

IEC COMPLAINT FORM attachment

PAGE ONE

Respondents:	Phone:	Email
Councilmembers (Gang of 8)		
Merv Bennett	385-5469	Mbennett@springsgov.com
Jill Gaebler	385-5483	jgaebler@springsgov.com
Tom Strand	385-5486	tstrand@springsgov.com
Bill Murray	385-5485	bmurray@springsgov.com
Larry Bagley	385-5493	lbagley@springsgov.com
Don Knight	385-5487	Dknight@springsgov.com
Andy Pico	385-5491	Apico@springsgov.com
Keith King	385-5470	Kcking@springsgov.com
Mayor		
John Suthers	385-5900	Jsuthers@springsgov.com

Address:  
City Hall  
107 N. Nevada Avenue  
Colorado Springs CO 80901

City Attorney  
Wynetta Massey 385-5909 wmassey@springsgov.com

Address:  
30 S. Nevada Ave. #501  
Colorado Springs CO 80903

CEO, Colorado Springs Utilities  
Jerry Forte (719) 448-4800 jaforte@csu.org  
111 S. Cascade Ave. Colo. Spgs.

## PAGE TWO DESCRIPTION OF ETHICAL VIOLATIONS IN 2015

1. Charter section 13-20 (b) says, “The City of Colorado Springs shall not provide City paid benefits to Councilmembers other than those mandated by federal or state statute.”

The Gang of 8 feed at the public trough, literally, paid by the general fund. That is a “benefit” as described by the city auditor, who also feeds at the public trough. He estimated the annual food cost at \$4,500, so it is more than \$500 per eating member, since Collins does not eat at public expense.

Each Councilmember also gets an \$8,000 yearly expense account, which they may use for travel, political meetings, and other costs. Collins refuses an expense account. This is also a “benefit.” Many members have traveled on many junkets at taxpayer expense. See Exhibit 1 auditor report.

Councilmembers also get city tax-paid contributions to their pension rather than a section 401 (k) or like pension funded solely by the councilmember.

These City tax-paid benefits are not mandated by federal or state statute.

2. Charter section 13-90 (b) says the Council may employ private attorneys, “whose compensation shall be fixed by the Council at the time of employment.”

The Gang of 8 never publicly voted to hire the IEC attorney or the council's ethics attorney. Over \$42,000 has been spent so far. No City money may be appropriated except by Council. The Gang of 8 tolerated misappropriation of public funds by Bennett and the Council's private attorney, whose own salary was itself a misappropriation, as was the salary for Jane Feldman, working for the IEC. Secret appropriations of public funds are illegal and unethical. Compensation was also not “fixed,” but fluid, exceeding the original caps. These illegal payments are a matter of public record.

3. Appointments of the first and second ethics hearing officers were not with Council appropriations, so they are illegal and unethical. It is also unethical

for the City to pick and pay for the hearing officer, rather than have one named by a neutral party in cooperation with both parties. Also, Collins requested the Council hear the case rather than a third party; that request was denied. Now the plan is that the Council will make a decision without hearing the evidence. That is more than the mere appearance of ethical impropriety; it is overtly rigged and led to the disqualification of the first hearing officer, who had a gross bias in the case.

4. Article XI , section 2 of the state constitution prohibits a city from making a grant to a private corporation, yet the Gang of 8 has done so repeatedly. A violation of the state constitution and one's oath of office is also an ethical violation and costs city taxpayers for that misconduct. The list of such grants is immense, from the general, Utilities, LART tax, and other City funds.

5. Mayor Suthers sent a letter to all Council members offering them a 50% discount on a benefit with an admitted fair market value of \$500. His friend then agreed to waive the other 50%, so the \$500 value would cost zero. Why? The reason given was the councilmember's public office. That is not only an improper influence by a gratuity, but close to graft. The Mayor and his friend aided and abetted explicit violation of the code of ethics that prohibits council members from accepting gifts over \$50. It seems four or five members took that gift. See five Exhibit 2 email records.

6. The Gang of 8 has kicked back public funds to groups making campaign donations to the Gang of 8 as individual council members and candidates. Money came from Utilities funds and the general fund. Money laundering is certainly in fact, as well as in appearance, ethical impropriety. See Exhibit 3.

7. Councilmember Bill Murray attempted to extort Collins into admitting the ethics charges against her. His leverage was warning that her failure to do so would lead to likely probation revocation and jailing of her friend, Douglas Bruce. See Exhibit 4 email sent to her. That felony is unethical. So was his

intervention to negotiate with the “accused” for a settlement when he would be sitting in judgment in her case.

8. The Gang of 8 votes to steal \$31 million yearly from Utilities in violation of TABOR and voter-approved ordinance Issue 300. That deprives citizens of utility rate reductions plainly specified in the two-sentence Issue 300 for the phase out of the \$31 million over eight years, starting in 2010. Instead, the Gang of 8 allowed a private attorney to be hired, costing city taxpayers about \$100,000 so far, to fight Douglas Bruce's lawsuit that included a request to enforce Issue 300. The lawyer was not hired in compliance with section 13-90 (b) nor by a public appropriation for a fixed compensation. The Gang of 8 has also violated payment phase outs in other ways, and the second sentence of Issue 300, prohibiting loans, gifts, and subsidies by City and enterprises. The Utilities violations of issue 300 were directed by Jerry Forte.

9. The Gang of 8, which is also the Utilities board, intentionally collects and spends millions yearly in illegal state, county, RTA, and city sales taxes on residential use utilities. That money should be refunded to taxpayers with interest per TABOR. Instead, it is laundered as “excess revenue” and returned to the General Fund to be spent as *de facto* taxes without voter approval, and violating charter section 6-40 (a) and the TABOR definition of “enterprise.” The Utilities billing policy was directed by Jerry Forte.

10. The Gang of 8, which is also the Utilities Board, imposes illegal and outrageous charges on utility customers for periods of non-use. For example, it charged Douglas Bruce \$10,000 to restart a water account in his tenant's name, when the standard turn-on charge for others is \$30. Utilities has done this repeatedly with Council's approval. Bruce faces illegal liens of tens of thousands of dollars when he or his tenant orders new water service in the future. That discriminatory and punitive extortion is unethical and illegal. The Utilities policies stated in this paragraph were directed by Jerry Forte.

11. The Gang of 8 violates charter section 13-80 and 13-90 (a) in its hiring and salary of respondent Massey and her assistant city attorneys. Their salary must be set by public ordinance, but is not. Charter violations are unethical.

12. Respondent Massey withheld her complaint on the Samuel Point condo transfer for 44 days. The complaint was then filed with the IEC in order to aid the recently-filed recall petition against Collins. The IEC records were confidential but were anonymously delivered to a local reporter in order to aid the recall campaign. It is unethical to make an ethics complaint for political ends, and to violate the confidentiality of such records. Massey did so because she resents Collins for publicly opposing Massey's new \$192,000 salary. Massey's complaint was frivolous and patently false and its claim that Collins cost the City money was rejected. It was Massey's complaint that has cost the City over \$42,000 in its witch hunt against Collins and Bruce.

13. The Gang of 8 violated the Open Meetings law of Colorado. Bennett held seven meetings--his illegally-appointed attorney and only one other member of council each time. This was an evasion of the letter and spirit of the law. Collins was denied participation in any meeting and was thus punished before she was ever found liable for any violation. See Exhibit 5.

14. The Gang of 8 has deprived retail sales tax vendors from their collection fee, costing them millions of dollars. That action was a "change in tax policy directly causing a net gain in tax revenue" that TABOR requires be voter-approved. It is unethical to violate the city charter and state constitution and to collect illegal tax revenue and to refuse to refund it.

15. The Gang of 8 and respondent Massey have violated the rights of Collins to a fair hearing and IEC procedures. The IEC should withdraw its report and recommend dismissal with prejudice of the case against Collins. Exhibit 6.

## PAGE THREE PROPOSED REMEDIES

Each respondent should be personally liable for and fined twice the dollar amount his or her actions cost the City. That was Massey's proposed penalty against Collins. It is the penalty authorized in the code of ethics.

Continuation of the actions complained of here should be considered new ethics violations, with new penalties of the same nature.

The City Attorney should be required to repay personally the City's cost of her frivolous and bad faith complaint, including all attorney fees the City incurred in relation to her complaint.

The Mayor should be censured for encouraging, promoting, aiding, and abetting multiple Councilmember acceptances of improper gifts by the Pikes Peak Posse for which he wrote the letter offering a discount state fair gift.

The Gang of 8 members who took that state fair gift should each be required to pay twice its \$500 individual value to the general fund.

Each member of the Gang of 8 should be individually required to pay the general fund 1) twice the amount of their estimated \$500 annual food benefit, 2) all expense account money they have spent, and return an unspent balance, 3) total City contributions to their pension, and 4) prohibit forthwith budget practices giving any or all such benefits.

Each member of the Gang of 8 violating the appropriations ban in Article XI, section 2 of the state constitution should be required to repay the general fund one-eighth of each such illegal appropriation for which they voted "yes," whether appropriated from general funds, Utilities funds or other City funds.

Each member of the Gang of 8 voting "yes" should be required to repay the general fund one-eighth of all illegal payments made to private attorneys regarding the Collins ethics case and the defense in the Douglas Bruce suit.

Jerry Forte should be required to repay Douglas Bruce with interest for water

turn-on charges Bruce paid over \$30 each; to correct Utilities residential bills to end sales taxes; to refund illegal sales taxes on those bills; to end payments to the City in violation of issue 300; and to refund with interest to Utilities customers the charges since 2010 that were phased out by issue 300.

Each member of the Gang of 8 voting “yes” on the Utilities budget to collect revenue, temporarily or permanently, from an illegal residential utilities tax, should be required to repay taxpayers based on the formula in the paragraph immediately above, plus interest.

Each member of the Gang of 8 voting to collect sales tax revenue based on the reduction in the vendor fee should be required to restore the 1991 vendor fee and pay the vendors, with interest, the fees of which they were illegally deprived.

Each member of the Gang of 8 must vote to implement the city ordinance that arose from Issue 300, fully and completely, including all requirements of both sentences. All future budgets shall continue the eight-year phase out as though it had been started in 2010. All utility rate reductions that were not made should be computed and refunded with interest in January 2016.

Each member of the Gang of 8 must rescind Utilities water turn-on charges over \$30, and refund the excess retroactively since that policy was begun.

Councilmember Murray should be publicly censured by Council for his attempted extortion against Helen Collins and his unethical negotiations.

Each member of the Gang of 8 should be required to vote on an ordinance for each named city attorney and assistant city attorney, fixing the salary of each as provided by the charter, and to do so in all future appointments.

Each member of the Gang of 8 should be offered a waiver of personal financial liability if they will 1) require the City to refund to taxpayers, retailers, and utility rate payers the sums the illegal actions have caused those victims, with interest, 2) accept a statement of censure and 3) resign from the Council in 2015, never to serve in City government again.