

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 (51st, 52nd, and 53rd 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 (51st, 52nd, and 53rd 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).