore, are not sufficient to support a conclusion that any of the officials failed to disclose a conflict of interest in violation of section 1-8-4.

## **4. Section 1-8-5: Prohibited Influence and Conduct**

Ethics Code section 1-8-5(A) prohibits a city official from soliciting or receiving any valuable gift, or anything of value, based on any understanding that such official’s vote,

official action, or judgment would be influenced thereby, or where it reasonably could be inferred that the thing of value would influence the city official in the discharge of his or her duties or as a reward for the discharge of his or her duties.

Section 1-8-5(B) prohibits city officials from soliciting or receiving any money, in addition to wages or salary received from the City, for advice or assistance given as part of, or related to, the official's employment.

The Commission finds that the allegations in support of the inquiries at issue are not sufficient to establish that any of the officials named in the inquiries violated section 1-8-5 by improperly soliciting or receiving any valuable gift or money in the performance of their official duties.

### **5. Section 1-8-6: Prohibition of Financial Interest**

Ethics Code section 1-8-6 prohibits a city official who has a discretionary function in connection with an expenditure, purchase, sale, or contract from having any personal beneficial interest in such expenditure, purchase, sale, or contract.

The allegations in support of the inquiries at issue do not identify any expenditure, purchase, sale, or contract. Accordingly, there is no basis for the Commission to find or conclude that the named officials violated Ethics Code section 1-8-6.

## **CONCLUSION**

At best, the allegations in support of inquiry 22-03 and inquiry 22-04 vaguely assert that there was a failure to comply with unidentified City ordinances and/or regulations. Such allegations are beyond the purpose and purview of the Ethics Commission. The inquiries do not identify any provision of the Ethics Code allegedly violated or allege facts that would support a finding of any Ethics Code violation. Accordingly, inquiries 22-03 and 22-04 are dismissed.



## **CITY OF BOISE ETHICS COMMISSION**

### **DISMISSAL OF INQUIRY 22-05**

#### **PURPOSE OF THE ETHICS COMMISSION**

The Ethics Commission's purpose is to issue advisory opinions and to issue findings regarding alleged violations of Boise City Code, Title 1, Chapter 8 (Code of Ethics). Boise City Code, section 2-12-1(A).

#### **PURPOSE OF AN INQUIRY**

Any person may file an inquiry with the Ethics Commission asking whether a current officer, official, or employee has failed to comply with the Code of Ethics. Boise City Code, section 2-12-3.

#### **INQUIRY AT ISSUE**

On or about March 29, 2022, a Boise resident filed an Inquiry Form (#22-05) and Request for Advisory Opinion, together with a "letter of inquiry" seeking certain Commission determinations regarding alleged conduct on the part of Boise City Council Member, and Council President Pro Tempore, Holli Woodings (Woodings).

The letter states that the inquirer seeks "a formal review of an elected city official's compliance with Section 1-8-4(A) of the Boise City Code of Ethics" and requests "an advisory opinion interpreting the congruence of the Boise City Code of Ethics and Idaho Code Ann. 59-102 regarding dual office-holding restrictions in the state of Idaho."

#### **FACTS ALLEGED**

The letter includes the following "Statement of Facts":

The Honorable Holli Woodings, a sitting elected member of the Boise City Council and President Pro Tempore of the Council, accepted a Certificate of Appointment to the second regular session of the sixty-sixth Idaho Legislature as under Section 59-917 of the Idaho Code between March 1 and March 3, 2022 (51<sup>st</sup>, 52<sup>nd</sup>, and 53<sup>rd</sup> legislative days). Her appointment called upon her to temporarily perform the duties of the Honorable Chris Mathias as acting state representative for Seat B of State Legislative District 19 while Representative Mathias was on excused absence. During her tenure as a temporary state representative exercising all of the powers and responsibilities of that office, Woodings engaged in official City of Boise business and voting participation in the Boise City Council's official session on March 1, 2022.

During the course of her State Legislative appointment, Boise City Council President Pro Tempore Woodings cast 51 recorded votes (eight on March 1, 22 on March 2, and 21 on March 3) on a broad range of state legislation with potential impacts on cities and municipalities, ranging from state appropriations to

election law to building codes to operation of homeowners' associations. There is no record of recusal or abstention from state legislative votes that impact City of Boise activities and policies during her appointment. Additionally, there is no record of recusal or abstention from conduct of City business during the same period of time or during the Boise City Council's regular meeting of March 1, 2022.

## **DETERMINATION**

After reviewing the inquiry and the provisions of the Ethics Code, the Commission dismisses the inquiry because the Commission has no jurisdiction over the subject matter and the facts alleged, if true, do not establish a violation of the Code of Ethics. *See*, Boise City Code section 2-12-4(F)(1) and (2); Ethics Commission Rules of Procedure VII(H)(i) and (ii).

The Commission also declines to consider the Request for Advisory Opinion for the reasons set forth below.

## **ANALYSIS**

### **Request for Advisory Opinion**

Pursuant to Boise City Code section 2-12-2 (Advisory Opinions), a current city officer, official, appointee, or employee may submit a written request to the Ethics Commission for advisory opinions "on whether any conduct **by that person would constitute** a violation of the City Code of Ethics" (emphasis added). The Ethics Commission may also render advisory opinions to individuals who intend to become employees, officers, or officials, upon written request of the individual.

The request for advisory opinion at issue does not establish that the requester is within the class of persons who are entitled to request an advisory opinion from the Commission. Also, the request for advisory opinion does not request an opinion regarding whether proposed conduct on the part of the requester would violate the Code of Ethics.

Therefore, the request for an advisory opinion is denied.

### **Inquiry**

Pursuant to Boise City Code section 2-12-4(F) and the Commission's Rules of Procedure VII(H), the Commission may dismiss an inquiry at any time if the Commission determines it has no jurisdiction of the subject matter of the inquiry or if the facts, if true, would not constitute a violation of the Ethics Code. All dismissals must be in writing, state the reasons for dismissal, and be available to the public. Boise City Code section 2-12-4(F); Boise City Ethics Commission Rules of Procedure section V(H).

The inquiry seeks answers to four separate questions, which the Commission will address in order.

- 1. Question 1: “Did President Pro Tempore Woodings, in her role as an elected official of the City of Boise constitute a “suitable person” under Idaho Code 59-917 for temporary appointment to a second position of public trust in the Idaho Legislature for the period March 1-3, 2022.”**

The Commission has no jurisdiction over the subject matter of this question. As set forth previously, the Commission’s jurisdiction extends to questions of whether a current City of Boise officer, official, or employee has failed to comply with the Code of Ethics. This portion of the inquiry seeks an interpretation of a state statute that delegates certain discretionary authority to the Governor. I.C. 59-917 provides, in relevant part: “Whenever for any reason any elective official of the state, is temporarily unable to perform the duties of his office, the governor may appoint a suitable person to perform such duties temporarily as an acting officer, until the incumbent of the office shall be able to resume the performance of his duties, or a vacancy occurs in such office.”

- 2. Question 2: “Did President Pro Tempore Woodings appropriately recuse herself from any of 51 recorded votes in the Idaho Legislature in which she may have any personal or familial conflict-of-interest, or any existing or future conflict between that legislation and her responsibilities to implement and enforce as a member of the Boise City Council?”**

Again, the Commission concludes that it has no jurisdiction over the subject matter of this question. The question is addressed to Woodings’ conduct as a temporary acting member of the legislature, rather than her conduct as a member of the Boise City Council. The Code of Ethics does not purport to govern the conduct of members of the Idaho legislature in the business of the legislature.

- 3. Question 3: “Should President Pro Tempore Woodings have recused herself from the conduct of any pending business of the City of Boise, or the casting of any votes on the Boise City Council, for the period of time that she was an acting state legislator, to avoid any prima facie appearance of any real or perceived conflict-of-interest in her duties as a holder of dual elected offices? A copy of the summary minutes of March 1, 2022 of the Boise City Council, in which President Pro Tempore Woodings’ attendance is recorded, is appended to this inquiry letter. The agenda records her votes on multiple expense authorizations, travel requests, receipt of minutes and reports, 31 “consent agenda” resolutions regarding the award or renewal of city financial contracts, approval of ordinances, and conduct of public hearings related to, among other issues, development impact fee codes, proposed impact fee increases, comprehensive plan**

**amendments, and reassignment of neighborhoods within local planning areas.”**

Section 1-8-4 of the Ethics Code requires an appointed or elected member of a commission, board, or council who has an actual or apparent conflict of interest to disclose the conflict on the records of such commission, board, or council and disqualify herself from participating in any vote relating to the conflicted matter.

Pursuant to section 1-8-4(A), a city official has an “actual” conflict of interest when the circumstances would require the official to take an action or make a decision that would affect his or her personal financial or pecuniary interests, or those of a member of her household or a business with which she is associated. The Commission finds nothing in the inquiry to support the conclusion that Woodings had an actual conflict on any of the matters identified in this question.

Section 1-8-4(A) defines an “apparent” conflict of interest as “one that does not affect a city official’s personal financial or pecuniary interests, but nevertheless calls into question his or her objectivity or independence.”

The inquiry does not identify any specific matter in which Woodings allegedly had an apparent conflict of interest or any specific facts that would support a prima facie conclusion that such a conflicted existed with respect to any specific matter. Instead, the inquiry essentially asks the Commission to presume the existence of a conflict of interest based on Woodings’ temporary status as a “dual office holder,” as evidenced by the inquiry’s “Statement of Facts” quoted above:

1. Woodings “accepted a Certificate of Appointment to the second regular session of the sixty-sixth Idaho Legislature as under Section 59-917 of the Idaho Code between March 1 and March 3, 2022 (51<sup>st</sup>, 52<sup>nd</sup>, and 53<sup>rd</sup> legislative days).”
2. “During her tenure as a temporary state representative exercising all of the powers and responsibilities of that office, Woodings engaged in official City of Boise business and voting participation in the Boise City Council’s official session on March 1, 2022.”
3. “Additionally, there is no record of recusal or abstention from conduct of City business during the same period of time or during the Boise City Council’s regular meeting of March 1, 2022.”

The Commission declines to accept the invitation to adopt such a presumption.

The Commission does not dispute the possibility that specific facts surrounding the holding of two offices might give rise to a conflict of interest on a matter or matters that come before a City of Boise official, just as specific facts surrounding any other status, activities, or circumstances of a City of Boise official might give rise to a conflict of interest. However, this inquiry has not identified any such facts with respect to any specific matter or matters involving Woodings. Based on this, the Commission

concludes that the allegations of the inquiry do not establish a prima facie violation of the Code of Ethics.

**4. Question 4. “Returning to the principal question raised as the opening of this letter of inquiry, I request a statement of policy by the Boise Ethics Commission to this fundamental question: does it remain the policy of the City of Boise that concurrent, dual office-holding to elected positions of public trust represents acceptable procedure for public servants within its purview, that fully complies with all existing state and city statutes and regulations governing such offices in order to minimize real or apparent conflicts-of-interest and dilution of the system of governmental checks and balances between the states and its cities and municipalities, created under a state charter?”**

Again, this question goes beyond the purpose of the Ethics Commission, as set forth in Boise City Code section 2-12-1(A).

### **CONCLUSION**

Based on the foregoing, Inquiry 22-05 is dismissed pursuant to Boise City Code section 2-12-4(F)(1) and (2) and Ethics Commission Rules of Procedure VII(H)(i) and (ii).