

AGENDA ITEM SUMMARY

City Council



STAFF

Jenny Lopez Filkins, Senior Deputy City Attorney

SUBJECT

Resolution 2026-070 Accepting and Adopting Ethics Opinion No. 2026-01 of the Ethics Review Board Advising Councilmember Anne Nelsen in Response to her Request for an Advisory Opinion.

EXECUTIVE SUMMARY

The purpose of this item is proposed adoption by Council of Ethics Opinion No. 2026-01 of the Ethics Review Board providing an advisory opinion to Councilmember Anne Nelsen in response to her request related to possible conflicts of interest.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

Under City Code Section 2-579(d)(1), any Councilmember may present directly to the Ethics Review Board (the “Board” or “ERB”) any inquiry regarding the application of ethical rules of conduct under state statute or the City Charter or Code to any actual or hypothetical situation of a Councilmember or board and commission member.

The primary purpose of the Board is to assist Councilmembers in interpreting and applying the definitions, rules, and procedures pertaining to the ethics rules established by the Charter and Code and applicable provisions of state statutes. Code §2-579(d)(1) empowers the Board to render advisory opinions and recommendations regarding actual or hypothetical situations of Councilmembers or board and commission members of the City. After review and investigation, the Board renders an advisory opinion or interpretation pertaining to such inquiries under the relevant applicable Charter, Code or statute(s) and makes recommendations to the City Council concerning the same.

Board-recommended, Council-adopted ethics opinions provide authoritative guidance for future ethics issues. By setting a clear precedent, they provide the logical framework to apply consistent reasoning to similar questions. Council last considered and approved an advisory ethics opinion recommended by the Board in 2021. Ethics opinions provide guidance to assist Councilmembers and other City officials to comply with their oaths of office.

The Board, comprised of Councilmembers Amy Hoeven, Julie Pignataro, and Melanie Potyondy, met on March 4, March 31, and April 13, 2026, to consider and render an advisory opinion addressing four

questions submitted to the Board by Councilmember Nelsen on February 5, 2026. Councilmember Nelsen asked the following questions:

- (1) Does the City Charter prohibition on Councilmembers having a financial interest in sales of services to the City bar Nelsen from working on her employer's contracted work for the City?
- (2) Does the City Charter prohibition on Councilmembers having a financial interest in sales of services to the City affect Nelsen as an employee of [au]workshop if she does not work on her employer's contracted work for the City?
- (3) Assuming [au]workshop continues to work for the City as described, or on other contracts for services, in what circumstances does Nelsen's employment at [au]workshop give rise to a financial interest under the Charter and Code? (What circumstances would constitute a foreseeable, measurable financial benefit to Nelsen?)
- (4) Assuming [au]workshop continues to work for the City as described, or on other contracts for services, in what circumstances does Nelsen's employment at [au]workshop give rise to a personal interest under the Charter and Code? (What circumstances would constitute a significant benefit or detriment to Nelsen that would be different in kind from that experienced by the general public?)

Summary of Conclusions

- 1) With respect to her employment at [au]workshop Councilmember Nelsen is not barred from working on City projects her employer performs for the City. Based on the facts as presented in this review related to her employment with [au]workshop, the Board does not consider that work as it has been described to entail a foreseeable, measurable financial benefit to Councilmember Nelsen. She has provided information that, whether she works on City projects for [au]workshop or not, this will have no impact favorable or unfavorable on her compensation. This opinion is predicated upon the current facts; any alteration to this premise could render this opinion inapplicable. Concerns have arisen about the unusual circumstances of the work of a Councilmember being supervised by City staff and the potential for operational conflicts.
- 2) The Board's conclusion that Councilmember Nelsen does not have a financial interest in a sale of [au]workshop's services to the City does not affect Councilmember Nelsen as an employee of [au]workshop regardless of whether she works on her employer's contracted work for the City. Councilmember Nelsen has provided information that, whether she works on City projects for [au]workshop or not, this will have no impact favorable or unfavorable on her compensation. This opinion is predicated upon the current facts; any alteration to this premise could render this opinion inapplicable.
- 3) The Board concluded that Councilmember Nelsen does not have a financial interest in any specific, pending Council decision regarding [au]workshop nor in any category of Council decision, although there may be instances in the future where [au]workshop is likely to be affected by a City project or decision that impacts [au]workshop as a property owner or business operated in City limits. In that instance, the Board concludes an evaluation of the potential implications for Councilmember Nelsen personally, if any, would be prudent. The Board encouraged Councilmember Nelsen to consider the potential for an appearance of impropriety and consider declaring a conflict where there is a question as to a potential financial interest in a Council decision.
- 4) The Board concluded that Councilmember Nelsen does not have a personal interest in any specific, pending Council decision nor in any category of Council decision, ~~unless she continues to work on City projects for [au]workshop.~~ There may be instances in the future where impacts to or interests of [au]workshop could give rise to a personal interest for Councilmember Nelsen, particularly on projects she is involved in professionally. The Board encouraged Councilmember Nelsen to consider the potential for an appearance of impropriety and consider declaring a conflict where there is a question as to a potential personal interest in a Council decision.

- 5) The Board also considered the application of state ethics laws to Councilmember Nelsen’s circumstances. The Board concluded that the noted state law ethics provision does not bar Councilmember Nelsen from participating in Council decisions as a general matter. However, because she is barred from participating in matters where she is an “agent” for her employer, work by Councilmember Nelsen on City projects, even if not barred under the City Charter, would raise questions as to her participation in decisions impacting [au]workshop projects in which she is involved. The statutory provision increases the likelihood that Councilmember Nelsen would be required to refrain from involvement in Council decisions if she is working on matters for the City. In that event, Councilmember Nelsen would need to declare a conflict of interest on such a matter in advance of City Council’s consideration and refrain from influencing or participating in the matter.

Meeting materials from the March 4, March 31, and April 13, 2026 meetings are available at the [City of Fort Collins Public Documents Portal: Ethics Review Board Meetings](#).

The local ethics provisions considered as part of the Board’s inquiry are: (1) City Charter Article IV, Section 9(b), regarding conflicts of interest, and the definitions section of the City Charter and (2) City Code Section 2-575, establishing related definitions. The state ethics provisions considered as part of this inquiry include Colorado Revised Statutes Sections 24-18-102 and 24-18-109. The Board also considered the applicability of Joint Rule 42 and Article XXIX of the Colorado Constitution (referred to as “Amendment 41”). These provisions are discussed and examined in Ethics Opinion No. 2026-01, as applicable.

Code Section 2-579(d)(1) requires the Board to submit its advisory opinion and recommendation to Council at a regular Council meeting, at which time the Council shall determine whether to adopt the opinion as a final ethics opinion of the Council. Such approval would be by resolution.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Ethics Review Committee recommends adoption of Ethics Opinion 2026-01.

PUBLIC OUTREACH

None.

ATTACHMENTS / LINKS

1. Ethics Review Board Minutes, March 4, 2026
2. Ethics Review Board Minutes, March 31, 2026
3. Ethics Review Board Minutes, April 13, 2026 (draft)
4. Resolution 2026-070