

**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.