

**From:** [City Clerk's Office](#)  
**To:** [John Neslage](#); [City Clerk's Office](#); [City Clerk's Office](#)  
**Cc:** [Tate, Teresa](#); [Rivera-Vandermyde, Nuria](#); [Llanes, Sandra](#); [Poe, Erin](#)  
**Subject:** RE: Confirming Receipt and Sufficiency of Code of Conduct Complaint w Exhibits and Sworn Statement  
**Date:** Thursday, January 19, 2023 6:30:29 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

Mr. Neslage,

Your complaint has been received and will be reviewed and processed in accordance with the Boulder Revised Code.

I will keep you abreast of the progress.

Elesha

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**From:** John Neslage <[john.neslage@sbcglobal.net](mailto:john.neslage@sbcglobal.net)>  
**Sent:** Thursday, January 19, 2023 4:16 PM  
**To:** City Clerk's Office <[cityclerksoffice@bouldercolorado.gov](mailto:cityclerksoffice@bouldercolorado.gov)>; City Clerk's Office <[cityclerkstaff@bouldercolorado.gov](mailto:cityclerkstaff@bouldercolorado.gov)>  
**Subject:** Confirming Receipt and Sufficiency of Code of Conduct Complaint w Exhibits and Sworn Statement

**External Sender**

City Clerk and Staff,

Would you please confirm receipt and sufficiency of the filing earlier today referenced below?

Thank you,  
John

Begin forwarded message:

**From:** John Neslage <[john.neslage@sbcglobal.net](mailto:john.neslage@sbcglobal.net)>  
**Date:** January 19, 2023 at 1:03:19 PM MST  
**To:** City Clerk's Office <[cityclerksoffice@bouldercolorado.gov](mailto:cityclerksoffice@bouldercolorado.gov)>, [cityclerkstaff@bouldercolorado.gov](mailto:cityclerkstaff@bouldercolorado.gov)  
**Cc:** Teresa Tate <[tatet@bouldercolorado.gov](mailto:tatet@bouldercolorado.gov)>, Sandra Llanes <[llaness@bouldercolorado.gov](mailto:llaness@bouldercolorado.gov)>, [poe@bouldercolorado.gov](mailto:poe@bouldercolorado.gov)  
**Subject:** Code of Conduct Complaint w Exhibits and Sworn Statement

Boulder City Clerk and Staff:

Pursuant to City of Boulder Municipal Code Title 2, Chapter 7, I am filing a complaint for a Code of Conduct violation by the Selection Panel for the Police Oversight Panel. The Panel signaled their unwillingness to comply with the applicable ordinance governing qualifications of panel members by renominating the same candidate despite demonstrated bias, prejudice and conflict of interest. Additionally, this candidate also fails to satisfy another stated precondition requiring an ability to build working relationships and communicate effectively with diverse groups.

Determination of bias is not in the opinion of the nominee, but rather from the perspective of the persons to be governed/overseen by this Oversight Panel. The nomination of Lisa Sweeny-Miran by this panel demonstrates their intention to use whatever criteria they feel like, rather than those criteria carefully deliberated and codified into Ordinance 8430.

I will include by separate email certain social media posts by Ms Miran which clearly demonstrate bias, which is generally understood to mean a tendency to prefer one person or thing to another, and to favor that person or thing. While she has a First Amendment right to her opinions, she does not have a First Amendment right to be on this Police Oversight Panel, nor does the Selection Panel have the right to disregard clearly worded ordinances governing the process.

I will also add that the social media posts have been deleted by Ms Miran, which should be taken as an her own admission of their poor reflection of her candidacy and obvious bias. She is also an attorney and should be held to a much higher standard, including her duty of candor owed to a deliberative body, which she is also violating by claiming she is unbiased and trying to advance her candidacy.

Further, I would add in the words of the great American poet Maya Angelou, "When someone shows you who they are, believe them."

Please keep me apprised of progress in this matter. Applicable exhibits showing both perceived and actual bias of candidate follow below.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 19, 2023.

Thank you,  
John Neslage  
Boulder Resident and Concerned Citizen

**Exhibits:** Please review these in light of Ordinance 8430, Section 1, Chapter 2-11-6 (a)(9).

They clearly demonstrate a perceived bias, not to mention an actual one. Especially from the perspective of a police officer. Imagine a self proclaimed racist adjudicating claims against a historically oppressed minority defendant, or a misogynist sitting in judgment of a woman's allegation of harassment. Wouldn't there be at least a perception of bias in both instances? She has also added the hashtag #abolitionist to her new Mastodon account. Res ipsa loquitur - the thing speaks for itself.





**Lisa Sweeney-Miran**  @LSweeneyMiran · Sep 6

...

Another day, another excuse to drive a tank down city streets.

I guess if you spend all our tax money on expensive toys you need to pretend to have reasons to take them out and show them off. [#Boulder](#)

 **Boulder Police Dept.**  @boulderpolice · Sep 6

If you're seeing a large police presence in the 3100 block of Pearl Parkway right now we just executed a search warrant. More information to come out later today. There is no threat to public safety [#boulder](#)

[Show this thread](#)



 5

 9

 69



[Show this thread](#)



**Lisa Sweeney-Miran**  @LSweeneyMiran · Sep 6

...

The armored vehicle and weapons \*\*\*are a threat to public safety\*\*\*

This isn't a war zone, [@boulderpolicy](#), it's a busy downtown street next to several large housing complexes, restaurants, and a hotel. Do better.



**Boulder Police Dept.**  @boulderpolicy · Sep 6

Replying to @TheCultClassics

We use our armored rescue vehicle to protect officers and the community during dangerous operations. There was no threat to public safety after the search warrant was executed

 16

 8

 78



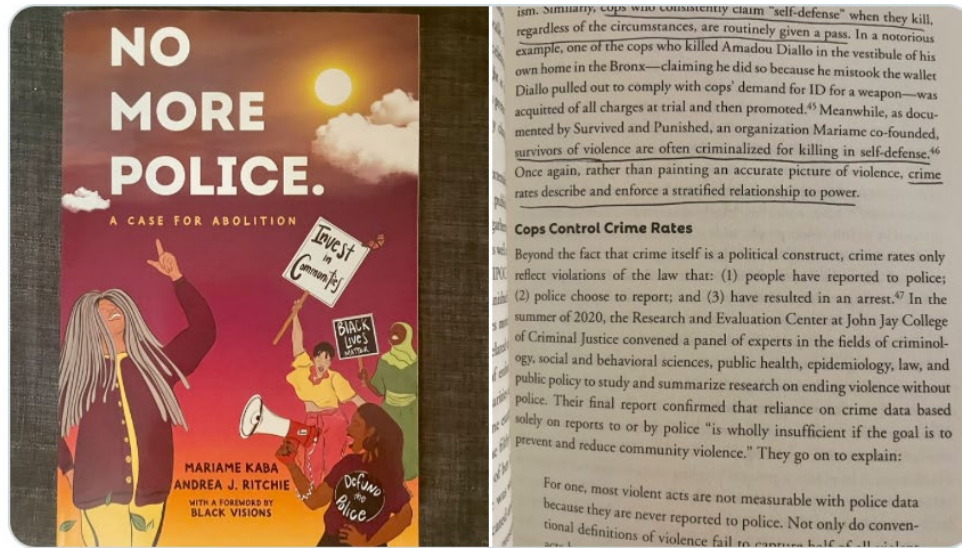




Lisa Sweeney-Miran ✓  
@LSweeneyMiran

...

Got my copy of *No More Police: A Case For Abolition* just in time to set it aside for tonight's Boulder City Council discussion on policing the unhoused. Can't wait to dig in more - so far every page is 🔥. Incredible work from [@prisonculture](#) and [@dreanyc123](#)! Get yours today.



7:42 PM · Sep 1, 2022 · Twitter for iPhone

15 Retweets   2 Quote Tweets   70 Likes



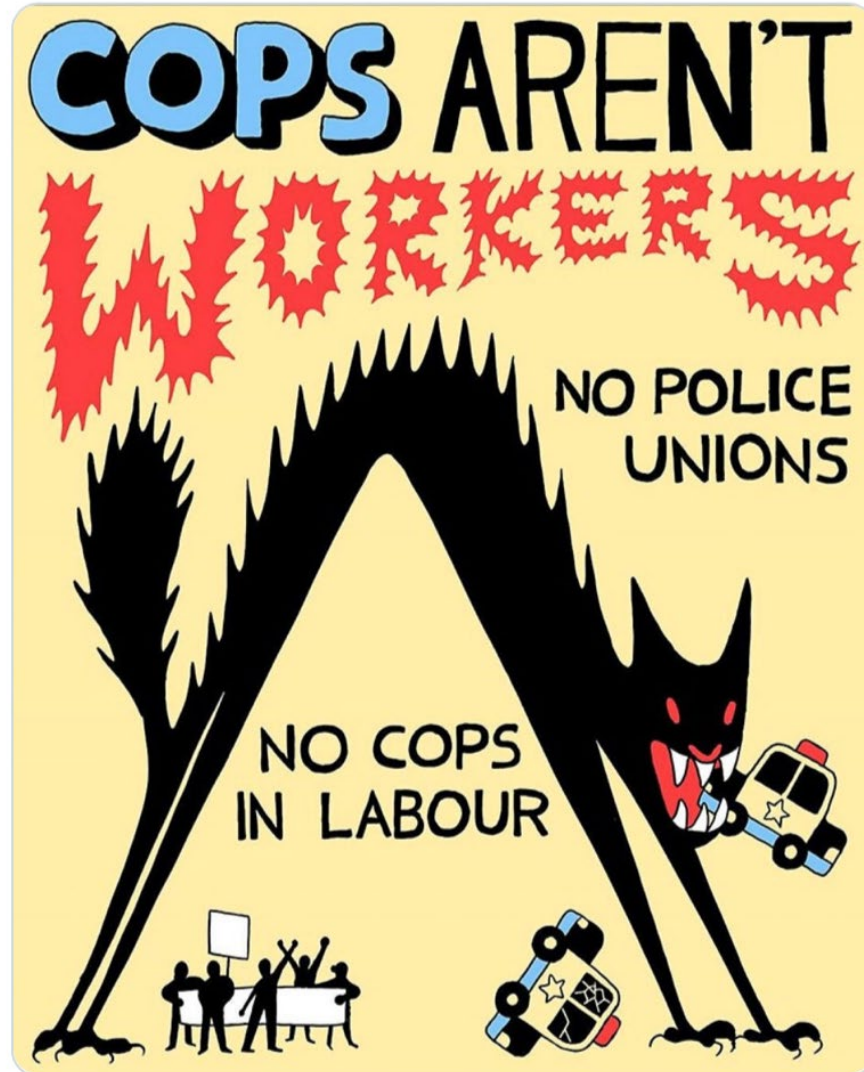


Lisa Sweeney-Miran Retweeted



Bloc from the Block @161\_BKLYN · Sep 3

...



4

4,835

24.4K



[Show this thread](#)

**From:** [John Neslage](#)  
**To:** [City Clerk's Office](#); [City Clerk's Office](#)  
**Cc:** [Tate, Teresa](#); [Kane, Aimee](#)  
**Subject:** Supplemental Evidence in Support of Previously Filed Complaint  
**Date:** Thursday, January 26, 2023 6:34:26 PM

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## External Sender

Re: Police Oversight Panel Nomination/Appointment – Lisa Sweeney-Miran

Please find attached for review further exhibits demonstrating the Selection Committee's actively ignoring abundant evidence of Ms. Sweeney-Miran being unfit for service on the Police Oversight Panel. For your reference and reminder, excerpted below is part 9 of Section 2-11-6 of City of Boulder Ordinance 8430.

2-11-6. Police Oversight Panel - Qualifications and Appointments. (a) Qualifications.

9) Members of the police oversight panel shall be volunteers who, immediately prior to appointment, shall demonstrate: (A) Strong ties to the city of Boulder. This may include, but is not limited to, residency, employment in the City, or having children enrolled in schools located in the City; (B) An absence of any real or perceived bias, prejudice or conflict of interest; (C) An ability to build working relationships and communicate effectively with diverse groups; and (D) A commitment to the purposes of this chapter

Attached for your reference are screenshots from Ms. Sweeney-Miran's Twitter account. These screenshots raise questions regarding Ms. Sweeney-Miran's ability to approach issues that may come before the BPD Oversight Panel in a manner that would be free of bias and prejudice as outlined in the "Qualifications" section above. References to BPD as "sirens and fear and brutality", "billy clubs and bulldozers" and "brutalizing and terrorizing" do not convey the requisite objectivity and impartiality to review matters related to BPD.

Additional Tweets also raise questions about the nominee's ability to build effective working relationships with diverse groups, particularly those that might have a point of view that disagrees with her own. This manifests clearly in those screenshots containing language such as "hate and hyperbole", "anti-homeless infrastructure", "in a sing-sing tone", "intended for bullying the unhoused").

Perhaps most importantly, community members have also submitted written concerns to BVSD Legal Counsel, the BVSD Board and BVSD Superintendent that Ms. Sweeney-Miran previously violated BVSD ethical guidelines in several ways which demonstrate actions and attitudes impermissible for service on this panel. Community members expressed concerns during the October 25, 2022 BVSD School Board Meeting Public Comment period that they had been mocked or otherwise targeted and denigrated by Ms. Sweeney-Miran (see relevant Twitter screen shots attached) when they expressed concerns for student safety or otherwise opposed her personal and professional advocacy positions (reference video record of BVSD Board of Education meeting of Oct 25, 2022 beginning at the 25 minute mark [Active Meetings - 6500 East Arapahoe Road | Boulder](#)

[CO 80303 | 303-447-1010 BoardDocs® Pro](#) ). Mocking or denigrating community members who disagree with your point of view clearly demonstrates an inability to communicate effectively with diverse groups and an obvious inability to build working relationships with them. As a general matter, these should be a disqualifying characteristic for anyone interested in a position of public service, but in the instant case they violate the plain meaning of the ordinance as promulgated.

A decision to approve Ms. Sweeney-Miran's nomination would be in direct contravention of existing city Ordinance 8430, Section 2-11-6, part 9 as well as Boulder's stated community values of Respect, Integrity and Collaboration. Approving the nomination of Ms. Sweeney-Miran would also undermine community trust and confidence in the work of the Police Oversight Panel as well as the decisions of this City Council. Given the above real and perceived conflicts of interest, personal Twitter account statements, ethics concerns and objectionable treatment of other community members, the recommendation of the Selection Committee to add Ms. Sweeney-Miran to the Police Oversight Panel should be rejected and one of the alternate candidates should be elevated as a nominee in her place.

The law as written may be inconvenient, but it is the plainly stated governing ordinance. And what better way to demonstrate impermissible bias than what the person says and/or does? Lastly, this matter should also be referred internally to the equity officer for the City of Boulder. Any one of the actions cited above denigrating concerned citizens and constituents (i.e. clients or coworkers) would be cause for discipline in the private sector, and the City should be held to an even higher standard.

Thank you,

John Neslage





**Lisa Sweeney-Miran** ✓

@LSweeneyMiran

Public comment looks like we can expect more hate & hyperbole from people who believe their right to live without discomfort trumps other people's right to exist



**Lisa Sween...**  @LSwee... · Oct 29 ...

Lovely Saturday afternoon downtown with the kids: biking the creek path, hanging out at the Boulder Library, playing on the playground, and learning about anti-homeless infrastructure.





**Lisa Sweeney-Miran** ✓



@LSweeneyMiran

Emily Reynolds tried to conflate Hill shooting with unhoused folks asking CC “can’t you agree to do the bare minimum?” in a sing-sign tone.





**Lisa Sweeney-Miran** ✓



@LSweeneyMiran

Emily Reynolds immediately attacks Nicole and Lauren for not supporting the enhanced policing budget intended for bullying the unhoused.



**Lisa Sweeney...**  @LSwee... · Dec 7 ...

A press release that gives more questions than answers.

A series of inconsequential “disciplinary measures”.

A complete dismissal of POP’s recommendation for officer termination.

A refusal to answer questions from the public or the media.

Boulder Police need \*real\* oversight.





**Lisa Sweeney-Miran** 

@LSweeneyMiran

Valerie Love, for the second time tonight, compares unhoused folks to children who can't clean their rooms. Then compares the city to teeth that haven't been brushed. And maybe threatens a recall? Pretends her anti-unhoused advocacy will help the vulnerable unhoused.

7:40 PM · Oct 20, 2022



**Lisa Sween...**  @LSwee... · Sep 30 ...

“Since the start of this year, police in the United States have already killed 770 people. We can expect that next week they will kill about 19 more, with 19 more the week after that and the week after that.”

Amazing piece on the need for alternative response in Boulder.

100  





**Lisa Sweeney-Miran** ✓



@LSweeneyMiran

Reminding people that they live at the mercy of an authoritarian police force by brutalizing & terrorizing them doesn't somehow lead to housing. We can't simply allow & request the police to traumatize people repeatedly and expect that not to have exacerbating consequences. 3/

5:14 PM · Jun 6, 2022





**Lisa Sweeney-Miran** 

@LSweeneyMiran



I am one of the plaintiffs in the [#ACLU](#) “camping” ban suit against the city of [#Boulder](#). Sending police in with billy clubs & bulldozers to take away what dignity and possessions folks have left is cruel & inhumane; it’s also neither effective nor a good use of resources. 1/





**Lisa Sweeney-Miran** 

@LSweeneyMiran



Instead of housing we get cops.  
Instead of mental health services  
we get cops.

Instead of social service  
networks we get cops.

I'm so tired of nonprofits and  
neighbors and GoFundMe doing  
the work our governments should  
be doing while my taxes pay for  
sirens and fear and brutality



TO: Boulder City Clerk

FROM: Zayd Atkinson

RE: Complaint under B.R.C. 2-7-10(b)(2)

January 26, 2023

Dear Boulder City Clerk,

Pursuant to B.R.C. 2-7-10(b)(2), I am submitting a complaint against Boulder City Council Members Tara Winer, Bob Yates, Matt Benjamin, Junie Joseph, Lauren Folkerts, Rachel Friend, Nicole Speer, and Mayor Brockett and Mayor Pro Tem Mark Wallach. The basis for the complaint follows.

### **BACKGROUND**

In March of 2019, while performing my student work study job on Naropa's campus, on the grounds of the building I lived in, Boulder Police Officer John Smyly approached me and requested my ID. I provided my university ID, which is all that I had on me at the time. I did so even though it was clear there was no reason to suspect me of any crime. I assumed, and nothing that occurred subsequently has convinced me otherwise, that Officer Smyly's unfounded suspicions were purely based on my being Black. Officer Smyly, even after seeing my valid school ID, asserted that he was detaining me and drew, at varying times, his Taser and his gun. After many other officers arrived, I continued to be detained until a white female student, and a white employee of the university affirmed what my ID had already shown: I belonged there.

As the city of Boulder is aware, I agreed to a settlement in lieu of pursuing a lawsuit addressing the violation of my constitutional rights. I was heartened to witness the Boulder community, led by the NAACP of Boulder County, respond to this incident. At that time, city council members and the former city manager, among others, were supportive of the public's call for independent community oversight. Ultimately, this effort resulted in passage of an ordinance: now Boulder Revised Code Title 2, Chapter 11: Police Oversight. This oversight model replaced the largely police-driven professional standards review panel that had existed prior.

The legislative intent section of the police oversight code states, in part, that the intent of police oversight is "[i]n order to improve community trust in the police department, the council intends to increase community involvement in police oversight and ensure that historically excluded communities have a voice in that oversight." Such historically excluded communities included, per public discussions at the time, LGBTQ, Latinx, and Black community members. The method of increased community involvement was to establish the police oversight panel.

The police oversight panel's 2021 report states that in that year, "[f]ifty-eight complaints were filed involving 88 separate allegations." Council recently voted to expand the number of police oversight panel members because of their heavy work load caused by large numbers of members of the public regularly bringing complaints of police misconduct. This work is valuable, considerable in its volume, and, importantly, is to be led by diverse community members, including, ideally, "a person who has

experienced incarceration.”<sup>1</sup> If participation of diverse community members were not important, the professional standards review model would not have been replaced with BRC 2-11.

It is my understanding the selection committee for the newest members of the police oversight panel that put forth a slate of candidates was led by a person contracted to facilitate that effort, Shawn Rae Passalacqua. Further, it is my understanding Equity Officer Aimee Kane attended and oversaw the selection committee’s efforts.

On January 19, 2023, five members of Boulder City Council voted to delay the up or down vote on the slate of candidates provided by the selection committee. This followed an earlier unanimous vote at the December 15, 2022 city council meeting to do the same, and a demand by the full City Council at that meeting for details of the selection committee’s deliberations. Both of these votes constitute a failure on the part of City Council to follow the requirements laid forth in the ordinance and as such both votes are a violation of the legal duty City Council has to follow the terms of the city’s municipal code. This complaint is to address multiple violations of the code of conduct related to the above.

## **COMPLAINT**

### **Complaint 1: Failure to Vote**

On December 15, 2022, Consent Agenda Item E was:

Consideration of a motion to approve Selection Committee recommendations for members of the Police Oversight Panel, as outlined in Title 2, Chapter 11, “Police Oversight,” B.R.C. 1981 pertaining to the composition, duties and powers of the City organization related to civilian oversight of the police, and setting forth related details.

Such a vote is called for in BRC 2-11-6(15):

The selection committee will provide council with a written summary explaining why each applicant was selected. A motion to approve the proposed candidates shall be

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<sup>1</sup> Advocates for the Boulder Police Department have stated publicly over the last few weeks that having negative impressions about the current state of policing in Boulder and in America constitutes “bias” such that persons with such beliefs should be excluded from the police oversight panel pursuant to the requirements in Boulder’s code. That misinterprets the prohibition in the code concerning bias, which deals with an unwillingness to agree to consider evidence presented to the panel objectively. Indeed, if concerns about bias against police ruled out those who held negative views of the current state of policing in Boulder and in America, it would make no sense for BRC 2-11-6(10) to state that “the selection committee will strive to include a person . . . who has experienced incarceration.” My understanding is that such persons routinely share concerns about police misconduct based on mistreatment they or persons they know have been subjected to, and I do not believe it is the intent of Boulder’s ordinance establishing the police oversight panel to ban from the panel such persons based on that lived experience. Other persons, without such lived experience, likewise should not be discounted for possessing similar concerns about police conduct when the code specifically seeks people with such perspectives.

placed on the council's consent agenda. council members may choose to exercise the call-up option to discuss a proposed candidate's appointment. Council will approve or reject the appointments by majority vote.

Council, per the above section of code, should have either exercised the call-up option, which it did not, or “approve[d] or reject[ed] the appointments by majority vote,” which it did not. Instead, Council, upon information and belief unanimously voted, in part, to delay the vote to ask questions of the selection committee (to be discussed in Complaint 2, below).

Complaint 1, therefore, is that on December 15, 2022, every City Council Member failed to exercise the call-up option available to them, or to approve or reject the appointments by majority vote. Refusing to fulfill their required duties at the December 15, 2022 meeting by delaying action on a vote to approve, reject, or call up the selection of members to the oversight panel is not an option permitted by BRC 2-11-6(15). Thus, in doing so, each of the members of Boulder City Council violated Boulder’s code of conduct section BRC 2-7-8(e)(5) and BRC 2-7-8(f)(1). The public officials’ action in failing to fulfill these duties on December 15, 2022, put at risk the work of the police oversight panel, and undercut its credibility, harming its future efforts.

#### Complaint 2: Pushing Selection Committee to Share Confidential Deliberations

At the same December 15, 2022 Council meeting, the members of the Boulder City Council directed staff to get further information from the selection committee, in part because of concerns of bias (apparently bias of one or more of the slate of candidates for the police oversight panel).

City Attorney Tate stated in the meeting, after hearing Equity Officer Kane share criteria that were used in selecting candidates for the police oversight panel, “when I hear that, I don’t hear all the criteria reflected that are in the code, and I hear criteria reflected that are not in the code.” Mayor Brockett expressed that “hearing more from the panel about both their thinking process, but also how they applied their code criteria, I think would be really helpful.”

Council Member Friend put forward the motion: “We refer consent agenda item 3E back to the selection committee to re-look at all applicants or all recommended panelists under code criteria that are required to be appointed and eligible for this panel with guidance from the city attorney’s office and with explanations or certifications explaining the steps that were taken in writing.” Council Member Speer commented on the motion “it’s just about providing a little bit more documentation for kind of the public to understand what the process was and what went into it.” The motion passed unanimously.

Requesting the selection committee to “explain[] or certif[y] the steps . . . [it took] in writing” is in violation of the police oversight code, BRC 2-11-6(5): “[s]election panel deliberations shall be confidential.”

Complaint 2 therefore is that every City Council Member, in its vote of December 15, 2022 on the above motion that passed unanimously, intruded on the confidential deliberation of the selection committee by demanding information about the selection committee’s deliberations. In doing so, each of the members of Boulder City Council violated Boulder’s code of conduct section BRC 2-7-8(e)(5) and BRC 2-7-8(f)(1). The public officials’ action jeopardized the deliberative process of the selection committee by

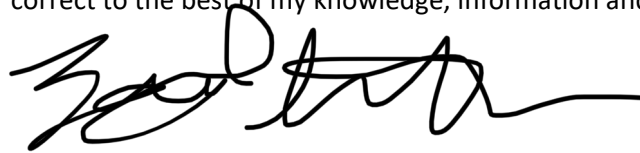
imposing disclosure requirements in violation of the code, thereby harming present and future efforts to make the best possible selections for the police oversight panel.

If it were determined that the selection committee did not sufficiently “provide council with a written summary explaining why each applicant was selected”, BRC 2-11-6(15), such that Council members seeking further information was warranted, then in the alternative, Complaint 2 is against Aimee Kane and/or contractor Shawn Rae Passalacqua, who advised the selection committee for failing to properly instruct the selection committee of its duties, or failing themselves to meet their duties.<sup>2</sup>

### Complaint 3: Failure to Vote

Complaint 3 is similar to Complaint 1, except that is against a subset of Council members. On January 19, 2022, Mayor Brockett, Mayor Pro Tem Wallach, and Council Members Winer, Benjamin, and Yates again failed to either exercise the call-up option or to approve or reject the appointments by majority vote in violation of BRC 2-11-6(15). In doing so, these members of Boulder City Council violated Boulder’s code of conduct section BRC 2-7-8(e)(5) and BRC 2-7-8(f)(1). These public officials’ action in failing to fulfill these duties on December 15, 2022, put at risk the work of the police oversight panel, and undercut its credibility, harming its future efforts.

I swear under penalty of perjury after a reasonable investigation that the above statements are true and correct to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'Zayd Atkinson', written over a horizontal line.

Signature of Zayd Atkinson

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<sup>2</sup> Indeed, under the January 26, 2023 *Agenda for the Special Meeting of the Boulder City Council*, item B, Equity Officer Kane and others provided a thorough description of the process that adequately describes “why each applicant was selected.” On information and belief, all of the information to produce this document for the January 26th special meeting was available to Kane and Passalacqua to provide to Council ahead of the December 15, 2022 Council meeting.

January 30, 2023

Boulder City Clerk and Staff:

Pursuant to City of Boulder Municipal Code Title 2, Chapter 7, I am filing a complaint for a Code of Conduct violation against Mayor Brockett and Council Members Benjamin, Folkerts, Friend, Joseph and Speer, the six members of City Council who voted to approve the recommendations of the Police Oversight Panel Selection Committee at the City Council Special Meeting on January 26, 2023.

Factual Allegations:

A: City Council Members violated the Municipal Code when they voted to approve the recommendations of the Police Oversight Panel Selection Committee

1. Qualifications: Ordinance 8430 section 2-11-6 (a) (9) (B) requires "An absence of any real or perceived bias, prejudice or conflict of interest;". These Qualifications are mandatory legal minimum requirements, not merely guidelines and suggestions. The specific legal question posed by part (a) (9) (B) is whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility of predisposition, prejudice, partiality or conflict of interest by the nominees.
2. Appointments: Ordinance 8430 section 2-11-6 (a) (15) requires "Council will approve or reject the appointments by majority vote"
3. Lawsuit: one of the nominees is a party to a lawsuit against the City of Boulder and Maris Herold, Chief of Police for the City of Boulder (Case Number 2022CV30341), the allegations included in such lawsuit which could be similar to cases to be reviewed by the Police Oversight Panel
4. Additional testimony and evidence, including social media screenshots and exhibits, have been previously submitted to the City Council and City Clerk; these records include email as well as a prior Code of Conduct Complaint and, being discoverable and accessible through an official records search inquiry, are not included within this submission.
5. To the best of my knowledge, the social media screenshot evidence submitted to the City represents the official account of one of the nominees in question, the accuracy and validity of which has not been disputed by the nominee, Lisa Sweeney Miran.
6. The "real or perceived bias, prejudice or conflict of interest" language included in Ordinance 8430 is consistent with existing language contained in "Bias Motivated Crime" statutes in Colorado as well as other states and federal law; "Perceived" sets a legal threshold that is lower than "real or actual" and is based on how something is seen, interpreted or thought of. Council Members chose to ignore the legal precedents established by these existing laws as well as the existing guidance regarding judicial disqualification/recusal and dismissal of prospective jurors for cause, choosing instead to base their decisions to approve the nominees on information that was neither germane

to the decision nor consistent with the enabling Ordinance (citation: City Council Meeting video archive for January 19<sup>th</sup> and January 26<sup>th</sup>, 2023).

7. Council Members voting to approve the Recommendations of the Selection Committee failed in their sworn duty to uphold the legal requirements of Ordinance 8430 in direct violation of their official responsibilities to the residents of the City of Boulder

B: City Council Members violated the Municipal Code of Conduct when they voted to approve the recommendations of the Police Oversight Panel Selection Committee

1. Chapter 7 of the Municipal Code outlines Codes of Conduct expectations for Member of Council, the purpose of which is to “protect the integrity of city government” by, among other things, establishing “high standards of conduct for elected officials” and outlining Expectations in section 2-7-8 (e) and (f) including doing more than “just the minimum required to meet legal or procedural requirements” and “taking into consideration all available information, circumstances and resources.”
2. City Council has an affirmative responsibility and obligation to ensure that boards, committees, task forces, etc., are performing their duties in full compliance with the Municipal Code. After information on the Police Oversight Panel selection criteria and process was presented to Council by the Equity Officer at the January 19<sup>th</sup> City Council meeting, the City Attorney commented that not all requirements of Ordinance 8430 had been followed (paraphrasing). To this day I am unaware of any information that refutes that assertion by the City Attorney.
3. Several Council Members have personal relationships with one or more nominees and/or have direct or family relationships with one or more of the local organizations serving on the Selection Committee, raising questions regarding whether recusal by those Council Members would have been appropriate and warranted by the legislative intent and expectations of the Code of Conduct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 30, 2023.

Emily Reynolds

January 30, 2023

Boulder City Clerk and Staff:

Pursuant to City of Boulder Municipal Code Title 2, Chapter 7, I am filing a complaint for a Code of Conduct violation against Council Member Joseph, who voted against the motion to approve the appointment of a Special Counsel at the City Council Special Meeting on January 26, 2023.

Factual Allegation:

City Council Member Joseph, in willful violation of the specific requirements of the Municipal Code, inappropriately voted against the motion to approve the appointment of a Special Counsel at the City Council Special Meeting on January 26, 2023.

Facts:

1. Junie Joseph is an elected member of the Boulder City Council, the Colorado General Assembly House District 10 and an admitted member of the Colorado State Bar Association.
2. At the January 19<sup>th</sup>, 2023 City Council meeting, the City Attorney reported that a Code of Conduct complaint had been filed under Title 2 Chapter 7 against the Police Oversight Panel Selection Committee.
3. At the January 26<sup>th</sup>, 2023 City Council meeting, agenda item 1a presented for Council's consideration a motion to approve the appointment of a Special Counsel.
4. The City Attorney confirmed that a Code of Conduct complaint received on January 19<sup>th</sup>, 2023 met all the requirements of the code, thereby triggering the process of investigation, which is not discretionary under the Code.
5. The City Attorney confirmed that because she had, at Council's direction, advised the Selection Committee, it would be a conflict of interest for her to conduct the investigation and, as such, she recommended the appointment of a Special Counsel to conduct the requisite investigation.
6. Mayor Brockett specifically then asked the City Attorney whether Council had any discretion in the matter. The City Attorney confirmed that Council had no discretion and that "the city council shall request the city attorney to conduct an investigation regarding a violation of this chapter."
7. Boulder City Ordinances are not optional. Council Member Joseph's disregard for the requirements of the law, even after those requirements were specifically and repeatedly delineated to the Council, represents a willful violation of the legal and ethical responsibilities of her role as a Member of the Boulder City Council and, as such, Council Member Joseph should be subject to investigation and appropriate sanctions that may be deemed necessary. Council Member Joseph's actions are particularly reprehensible given that she is also a member of the Colorado General Assembly as well as a member of the Colorado State Bar Association.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 30, 2023.

Emily Reynolds



March 17, 2023

Boulder City Clerk and Staff:

Pursuant to City of Boulder Municipal Code Title 2, Chapter 7, this memo will serve as the official notice and filing of a complaint for a Code of Conduct violation against Council Member Nicole Speer, whose March 1, 2023 testimony at the Colorado State House in support of HB23-1202 violated the high standards of ethical conduct, expectations of behavior and public trust expected of elected officials as outlined in the Boulder Municipal Code.

Factual Allegations of the Complaint:

- 1) City Council Member Speer, as a result of her decision to provide testimony before the Colorado House Public and Behavioral Health and Human Services Committee on March 1, 2023 related to HB23-1202, such action being outside the boundaries of the authority entrusted to her by the City of Boulder, acted in willful violation of the specific requirements of Municipal Code Chapter 7 Code of Conduct Section 2-7-8. – Expectations, part e, subsections 1 – 5 as excerpted below:

(e) A public official or public employee shall:

- (1) Strive at all times to serve the best interests of the city regardless of his or her personal interest.
- (2) Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.
- (3) Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.
- (4) Use sound judgment to make the best possible decisions for the city, taking into consideration all available information, circumstances and resources.
- (5) Act within the boundaries of his or her authority as defined by the city charter and code.**

- 2) City Council Member Speer, having determined or been made aware aware that her actions may be considered to be in violation of Municipal Code Chapter 7 Code of Conduct Section 2-7-8. – Expectations, part c as excerpted below, has in fact failed to acknowledge, disclose and discuss her ethical violation in a public City Council meeting as outlined by the Code.

(c) A public official who determines that his or her actions may be considered to be in violation of this section should consider disclosure and discussion of the potential violation in a public meeting before the council, board, commission, task force or similar body on which the person serves.

Facts:

1. Nicole Speer is an elected member of the Boulder City Council.
2. Council Member Speer testified on March 1, 2023 before the Colorado House Public and Behavioral Health and Human Services Committee in support of Colorado HB23-1202.
3. A record of such testimony is available at the following link: House Public Health Services Hearing on March 1 0; such testimony was also included in its entirety as Attachment A of the

agenda for the March 8, 2023 meeting of the City Council's Intergovernmental Affairs Committee.

4. Council Member Speer's comments were not made in her personal capacity as an interested individual community member, but her comments instead included the following statements which inaccurately represented that her testimony reflected the official position of the City of Boulder:
  - a. "Good afternoon, Madam Chair and Members of the Committee. My name is Dr. Nicole Speer. I am a Boulder City Councilmember and on behalf of the City of Boulder, I urge you to pass HB23-1202 out of committee."
  - b. "As a representative of Boulder's City Council ..."
5. Boulder City Council had in fact not discussed HB23-1202 at any City Council Meeting prior to Council Member Speer's unilateral decision to testify before the Colorado House Public and Behavioral Health and Human Services Committee.
6. Among its many Committees, the Boulder City Council has established an Intergovernmental Affairs Committee (IGA) which includes four council Members and the City of Boulder's Chief Policy Advisor. The IGA Committee is responsible for setting policy and defining positions in furtherance of the City of Boulder's interests among various local, regional, state and federal governmental agencies. The IGA Committee may refer matters of significant interest or importance to the entire City Council for their due consideration and direction. The Chief Policy Advisor does not establish policy for the City of Boulder but rather takes direction from and coordinates closely with the IGA, City Council and City Manager. Council Member Speer is not a member of the City Council's Intergovernmental Affairs Committee.
7. The IGA held their initial discussion of HB23-1202 on March 8, 2023 (agenda item #1), a full week after Council Member Speer had already offered her testimony. The purpose of the IGA Committee's discussion of Agenda item #1 was to determine whether the City of Boulder should adopt a position regarding HB23-1202 and, if so, what that position should be.
8. The official minutes of the IGA meeting of March 8, 2023 will also document the concerns expressed by committee members and staff that the testimony provided by Council Member Speer on March 1, 2023 represented a violation of existing process and established norms of conduct by Council Members. That official record will also reflect the fact that the IGA Committee identified the need to establish additional guidelines and protocols to prevent individual Council Members from acting outside the scope of their authority in the future.
9. Council Members are aware that any general references within the existing City of Boulder 2023 Policy Statement on Regional, State and Federal Issues (Policy Statement) do not automatically grant authority to any individual Council Member to testify on behalf of or otherwise purport to represent the City of Boulder in matters that are potentially related to issues or positions included within the Policy Statement. The need for Council deliberation and authorization through formal voting was reinforced as recently as the February 9, 2023 City Council meeting, when proposed modifications to Policy Statement items 22 and 23 featured robust discussion and required formal votes from Council. Council Member Speer was present for that meeting and participated in that discussion and Council vote.

The above facts assert and document that Council Member Speer's testimony before the Colorado House Public and Behavioral Health and Human Services Committee occurred prior to any discussion of HB23-1202 by either the City Council or the IGA Committee and therefore was in fact outside the boundaries and scope of authority granted to individual Council Members as defined by the city charter and code. Such actions by an elected official represent a willful violation of established ethical standards of conduct, tarnish the reputation of the Boulder city government and undermine the public's trust in

their elected representatives. If, after thorough investigation by the City Attorney or designated Special Counsel, this Complaint is found to be substantiated, Council Member Speer should be sanctioned to the fullest extent possible under the Boulder Municipal Code of Conduct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 17, 2023.

Emily C Reynolds  
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