



# Municipal Board of Ethics

632 West 6th Ave. Ste. 250 Anchorage, Alaska 99501

Mailing Address: P.O. Box 196650 Anchorage, AK 99519-6650

#: 2018 - 5

Meeting Date: 12/7/18

Phone: 343-4311

Municipal Clerk: Barbara A. Jones

## CONFIDENTIAL Request for an Advisory Opinion CONFIDENTIAL

**Anchorage Municipal Code: Chapter 1.15 CODE OF ETHICS, AMC 1.15.150 Advisory Opinions.**

- A. Current, former, or potential **public servant** may request an advisory opinion regarding the applicability and interpretation of this chapter related to actions, rights, or conflict personal to the inquirer.
- B. The municipal clerk, the municipal ombudsman, and the municipal attorney may request an advisory opinion from the board of ethics regarding the applicability and interpretation of this chapter.
- C. In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board's advice so long as the facts remain substantially unchanged from those represented to the board in the inquiry.
- D. **A request for advice is confidential** unless confidentiality is waived by the person requesting an advisory opinion.

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| <input type="radio"/> <b>Current</b>   | <input type="radio"/> <b>Employee</b>                    | <input type="radio"/> <b>Municipal Clerk</b>     |
| <input type="radio"/> <b>Former</b>    | <input type="radio"/> <b>Board Member</b>                | <input type="radio"/> <b>Municipal Attorney</b>  |
| <input type="radio"/> <b>Potential</b> | <input checked="" type="radio"/> <b>Elected Official</b> | <input type="radio"/> <b>Municipal Ombudsman</b> |

AMC 1.15.030D. **Public Servants** - all persons within the scope of this code, including employees, board members, and elected officials.

In accordance with AMC 1.15, I am requesting applicability and interpretation of the following **section of the Municipal Code of Ethics**: \_\_\_\_\_

Please describe your request: MOA municipal Attorney Dee Ennis recommend GBOS request an Advisory Opinion on a citizen complaint about conflict of interest. See attached email correspondences for more information.

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*(Attach separate sheets as necessary.)*

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| <input checked="" type="radio"/> <b>Waive Confidentiality</b> | <input type="radio"/> <b>I Request Confidentiality</b> |
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I understand that advisory opinions are required to be posted on the Municipal Website. The Board shall make sufficient deletions to prevent disclosure of the persons who have requested anonymity. AMC 1.15.150F. **I affirm to the best of my knowledge that my statement is true, correct, and complete.**

Signature of Requestor: \_\_\_\_\_ Date: 11-15-18

Printed Name: Kyle Kelley Phone Number: ( 907 ) 343 - 8374

Email Address: KelleyKT@muni.org

Mailing Address: PO Box 390 Girdwood, AK 99587

## Jones, Barbara A.

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**From:** Kelley, Kyle T.  
**Sent:** Monday, November 5, 2018 9:37 AM  
**To:** Hess, Darrel W.; Sherwood, Todd K.  
**Subject:** FW: Conflict of interest issues

Good Morning Darrel and Todd,

I've included both of you on this email as you've dealt with Brenden and Julie Raymond-Yakoubian complaints before related to the propose new Nordic trail (Forest Trail Loop) in Girdwood. Below is a email that GBOS received late Friday from Brenden and Julie raising concerns about a potential conflict of interest and not disclosing it properly. GBOS has asked me to seek outside council to verify if they have violated the conflict of interest and this why I'm emailing you. GBOS doesn't believe they have violated the rule but wanted to confirm it.

Please let me know if I can provide anything to help make better sense of this, or if I should be sending this request to someone else.

Thanks.

Kyle

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**From:** brenden@jbr-y.net [mailto:brenden@jbr-y.net]  
**Sent:** Friday, November 02, 2018 4:33 PM  
**To:** gcfox@gci.net; rsnitzer@alyseskaresort.com; eboone007@yahoo.com; gbos.medgington@gmail.com; christina.cope@gmail.com  
**Cc:** Kelley, Kyle T. ; Tyler, Margaret S. ; julie@jbr-y.net  
**Subject:** Conflict of interest issues

Dear Co-Chairs Fox and Snitzer,

We would like to discuss some problems that have occurred with GBOS process, and receive a written response from GBOS regarding this.

We believe the GBOS has not followed the proper rules and procedures with regard to conflict of interest issues. This has resulted in technically deficient and inappropriate voting with regard to the proposed Forest Loop trail. We have raised this issue with the GBOS in the past and have not received a satisfactory nor complete response.

Four of the GBOS Supervisors have potential conflicts related to this proposal. Supervisors Edgington, Fox, and Boone all have cast one or more votes as Supervisors on Forest Loop issues while also being members or donors of time and/or money to the Girdwood Nordic Ski Club, which was the applicant for that proposal. Put another way, these 3 Supervisors have been members of the applicant, yet have cast votes on that applicant's proposal. We are not aware of any Supervisors in the past ever having even disclosed this potential conflict and it having been fully discussed at a GBOS meeting, including at votes related to the Forest Loop. The only time we are aware of it even being discussed at all was when Brenden raised the issue to Supervisors at the September meeting during public comment; when he did this, two Supervisors (Edgington and Fox) spoke to the matter, though it was not discussed amongst the entire Board. Additionally, it was not subsequently disclosed or discussed by any Supervisors at the November vote relating to the Forest Loop.

Additionally, Supervisor Snitzer is an employee of Alyeska Resort. Resort ownership has been a heavy

supporter of the Nordic Club, financially and otherwise. In fact, in the packet of materials before GBOS on this matter, in a letter dated August 10th, then-resort owner John Byrne clearly states that BOTH the resort and himself laud the Club's proposal and intend to assist the Club in fundraising for it. (The recent change in resort ownership is not relevant here either, for two reasons: 1) past voting on this proposal occurred during Mr. Byrne's ownership, and 2) this statement explicitly pertained not just to Mr. Byrne's views but also the Resort's itself - i.e. Resort policy - for which there is no currently publicly stated reason to believe there has been a change on this matter.) It is hard to see how that does not qualify as a significant financial conflict of interest for Co-Chair Snitzer as an employee of the Resort.

Furthermore, Supervisor Boone attempted to abstain from voting on the Forest Loop motion at the October GBOS meeting owing to her stated long involvement with the issue. This was not clarified further, but this did seem like at least an attempt to state a potential conflict of interest. Co-Chair Fox stated that Supervisor Boone was not allowed to abstain unless she had a conflict, and as such she was 'forced' to vote, which she then did.

The above-noted actions/lack of actions are contrary to GBOS and Muni rules and procedures.

Per the GBOS Rules and Procedures: "No Member may vote on any question(s) upon which they have a direct or substantial but indirect financial interest. Any Member who has a conflict is to state this publicly and may request to be recused from the vote. Members may not abstain from voting without supplying a reason that is accepted by a majority of the GBOS members."

The GBOS is also subject to the Muni's Code of Ethics. Per the Muni's Code of Ethics, "A public servant shall not participate in an official action in which the public servant or a member of the public servant's immediate family has a substantial financial or private interest. Prior to participation in official action, the public servant shall disclose financial or private interests for determination of whether they are substantial." The Muni Code also specifies a procedure for disclosure, which in this case would entail the following:

- "a. Prior to comment, deliberation, or decision on a matter coming before the body, the member or official shall disclose the nature of the interest in sufficient detail to permit the other members of the body to determine if the interest is substantial.
- b. If the presiding officer exercises parliamentary authority by making an initial ruling on a disclosure of financial or private interest, the decision of the presiding officer may be overridden by the majority vote of the body.
- c. The member of the body making the disclosure shall not rule or vote on whether the financial or private interest is substantial.
- d. A member or official shall not be sanctioned for acting in compliance with the determination of the body if the financial or private interest is fully and fairly disclosed.
- e. The jurisdiction of the board to determine a violation under this chapter by an elected official for participation in a matter after disclosure of a financial or private interest is expressly limited to the sufficiency of the disclosure."

In all of the cases noted above, one or more of the rules and procedures outlined above have been violated. For example:

- Supervisors did not disclose their potential conflicts of interest for consideration as regards their relationships with the Nordic Club and Alyeska Resort on a number of occasions. This was potentially required per GBOS rules for Supervisors Boone, Fox, and Edgington, and definitely required by Supervisor Snitzer. This was required for all four of these Supervisors per the Muni's Code of Ethics.
- The "determination" by Co-Chair Fox at the October meeting that Supervisor Boone could not abstain is technically deficient as pertains to following the proper GBOS procedure regarding conflicts. It appeared Supervisor Boone was potentially identifying a conflict. The matter should have been brought to a

discussion and vote by the majority of the Board members to determine if her desired recusal was acceptable.

-Supervisor Snitzer, as noted above, has a clear financial conflict of interest as relates to this proposal, and should have been recused from voting at the October meeting on this matter.

-It should be noted that the solo discussions and self-determinations by Supervisors Fox and Edgington in response to Brenden's raising these concerns at the September meeting clearly do not alleviate/address any of the requirements noted above.

Following proper ethical and procedural process, and maintaining the integrity of our public process, is very important, even aside from specific outcomes. Additionally, had these matters been handled properly, they would have resulted in the very least in a different vote count, and potentially a different vote outcome. A different vote outcome would be a very significant event for the valley in many ways. Even a different vote count is significant - it is important that the procedurally-correct vote tally be reflected for the public record, not only for posterity, but also because subsequent bodies are taking up these issues in the future as well (i.e. HLB and the Assembly), and, additionally, the changed margins and discussion associated with it might also have led to an entirely different vote result had proper procedure been followed.

So, from a number of perspectives, the failure to follow proper process is a significant problem, and we would like to hear how GBOS intends to address and remedy this issue. Again, we are formally requesting a written response to this.

Thank you,  
Brenden and Julie Raymond-Yakoubian  
PO Box 924  
Girdwood, AK 99587