

BEFORE THE CITY COUNCIL OF COLORADO  
SPRINGS

Ethics Complaint 2015-01

Motion to Recuse and/or Disqualify, and Motion to  
Dismiss

Respondent Helen Collins, city council member, moves that the city council, and each of those other eight council members, be disqualified from voting on the hearing officer report in this case, and/or that they recuse themselves individually from such voting, and that the report be rejected and the case dismissed. The grounds are:

1. Each of the eight members has a conflict of interest, in that each one is named in a pending ethics complaint filed last September by Collins and Douglas Bruce. Members cannot be neutral or objective in a case involving ruling against a person who has accused them of many detailed ethics violations. Their conflict of interest is obvious.
2. Members also cannot be neutral when they are the complaining party. Accusers cannot serve as judges of their own accusations, nor issue any form

of censure or punishment. The city made up its mind against Collins when its complaint was filed by its attorney on behalf of the city in January 2015.

3. The council has shown bias by stating there will be no public comment during its meeting. The council agreed at the last meeting Collins should not even attend, much less speak in her own defense. Their minds are made up and they don't want to be confused with the facts. That is the classic definition of bias.

4. Council's action is also a violation of the Open Meetings act to deny citizen comment before decisions on public matters. Collins is being denied due process of law to prevent her from speaking, or even attending, this vendetta. The actions of council impose punishment before the verdict. Collins is being deprived before judgment of her legal rights as a council member and citizen, including her First Amendment freedoms of speech, association, and petition.

5. Council member Merv Bennett has received many direct communications from the hearing officer that the hearing officer did not provide to the other seven members. He therefore has an advantage over the other members, similar to a juror with information other jurors lack. The hearing

officer sent that information on the grounds that Bennett was "interested" in the case. That finding shows Bennett is not a "disinterested" decision maker, but is interested and believes he is entitled to inside information more than other council members.

6. Bennett signed an affidavit improperly notarized by the city clerk to be the affidavit of the CLERK, not of Bennett (!) That facially void affidavit admits the city council never appointed the hearing officer as required by the ethics process. No decision was made at a public meeting. The "choice" of hearing officer was not an affirmative appointment by a recorded vote, but a default by silence. The choice was made by an illegally-appointed attorney, Suzanne Dugan. The default decision by email silence violates a state statute known as the Open Meetings law, which is attached to the city charter. To protect his pay check, the hearing officer lied in writing and stated he was in fact appointed by the city council. No such council vote ever occurred.

7. The original complaint claimed Collins cost the city about \$7,500 related to the second judgment by the city against Bruce, and that Collins should pay twice that amount. The claim was rejected as false and impossible. The ethics ordinance allows double damages only if Collins personally benefited from the transaction. Collins did not receive one

penny for signing her name as an intermediary. The second judgment did not surface until after Collins had signed the deed to the buyer. It was not listed on the closing statement that Collins signed on Friday, December 5, 2014. That closing statement authorized payment of the first judgment, almost three times greater. No amended complaint was ever filed. The IEC ruled on its own fabricated complaint, never put in writing, even though it has no jurisdiction to file ethics complaints, but only to investigate complaints filed by others.

8. At prior council presentations on this issue, Collins was denied the right to participate and to vote. Special software added a "Recused" column to the electronic vote tally board. A secret meeting was held; Collins was excluded. Bennett arranged to evade the state public meetings law by holding meetings with each of the other seven members, one at a time, to evade the law that meetings of three members must be public. The result of that series of illegal secret meetings was the decision to prosecute Collins.

9. The council demonstrated overt hostility to Collins in 2015 by setting the recall petition for an election before the legal time for filing a protest of the signatures had expired.

10. The council's city attorney, who filed the

January 2015 complaint on their behalf, timed the filing to coincide with the pending recall petition. It was not filed for 44 days after the real estate sale, and filed only to aid the recall election, which failed. The city attorney, council's agent, also violated the confidentiality requirement of the ethics process by copying the complaint to a local newspaper reporter, Pam Zubeck, by its anonymous delivery, in order to influence the upcoming recall election.

11. Council member Keith King announced on tape at the council meeting that received the IEC charge that he agreed with its recommendation. That is the exact definition of "prejudice"--a pre-judgment prior to any hearing.

12. Council member Bill Murray contacted Collins by a 2015 note and said she should admit her liability, or the government would go after her friend Douglas Bruce, who was facing a probation revocation hearing. That is extortion and blackmail--a threat to punish a third party if the accused does not admit liability. That animus disqualifies Murray from judging the case. (See Exhibit 2.)

13. Council member Murray publicly berated Collins and Bruce with name-calling, libelous statements, a false charge of "parole", etc. He wrote Collins was "behind the 8-ball," an

implication she was liable even before the hearing officer furnished the report. That term is a euphemism for being in trouble. He ridiculed the complaint against council and falsely said it was unsigned. (See Exhibit 3.)

14. Council member Jill Gaebler publicly called Douglas Bruce a "jackass" on her Facebook page in 2015, on the same page on which she resolved to be kind to everyone (!) Bruce objected at a public council meeting and Gaebler did not deny her statement. When the hearing officer report was delivered to council, Gaebler announced she would vote for censure and wished the penalty could be greater. Her vindictive actions show she is biased and unfair.

15. Council member Tom Strand stated publicly at a 2016 council meeting that hiring a hearing officer cost the city the same as having the council conduct the hearing itself. This is obviously false. The hearing officer was paid \$450 per hour and warned in writing he would demand \$3,000 per day for three days if the hearing were postponed or canceled. The hearing officer was not neutral, but had a great financial incentive to rule in favor of his employer. Council members are not paid extra for meetings. A council member who tells such an obvious falsehood is disqualified from judging the report.

16. The council has spent tens of thousands of dollars on this vendetta without any process of public appropriation of funds as required by the charter and state law. Collins was not allowed to vote on public appropriations, which is one duty of any council member. That discrimination shows overt official bias and a deprivation of her civil rights under state and federal law.

17. A list of 32 improprieties and illegalities in this case is incorporated here as Exhibit 1.

The motions to recuse/disqualify should all be granted, and the report should be rejected and the case dismissed.

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