

Regular Ethics Commission Meeting

Civic Center, 2 Park Drive South,  
Commission Chambers Room 206, Great Falls, MT

**CALL TO ORDER:** Chairperson Carmen Roberts called the meeting to order at 3:00 PM.

**ROLL CALL:** Ethics Committee Members (CM) present: Carmen Roberts, Katrina Stark, Robin Beatty and Justin Grohs (Alternate).

**RECOGNITION OF STAFF:** City Attorney Sara Sexe and Assistant City Attorney Joe Cik, Planning and Community Development Director Craig Raymond and Deputy Director Tom Micuda, Deputy City Clerk Darcy Dea, former City Commissioner Bill Bronson and retained attorney for the Ethics Committee, Jordan Crosby, of Ugrin Alexander Zadick, P.C. City Staff and City Commission participating electronically were: Finance Director Melissa Kinzler and Commissioner Tracy Houck.

Due to the COVID-19 health concerns, public participation is welcomed and encouraged as follows:

- Attend in person. Refrain from attending in person if you are not feeling well. The City will require social distancing at the meeting, and may limit the number of persons in the Commission Chambers according to applicable health guidelines.
- Provide public comments via email. Comments may be sent via email to City Manager's Office, PO Box 5021, Great Falls, MT 59403 or by email to: [kartis@greatfallsmt.net](mailto:kartis@greatfallsmt.net) by 10:00 AM on the day of the meeting.

**1. APPROVAL OF MEETING MINUTES - - August 12, 2020.**

**CM Stark moved, seconded by CM Beatty, that the Ethics Committee approve the meeting minutes of August 12, 2020.**

Chairperson Roberts asked if there was any discussion amongst the Committee or comments from the public. Hearing none, Chairperson Roberts called for the vote.

Motion carried 3-0.

**2. APPOINTMENT OF OFFICERS.**

**CM Stark moved, seconded by CM Beatty, that the Ethics Committee appoint Robin Beatty as Chairperson effective at the next Ethics Committee Meeting.**

Chairperson Roberts asked if there were any other nominations, discussion amongst the Committee or comments from the public. Hearing none, Chairperson Roberts called for the vote.

Motion carried 3-0.

**Chairperson Roberts moved, seconded by CM Beatty, that the Ethics Committee maintain Katrina Stark as Vice-Chairperson.**

Chairperson Roberts asked if there were any other nominations, discussion amongst the Committee or comments from the public. Hearing none, Chairperson Roberts called for the vote.

Motion carried 3-0.

**3. JENI DODD COMPLAINT.**

Chairperson Roberts reported that Jeni Dodd's complaint alleges conflict of interest and ethics violations by City elected officials and employees with regard to the Big Sky Country National Heritage Area Inc. The purpose the hearing is to hear complaints regarding officers and employees of the City of Great Falls and not the former Cascade County Commissioner Jane Weber or Cascade County employees.

Chairperson Roberts declared the public hearing open and asked for presentation on the matter currently before the Committee.

Commissioner Houck explained that previously she asserted a right to privacy; however, since she is able to attend the Ethics Committee meeting via Zoom she waived a right to privacy.

Deputy City Clerk Darcy Dea administered an oath to the following witnesses: Planning and Community Development Director Craig Raymond and Deputy Director Tom Micuda, Finance Director Melissa Kinzler, Commissioner Tracy Houck, former Commissioner Bill Bronson and Jeni Dodd.

City Attorney Sara Sexe reported that City representatives participated in what they believed were City-sponsored Heritage Organization activities. The February 3, 2021 public hearing is not about the Heritage Organization or whether the City should or should not endorse one, it is about the activities of City representatives.

Ms. Dodd's complaint involves Montana Code Annotated (MCA), which includes the Montana state legislature's statutory provisions, as well as City ordinances, which are codified in the Official Code of the City of Great Falls (OCCGF).

The idea of establishing a National Heritage Area (NHA) as a benefit to the community was initiated by the Planning and Community Development Department as early as 2013. The concept was developed to enhance the Historic Preservation responsibilities of the Department, community tourism and vitality. It was determined from the City's investigation of Ms. Dodd's complaint that City representatives believed that this was a

City-sponsored effort and were acting within their City responsibilities of the community versus personal benefit. This belief is supported by evidence that the City supported the Heritage organization in the following ways:

1. The Historic Preservation Advisory Commission's (HPAC) goal was specifically the adopted creation of an NHA since 2016.
2. The Tourism Business Improvement District (TBID) identified the establishment of an NHA as a goal in its work plans and budgets.
3. The City's Growth Policy identified that the development of an NHA as a goal that would potentially promote tourism in the Great Falls area.
4. Adopted Resolution 10326 allows the Great Falls Development Authority (GFDA) to be the conduit for funds of a NHA.

There was Planning and Community Development, Finance and IT staff time, resources, and meeting spaces involved in the activities around the establishment of the NHA. City representatives understood that their efforts were part of their responsibilities to act on behalf of the City and they did not maintain separate records or notes of their time, efforts, and provision of City products. To re-create records of the resources would be very time-consuming and perhaps impossible, given the time that has passed since the activities took place. City Attorney Sexe commented that she had previously thanked Ms. Dodd for bringing the issue to the City's attention for correction and suggested that the EC consider the matter resolved.

The primary opinions from City Attorney Sexe include:

1. There is no violation of Montana statute and City Attorney Sexe's opinion is supported by the fact that the County Attorney advised that Ms. Dodd's complaint was provided to the Montana Attorney General's (AG) office, and the AG's office declined to address the alleged statutory violations.
2. Regarding the OCCGF, there were issues where technical violations occurred involving the charging of fees, which was set by City Commission resolutions. City representatives did not flout any City ethics rules for their personal benefit, but instead were acting consistent with what were their perceived City duties to the community.

City staff believed that there was Commission support for the Heritage organization; however, the fees set by Commission resolution for Mapping services for City sponsored events should have been charged. After Ms. Dodd provided her complaint to the City, the issue was corrected by the City Manager's office. Because of this, City Attorney Sexe requested that the Ethics Committee (EC) recognize this correction and choose not to refer the matter to the County Attorney.

Ms. Dodd's first allegation is that the City of Great Falls violated Mont. Code Ann. § 2-2-121 and the OCCGF § 2.21.050 by accepting funds on behalf of the Heritage organization. The Legal Department did not find evidence that individual City members

of the Heritage organization benefitted, for their “private business purposes,” from the Finance Department’s accepting funds in trust on the organization’s behalf. The funds were not intermingled with City funds, and this practice is common for the City Finance Department to track project expenses of City sponsored activities. The City accepting funds on the Heritage organization’s behalf did not violate the above-cited statute.

Additionally, OCCGF § 2.21.050 prohibits the use of City position to secure unwarranted privileges or advantages for individuals or others to secure financial gain for individuals or an associated business organization; or to use City property for personal convenience or advantage.

After the Heritage organization incorporated in 2015 and continuing until the City Commission formally supported it in Resolution 10326, the use of City Finance Department resources could give the appearance that City resources were used for the benefit of a private non-profit organization, a benefit which was not available to the general public. The City does not have a fee resolution for the charging of Finance department staff time, even if the staff kept track of its time on this issue, which it did not. There is no resolution requiring the reimbursement of any Finance department time.

City Attorney Sexe requested that the EC find that there is not substantiation of either a Statutory or an Ordinance violation, and then it would not be referred to the Cascade County Attorney, or City Manager for further disposition on the Motions regarding Complaint No. 1.

Ms. Dodd also alleges violations of Mont. Code Ann. § 2-2-121(2) (a) and OCCGF § 2.21.050 by City employees using City GIS Mapping staff time and resources in support of the Heritage organization. Under the MCA, there is no evidence that the City members of the Heritage organization personally benefitted from the use of GIS and planning time and resources. While the organization itself may have benefitted from the use of these resources, various City departments often provide assistance to other community organizations when they support City purposes.

Because the City members of the Heritage organization did not personally benefit from the use of GIS Mapping and planning resources, there is no violation of Mont. Code Ann. § 2-2-121. A technical violation of OCCGF § 2.21.050 (B), (F), and (L) occurred from the use of City resources for the benefit of the Heritage organization without the normal charges. Ms. Dodd did not allege (F), but in evaluating the issue, it is appropriate to include this.

While these services were provided for the potential benefit of the City pursuant to the Growth Policy, the Tourism Business Improvement District (TBID) budget and work plan, and the Historic Preservation Advisory Commission (HPAC) goals, the Heritage Organization should have paid fees for the services as set by Commission Resolution, like other non-city organizations.

Former City GIS coordinator Jeff Hedstrom indicated that these resources were not tracked because staff believed that they were working within the scope of their City duties. Thus, without significant additional staff time and evaluation, reimbursement of any fees or costs would take time away from current City duties.

Regarding Complaint No. 2, City Attorney Sexe requested that the EC find that there is not substantiation of a Statutory violation. Because the issue has been internally addressed, it should not be referred to the Cascade County Attorney.

Ms. Dodd alleges that violations of Mont. Code Ann. § 2-2-121(2)(a) and OCCGF § 2.21.050 by City employees for the use of City facilities for the Heritage organization's board meetings. The Heritage organization's Board of Directors met in various locations of the Great Falls Civic Center on a number of occasions between 2015 and 2019. These meetings were designated either as City-hosted meetings, or were funded by HPAC funds. This ultimately resulted in the organization's not paying fees for use of the various venues in the Civic Center.

None of the City representatives personally benefitted by the use of the City facilities. While the organization itself benefitted by the use of the facilities, this practice is not uncommon as many other organizations are permitted use of City facilities, under City sponsorship. Because none of the City officials that were a part of the Heritage organization personally benefitted from the use of the City facilities, there is not an appearance of a violation of Mont. Code Ann. § 2-2-121(2)(a).

There was a technical violation of OCCGF § 2.21.050 (B), (F), and (L) from the use of meeting venues in the Civic Center without charge for the Heritage organization. However, there are reduced fees for City sanctioned organizations such as the HPAC. Page 123 of the Agenda Packet contains an internal City memo regarding room charges for City sponsored events. If staff does not require set up or tear down, there is no charge. The Heritage organization meetings required no setup or teardown, thus no charges would have been incurred from the room use if they were City sponsored.

Regarding Complaint No. 3, City Attorney Sexe requested that the EC find that there is not substantiation of a Statutory violation and should not be referred to the Cascade County Attorney, or to the City manager for further disposition.

Ms. Dodd alleges a violation of Mont. Code Ann. § 2-2-121(5) (b) by former City Commissioner Bill Bronson for traveling to Washington D.C. to meet with Montana's Congressional Delegation regarding the establishment of an NHA. Mont. Code Ann. § 2-2-121(5) (b) prohibits public officials from using public office to attempt to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

It was determined that former Commissioner Bronson did not violate Mont. Code Ann. § 2-2-121(5) (b). Former Commissioner Bronson did not use his influence as a City Commissioner to promote the establishment of an NHA, although doing so would have

had indirect support of the City Commission. Mr. Bronson was acting in his professional capacity as an attorney representing the Heritage organization board. Therefore, Mr. Bronson was not using his position as a City public official to influence another government entity.

Regarding Complaint No. 4, City Attorney Sexe requested that the EC find that there is not substantiation of a Statutory violation and that it should not be referred to the Cascade County Attorney.

Ethics rules were implemented to prevent conflict between public interests and private or personal benefit and to further the duty of local representatives to the public. These rules recognize that some actions are conflicts per se between public duty and private interest, while other actions may or may not pose conflicts depending upon the surrounding circumstances. Under the facts and circumstances, the recommendation is that no referral be made to the County Attorney or City Manager for further action, and that the EC consider the issues resolved.

Planning and Community Development Director Craig Raymond reported that Ms. Dodd and other community members have mounted a coordinated attack on the concept of pursuing a NHA designation. They have alleged that a heritage area designation could or would impair or negatively affect citizen's property rights. There has been testimony from community members during Cascade County Commission hearings where false statements have been made, as well as impugning the character and professional reputation of those who support and promote a heritage area designation.

Director Raymond commented that he feels he must defend the question of ethics for himself, as well as the City staff. He added that he disagrees with the allegations and the position that City Attorney Sexe has taken with regard to the findings of ethics violations in the analysis contained in the Agenda Packet.

He referred to City Attorney Sexe's November 16, 2020 written opinion stating that the Growth Policy is statutorily permitted. He explained that the Growth Policy is actually statutorily required and far more significant than a grant application.

Director Raymond explained that the Mansfield Center for the Performing Arts manages scheduling events and meetings in the Civic Center that describes the criteria by which certain events and meetings might receive a discount or be free of charge. The criteria had been met during the NHA meetings in the Civic Center.

Director Raymond concluded that the actions that the City took with regard to the NHA were not designed to benefit any specific individual, the Planning and Community Development Department, the NHA or City Government and that it was to benefit the community.

**Jeni Dodd**, City resident, commented that she opposes the NHA; however, her complaint was specifically about the transparency and accountability of City government. She

expressed concern with regard to utilizing City resources and time to support a nonprofit effort that was not approved by the City Commission or voted on by citizens. Ms. Dodd further expressed concern with regard to cronyism, as well as City staff supporting a City sanctioned program. She mentioned that she and several other local organizations have signed a petition opposing the NHA.

Chairperson Roberts asked if the Committee members had any clarifying questions.

CM Beatty received clarification that the Growth Policy was adopted on August 6, 2013 and City staff, the public and NHA members utilized GIS maps. She further received clarification that the fee for a sponsored City event or working groups depends on how significant the event would be.

Chairperson Roberts inquired if the City acting as a custodian of funds for non-city groups is normal practice.

Finance Director Melissa Kinzler responded that it occurs on a normal basis if it is a City endorsed project.

Chairperson Roberts inquired about the push to make the NHA a separate entity since it was established as a separate City endorsed non-profit.

Former Commissioner Bill Bronson responded that the most feasible way for a group of citizens interested in a NHA is to form a separate non-profit corporation. The group also has a tax-exempt designation in order to solicit donations from the private sector.

Planning and Community Development Deputy Director Tom Micuda explained that the HPAC was a key part with regard to a NHA effort and realized it would be too big of a job that would eventually need to be transferred to citizens who would form a non-profit.

Chairperson Roberts received clarification that the impetus for the designation of the GFDA's ability to act on the City's behalf was because it had worked on the grant application.

Written correspondence, (via 2/2/2021 email) was received from **Cheryl McGee, Susan Ashley, Marcia Lennick, J. C. Kantorowicz, Rick and Rose Waldenberg and Mrs. Garnett Rope** in support of Jeni Dodd's ethic complaint.

Speaking in support of Jeni Dodd's complaint was **Win Benson**, City resident, commented that there seems to be a cozy relationship between non-profit organizations and City officials and he expressed concern with regard to ethical violations.

Speaking in opposition to Jeni Dodd's complaint was former City Commissioner Bill Bronson, City resident, commented that it is common for government entities to have a relationship with private entities and non-profit organizations. He concluded that there are laws and rules that allow the public and elected officials to hold other elected officials

accountable if they feel they have violated a law or rule. However, he asked the EC to be mindful of situations of individuals that utilize those rules to carry on their personal political disagreements with elected officials.

Planning and Community Development Deputy Director Micuda clarified that the 2013 Growth Policy is the community's plan to chart the future and sanctioned policy support for the NHA.

Jeni Dodd commented that it was not about approving a NHA, the Resolution allowed the City to apply for a state grant with the grant going to the GFDA and then to the NHA organization. She opined that the Department of Housing and Urban Development (HUD) sanctioned the City for conflicts of interest in dispersing money to various local non-profits. Ms. Dodd clarified that she is a concerned citizen and not someone with personal political disagreements with elected officials.

Chairperson Roberts closed the public hearing and asked the will of the Committee.

**CM Beatty moved, seconded by CM Stark, that the City Ethics Committee find that Ms. Dodd's claims that the City violated Mont. Code Ann. § 2-2-121(2)(a) by accepting funds on behalf of the Heritage organization appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

CM Beatty stated that the documentation from Finance Director Kinzler made it apparent that this is normal practice and every attempt was made to keep funds separate. The City holding the funds provided an additional level of transparency and falls under the annual audit. She concluded that the City did not take funds for any private or personal business purposes and City staff did not personally benefit.

CM Stark stated that there was no private benefit and the City was acting as a pass through on behalf of the Heritage organization.

Chairperson Roberts commented that the MCA is clear and does not feel that accepting funds was a part of any City employees' private business.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**CM Stark moved, seconded by CM Beatty, that the City Ethics Committee find that Ms. Dodd's claims that the City violated OCCGF § 2.21.050 by accepting funds on behalf of the Heritage organization appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.



CM Stark commented that there was no advantage to the City by accepting funds.

CM Beatty concurred with her previous findings and added that there is no fee resolution for charging of Finance Department staff time.

Chairperson Roberts commented that City employees did not use their position to secure any privileges or advantages.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**CM Stark moved, seconded by CM Beatty, that the Ethics Committee find that Ms. Dodd's claims that the City violated Mont. Code Ann. § 2-2-121(2)(a) by using staff time and resources in support of the Heritage organization appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

CM Stark commented that the MCA is clear that the Heritage organization is not a private business and did not benefit City employees.

CM Beatty commented that she appreciates public concern about the input of the ethics process and suggested that better communication from City staff and paying closer attention from citizens could resolve concerns in the future. She added that the Growth Policy is one of the best examples of a foundational document in municipal government that guides City staff.

Chairperson Roberts commented that the Growth Policy indicates that using City staff time and resources is an appropriate use of City resources to explore a NHA idea since it was not a fully formed plan.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**CM Beatty moved, seconded by CM Stark, that the Ethics Committee find that Ms. Dodd's claims that the City violated OCCGF § 2.21.050 by using staff time and resources in support of the Heritage organization appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

CM Beatty concurred with her earlier findings from previous motions and added that staff worked on what they perceived as City Commission direction.

CM Stark commented that there was no private gain, direct or indirect interest by the City

with regard to using staff time and resources.

Chairperson Roberts commented that the practices may have been unclear; however, she appreciates that the City Manager's office corrected the issue with regard to using staff time and resources for non-profits.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**CM Stark moved, seconded by CM Beatty, that the City Ethics Committee find that Ms. Dodd's claims that the City violated Mont. Code Ann. § 2-2-121(2)(a) by using City facilities for Heritage organization board meetings appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

CM Stark commented that the Heritage organization is not the only organization the City has assisted by allowing use of its facilities.

CM Beatty commented that the Heritage organization had no advantage over the general public with regard to the use of City facilities.

Chairperson Roberts concurred and called for the vote.

Motion carried 3-0.

**CM Beatty moved, seconded by CM Stark, that the City Ethics Committee find that Ms. Dodd's claims that the City violated OCCGF § 2.21.050 by using City facilities for Heritage organization board meetings appears to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

CM Beatty commented that the Heritage organization met all of the criteria under the OCCGF. She added that the Heritage organization holding its board meetings in City facilities was beneficial by allowing the general public to attend.

CM Stark commented that there was no personal convenience or advantage gained by City staff for allowing the Heritage organization use of City facilities.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**CM Stark moved, seconded by CM Beatty, that the City Ethics Committee find that Ms. Dodd's claims that Bill Bronson violated Mont. Code Ann. § 2-2-121(5)(b) by**

**traveling to Washington D.C. to meet with Montana’s Congressional Delegation on behalf of the Heritage organization appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

Chairperson Roberts commented that it is clear that Mr. Bronson was acting in his capacity as a private attorney for the Heritage organization. She added that Mr. Bronson is entitled to private employment as well as being a City Commissioner.

CM Stark commented that there was no evidence that influence was exerted by Mr. Bronson and he was acting as an attorney for the Heritage organization.

CM Beatty commented that Mr. Bronson was very cognizant of the ethics codes and he was very clear of his intent to being a private attorney for the Heritage organization.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**CM Beatty moved, seconded by CM Stark , that the City Ethics Committee find that Ms. Dodd’s claims that Bill Bronson violated OCCGF § 2.21.050 by traveling to Washington D.C. to meet with Montana’s Congressional Delegation on behalf of the Heritage organization appears not to be substantiated.**

Chairperson Roberts asked if there was any discussion amongst the Committee.

It was the consensus of the EC that Mr. Bronson drew a line between his public work as a City Commissioner and his private work as an attorney.

Chairperson Roberts called for the vote.

Motion carried 3-0.

**4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM COMMITTEE.**

Chairperson Roberts announced that the EC will make written findings of the decisions made at the February 3, 2021 Ethics Committee meeting.

**PUBLIC COMMENT.**

None.

**ADJOURNMENT.**

There being no further business to come before the Committee, CM Stark moved, seconded by CM Beatty, to **adjourn the regular meeting of February 3, 2021, at 5:00 p.m.**

Motion carried 3-0.

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Carmen Roberts, Chairperson

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Acting Secretary – Deputy City Clerk Darcy Dea

Minutes Approved: June 9, 2021