

## Statement of Salida Mayor PT Wood in response to IEC Complaint 20-21

Dear Director Ioannides and Members of the Independent Ethics Commission,

My name is P T Wood. I was elected mayor of the City of Salida at the City's regular election in November of 2017. This is my response to the complaint filed against me on July 14, 2020 by one of our citizens, Michelle Parmenter. I'm going to refer to Michelle as the "Complainant" from now on, as this Complaint (as I'll explain later) is basically the continuation of a local political dispute, and I think there's already way too much personalizing of disputes in today's politics.

### Introduction

This complaint is the latest chapter in a local controversy over an affordable housing project in the City of Salida. Like many cities in Colorado, Salida has a shortage of affordable, or what is sometimes called "workforce housing" for our citizens. Addressing this problem has been a major focus of the City Council in our City.

The City owns two small parcels of vacant land that are separated by a municipal street. The City planned to vacate the street and rezone the resulting unified property for development of a few units of affordable housing. Complainant lives near the location of the proposed affordable housing and has objected strenuously to the proposal. Complainant submitted both public testimony and extensive written comments to the City, over the course of many months, throughout the extensive public process that we conducted in connection with this project.

On August 4, 2020, the Salida City Council upon second reading and public hearing, after considering all of the testimony and comments received from the public, including Complainant, and reviewing all other documents on the record, voted to approve the street vacation and the rezoning.

Here is a critical fact: *I did not vote on either of the matters that are the basis of this Complaint, nor did I attempt to influence how anyone else on the Council voted.* This is because the City of Salida utilizes a form of government in which the mayor only votes in the event of a tie, and neither of these matters resulted in a tie vote.

I am proud of the thorough, fair and open process that we went through in our City to review this affordable housing initiative. All sides were heard. Even those who think we made the wrong decision admit the process was fair, and have decided to move on. But we remember from when we were kids, there was always that kid who called you a "cheater" if he lost. Too often, in our current political environment we see similar behavior. Somebody who doesn't get their way makes the choice to "take it up a level", calling people cheaters, saying the process is "rigged" and calling those who voted the "wrong" way "unethical."

So, this Complaint is the final convulsion in a local land use dispute. Complainant has apparently decided that the judicial appeal process available to challenge our decision would either not be successful or would cost too much. Complainant could also seek to reverse Council's decisions through a referendum or initiative petition. Complainant has apparently realized that her position doesn't have enough support among Salida citizens, so such an effort would likely fail. Since Complainant couldn't reverse our

decision on *the merits*, filing this complaint remained as a low-cost device for some last-ditch character assassination. I regret that the IEC has been pulled into our local dispute in this way.

I will address the two situations that the Complainant complains about in order.

### **The Affordable Housing Project (street vacation and rezoning) Issue**

On the Commission's complaint form, Complainant says that the basis of her complaint is that I "showed extreme bias and prejudice" and "skewed due process in favor of rezoning and street vacation which are quasi-judicial in nature."

First, a street vacation ordinance is "legislative", but it is related to the site-specific re-zone application, which is quasi-judicial in nature.

Secondly, when I read through this part of the Complaint, I see a lot of claims that I violated the constitutional *due process* rules that our attorney explained to us applied to the rezoning. What I do not see, anywhere in the entire discussion of the affordable housing issue, is ANY claim that I violated any *ethical* standards that the IEC administers. As I pointed out above, I did not vote on this matter. Furthermore, there is no claim that I enriched myself in any way, and your complaint form says that the penalty you impose if I did violate ethical standards is two times the financial equivalent of whatever benefit I received.

I received zero financial benefit by virtue of the Council's approval of the affordable housing project that the Complainant doesn't like, and Complainant does not claim otherwise.

With the greatest of respect to this Commission and the important job that you do, I think if somebody wants to complain that I or our Council violated the due process rules, the place to do that is in court, not with this Commission. I mean no disrespect by not filing a lengthy response/dispute of what Complainant alleges about me in regard to due process, but that is not my understanding of what this Commission rules on. Of course, I am happy to answer any questions that you may or provide additional detail about this part of our process and my part in it.

I urge the Commission to dismiss or set aside this part of the Complaint, because it does not allege that I violated *any* ethical standards. If you do rule on this portion, I would respectfully urge you to rule that Complainant has not shown that I violated any ethical rules. I have never been accused of being dishonest or unethical in all of my life, and my reputation in this community is important to me.

### **The "Railroad Property"/Open Space Acquisition Issue**

As noted above, this complaint is the continuation of a local political dispute over an affordable housing project. At the October 15, 2019 Council meeting where our lengthy public process involving the street vacation and rezoning for the affordable housing project begun, a long-standing effort to acquire a parcel of property from the Union Pacific Railroad (UPRR), with the City's dedicated Parks and Open Space fee-in-lieu funds, was finally concluded. The City had been trying to acquire this piece of property across the Arkansas River from the City proper for many years. In fact, the plan is spelled out in the City of Salida 2013 Comprehensive Plan as well as the City's 2007 Historic Downtown Improvement and Economic Sustainability Plan. At our Oct. 15 meeting Council voted 5-1 to accept the property.

As I mentioned previously, I did not vote on this matter. I simply ran and presided over the meeting without comment. I own property over in the general neighborhood of the UPRR property, so, out of an interest in transparency, and even though I wasn't voting, I disclosed that fact, and mentioned it at the meeting.

Before I address Complainant's allegation that I was being corrupt and trying to enrich myself, apparently by merely presiding over the Oct. 15 meeting, I have to point out that Complainant's apparently deep concern about my ethics regarding the Union Pacific railroad property remained dormant for nearly 10 full months, suddenly erupting only *after* the vote on the affordable housing project in her neighborhood did not go the way Complainant would have preferred. Whether Complainant's newfound concerns about my ethics would have arisen *at all*, had the vote on the affordable housing project gone the other way, my obligation to answer her claims remains.

So, I offer the following defense.

First, I frankly had no expectation that this acquisition for our City would have any effect one way or the other on my property value. My property is around 200 feet away from an acute angle at the far end of the former UPRR property (I've attached a map). The railroad property has had, and with the City's acquisition of the property might still have, a railroad on it. The proximity of the railroad property has not had an effect on my property value previously and I really did not, and still do not, expect my valuation to change because the City now owns the property.

So, it was simply in the interest of transparency, rather than because I thought I had a *real* financial conflict, that I chose to make my public disclosure at the Oct. 15 Council meeting. Ironically, it was probably this public disclosure that tipped off the Complainant (when listening later to the tape of the meeting) to this potential "issue", which became a "throw in" to her complaint prompted by Council's approval of the affordable housing project.

The Complainant claims that the assessed valuation of my property has "increased close to \$100K from 2018 to 2019." By implication, she asks you to presume that this increase is due to the City's acquiring the UPRR property. The increase in my property value is in line with the increase in value of most properties in Salida. The City's acquisition of the UPRR property has had zero demonstrable effect on the value of my property.

Furthermore, the valuation to which Complainant refers began at the end of 2018, and by State law was required to be completed by June 30, 2019, a full 3 months *prior* to the Oct. 15, 2019 Council meeting at which the RR property acquisition was approved. Additionally, these valuations are based on comparable sales over the *previous* two years. Thus, the City's subsequent acquisition of the RR property had absolutely no effect on the valuations relied upon by Complainant.

Even if it is somehow shown that I and other nearby property owners were marginally benefitted by the City acquiring this open space, any benefit I may have received I would consider only incidental to me doing my job as Mayor and presiding (and not voting) at the Council meeting where the City finally concluding this open space acquisition.

While preparing this answer to the Complaint, I asked our City attorney to show me in the law where Councilmembers' obligation to disclose a conflict and not vote is found. (We on Council had received training from our city attorney and our outside insurance counsel on this and other ethical rules,

including Amendment 41. Coincidentally, we also learned about the IEC and what you do. Never in a million years did I expect that I would have to deal with you *officially!*) Our attorney calls these provisions the “disclosure and abstention” rules. He showed me where they are located in our municipal law in Title 31 and in the Public Officials Code of Ethics, in Title 24 (it is section 24-18-109(3)).

In the first place, these laws have to do with not *voting* if you have a financial conflict of interest. As I mentioned above, I *did not vote* on acquisition of the UPRR property. The Complainant complains on the IEC complaint form that I should have recused myself from “approving and signing the resolution” to purchase the UPRR property. The approval and signing of Council resolutions, after approval on the merits by a vote of Council, is a routine duty of mine, as the Mayor here in Salida. Section 2-2-20(d) of the Salida Code says that the mayor “shall execute and authenticate by his or her signature all bonds, warrants, contracts and instruments of and concerning the business of the City.” This after-the-fact ministerial step gives me zero opportunity to derive any financial benefit, and Complainant does not provide any reference to *any law*, ethical or otherwise, that I violated in doing this part of my job.

Furthermore, when I read through the disclosure and abstention law in the Code of Ethics, I noticed that right below the disclosure and abstention rule there is a section that says it is not a breach of the public trust or my fiduciary duty if I “receive a benefit as an indirect consequence of transacting local government business.”

As I mentioned above, I never expected any financial benefit as a result of the City acquiring the UPRR property, and nothing in the Complaint demonstrates that I have received any financial benefit *at all* as a result of this transaction. Just saying that property values have increased in the last year, when they have increased all over the City, hardly “proves” anything ( I’ve already explained how the appraisals cited by Complainant are utterly irrelevant to this transaction) much less that I somehow committed a breach of the public trust.

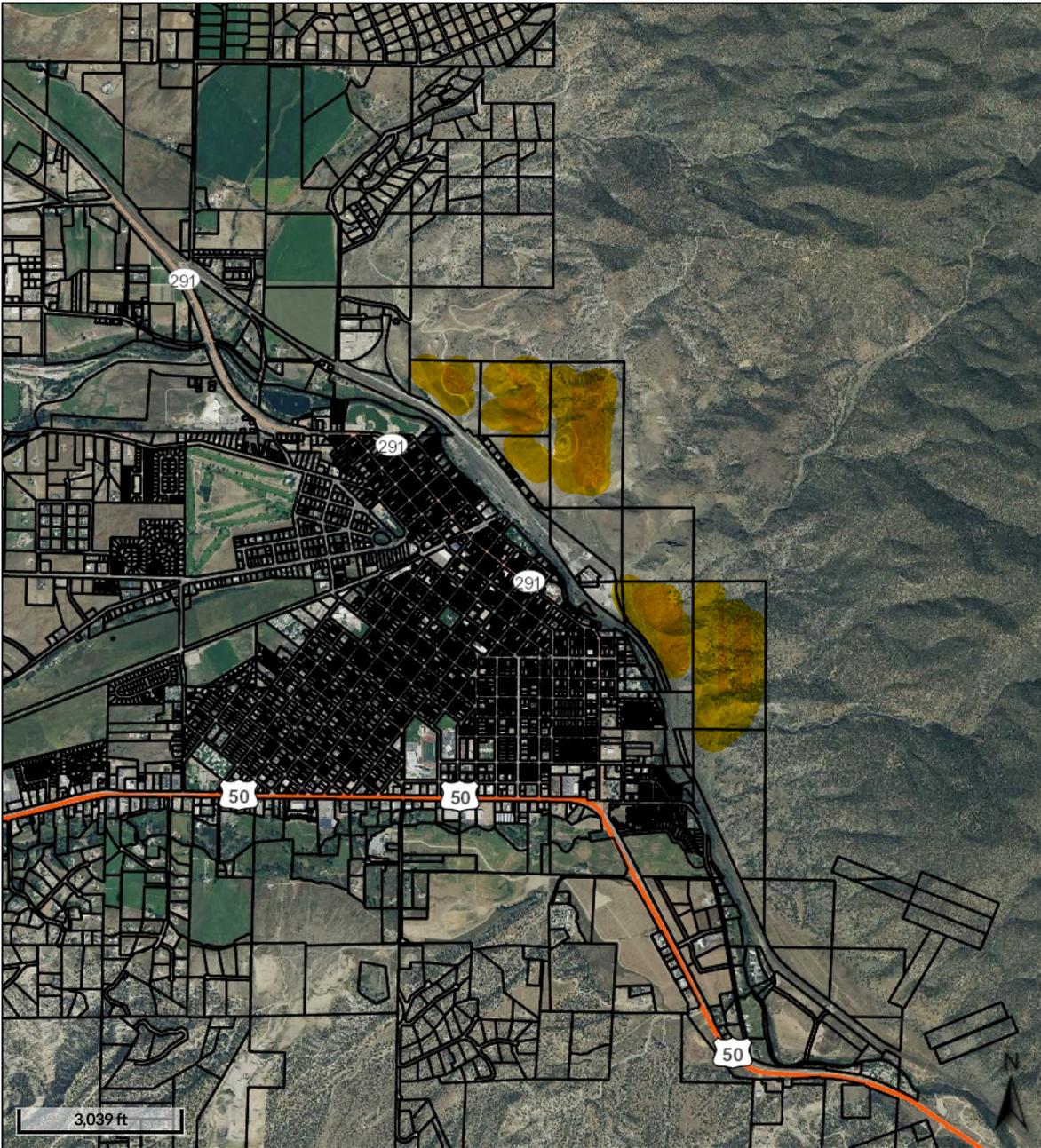
In the unlikely event that somebody can show that I received *any* financial benefit as a result of the City acquiring this property, that was only incidental to me doing my job as Mayor of this City.

I did not vote to acquire for the City this long sought open space property. I did not attempt to influence how others voted. I expected no financial gain (or loss) in my property value as a result of this acquisition by the City, none has in fact occurred and frankly, Complainant has not shown otherwise. With respect, I urge this Commission to find that I did nothing wrong in presiding over the Oct 15 meeting and performing my routine ministerial duties under our Code afterwards. As I noted above, I have never been accused of being unethical or dishonest in my life. My reputation in this community matters to me. I regret the time the IEC is obliged to spent on this frivolous complaint.

To the best of my knowledge, information and belief, any statements set out in this response are true.

Sincerely,

PT Wood



Overview



Legend

-  Parcels
-  Parcel Joins
-  Roads

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