

**BEFORE THE INDEPENDENT ETHICS COMMISSION
STATE OF COLORADO**

CASE NO. 23-02

In the Matter of:

JUSTIN BROOKS, Mayor of the Town of Erie

Attorney: Kendra L. Carberry, No. 25457
Daniel P. Harvey, No. 49863
Firm: Hoffmann, Parker, Wilson & Carberry, P.C.
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RESPONSE AND MOTION TO DISMISS COMPLAINT

Justin Brooks, in his capacity as Mayor of the Town of Erie ("Mr. Brooks"), by and through his attorneys, Hoffmann, Parker, Wilson & Carberry, P.C., hereby submits the following Response and Motion to Dismiss Complaint as follows:

RELEVANT FACTS¹

On April 7, 2022, and prior to being appointed as Mayor of the Town of Erie (the "Town"), Mr. Brooks served as a Trustee on the Board of Trustees for the Town of Erie. As a Trustee, Mr. Brooks served as the Board of Trustee's liaison to the Erie Diversity, Equity and Inclusion Advisory Board (the "DEI Advisory Board"). The Erie Municipal Code (the "Code") describes the liaison as follows: "A member of the Board of Trustees shall be appointed as the liaison to the DEI board. The liaison will attend regular DEI board meetings and be the conduit

¹ An Affidavit of Justin Brooks is attached hereto.

of bidirectional information to and from the board of trustees. ***The liaison is not a member of the DEI board, nor is the liaison entitled to vote.***" Code § 3-6-3(A)(5) (emphasis added). A true and correct copy of Section 3-6-3, with current amendments to Title 3, Chapter 6 of the Code is attached hereto as **Exhibit A**. To be clear, in his role as liaison, not only did Mr. Brooks not vote on any measure before the DEI Advisory Board, but he was without the authority to do so. Mr. Brooks was aware of his role as liaison and carried out his role accordingly.

Concurrent with serving as a non-voting, non-member liaison to the DEI Advisory Board, Mr. Brooks also served on the Board of Directors for Being Better Neighbors ("BBN"), a certified Colorado non-profit founded to support neighbors of color in the Town of Erie. **Exhibit B** (Articles of Incorporation for a Nonprofit Corporation). In his capacity as a member of the BBN Board of Directors, Mr. Brooks did not, and currently does not receive any compensation whatsoever. Mr. Brooks became President of BBN on November 21, 2021.

On April 7, 2022, Mr. Brooks attended the DEI Advisory Board meeting in his capacity as a non-voting, non-member liaison to the DEI Advisory Board. At no point did Mr. Brooks cast a vote on any measure considered, nor did he have the authority to do so. Moreover, Mr. Brooks did not direct the DEI Advisory Board in how any of its members should vote. The DEI Advisory Board approved funding for an event held by the BBN after a duly constituted vote. Mr. Brooks did not derive any financial benefit from approval of a measure to provide funding for the event held by BBN.

Subsequently, on April 26, 2022, after becoming Mayor, the Board of Trustees considered a grant request from BBN. Prior to consideration of this agenda item, Mr. Brooks recused himself from consideration of the grant. In recusing himself from consideration of the

agenda item, Mr. Brooks indicated that he was the President of BBN, that the Mayor Pro Tem would manage discussion and voting on the measure, and that he would leave the meeting until the agenda item was completed. *See* Affidavit of Justin Brooks, attached hereto and April 26, 2022, agenda item 22-161 attached to the Complaint and hyperlink provided therein.

ARGUMENT

1. The Complaint is procedurally deficient and should be dismissed as frivolous.

In a summary manner, the Complaint alleges that Mayor Brooks engaged in actions that "are a clear violation of C.R.S. § 24-18-109." No reference whatsoever is made in the Complaint to what provision the Complainant alleges was violated. C.R.S. § 24-18-109 contains 5 main subsections consisting of 5 or more possible violations that a local government official or local government employee can commit. As a result of this lack of clarity related to the allegations, Mayor Brooks is unable to properly prepare an adequate response and the Complaint should be dismissed. *See Warne v. Hall*, 373 P.3d 588 (Colo. 2016) ("only a complaint that states a plausible claim for relief survives a motion to dismiss") (internal citations omitted).

The lack of specificity in the Complaint also fails to comply with the Independent Ethics Rule of Procedure 5(D), requiring a complaint to include "a statement of the facts underlying *with specificity* regarding the ethical violations alleged to have been violated, *including the sections(s) of Article XXIX, statutory standards of conduct, or reporting requirements which the complainant believes were violated.*" The IEC is compelled to comply with its own rules. *See, e.g., Rags Over the Ark River, Inc. v. Colo. Parks & Wildlife Bd.*, 360 P.3d 186 (Colo. App. 2015) ("[a]n agency must scrupulously follow the regulations and procedures it promulgates and, if it does not, the court may strike the agency's action").

Furthermore, the IEC is empowered to dismiss complaints that are "frivolous," or "filed without a rational basis in fact or law for the IEC's involvement ..." IEC Rules of Procedure 2(A)(9). Based on this procedural deficiency and the further arguments provided in this Response, the IEC should dismiss this Complaint. *See* Colo. Const. Art. XXIX, § 5(3)(b) ("the commission may dismiss frivolous complaints without conducting a public hearing").

2. Mr. Brooks did not violate any provision of C.R.S. § 24-18-109.

Notwithstanding the lack of clarity related to the allegations in the Complaint, both the facts and law concerning these allegations do not amount to an ethical violation. Because the Complaint is unclear about what provision of C.R.S. § 24-18-109 was allegedly violated, this Response will address each allegation that the Complainant may allege was violated (while reserving the right to address any other allegation not specifically cited):

C.R.S. § 24-18-109 (2)(a) (*Engaging in a substantial financial transaction for his private business with a person whom he inspects or supervises in the course of his official duties*).

BBN is not a private business owned by Mr. Brooks. Instead, it is a registered Colorado non-profit corporation, and Mr. Brooks was (and is currently) a non-compensated board member and President of that entity. Therefore, Mr. Brooks did not engage in any "substantial financial transaction" for his private business. At the time of the allegations in the Complaint, Mayor Brooks was a Trustee on the Town of Erie Board of Trustees. As a Trustee, he served as a non-voting, non-member liaison to the DEI Advisory Board without any supervisory authority. *See* Code § 3-6-3(A)(5). As such, this statutory provision is wholly inapplicable.

C.R.S. § 24-18-109(2)(b) (*Performing an official act directly and substantially affecting to its economic benefit a business or undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative or agent*).

As a non-voting liaison to the DEI Advisory Board on April 7, 2022, Mr. Brooks was not able to make any "official act" on behalf of the DEI Advisory Board. When the Board of Trustees considered the grant application from BBN on April 26, 2022, Mr. Brooks specifically recused himself from consideration of the measure entirely and did not take any "official act" on this agenda item.

It is also important to note that C.R.S. § 24-18-109 makes a distinction between public officials that are affiliated with private businesses and officials that serve on nonprofit boards. In particular, C.R.S. § 24-18-109(5)(a) states:

Notwithstanding any other provision of this Article 18, it is neither a conflict of interest nor a breach of fiduciary duty or the public trust for a local government official who is a member of the governing body of a local government to serve on a board of directors of a nonprofit entity and, when serving on the governing body, to vote on matters that may pertain to or benefit the nonprofit entity.

Id. Subsection (b)(II) of this provision also provides that, if a local government official serves on a board of directors of a nonprofit entity they should "publicly announce his or her relationship with the nonprofit entity before voting on a matter that provides a direct and substantial economic benefit to the nonprofit entity." C.R.S. § 24-18-109(5)(b)(II).

Here, Mr. Brooks had no authority to vote at the DEI Advisory Board meeting on April 7, 2022. In addition, even though Mr. Brooks was not required to completely recuse himself from the April 26, 2022 Board of Trustees vote where he did have voting authority, he did so anyway to avoid the appearance of impropriety. Therefore, Mr. Brooks did not violate C.R.S. § 24-18-109(2)(b) in any manner.

C.R.S. § 24-18-109(3)(a) *(a member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decision of the other members of the governing body in voting on the matter).*

Again, as it concerns the April 7, 2022 vote before the DEI Advisory Board, Mr. Brooks was not a voting member. Furthermore, the DEI Advisory Board is not a "governing body" of the Town of Erie – the Board of Trustees is. At the April 7, 2022 meeting, Mr. Brooks did not direct the DEI to vote in a specific way related to consideration of funding for the BBN event. Thereafter, on April 26, 2022, as Mayor of the Town of Erie, Mr. Brooks disclosed his membership in BBN before the Board of Trustees considered a vote regarding funding of an event and affirmatively recused himself from consideration of the agenda item, temporarily leaving the meeting. Mr. Brooks took these actions despite the fact that C.R.S. § 24-19-109(5) permitted him to vote, if he chose, on whether the Town should award the grant to BBN.

CONCLUSION

The Complaint is both procedurally deficient and frivolous, as that term is defined by the IEC Rules. Here, the Complaint fails to allege what provision of C.R.S. § 24-18-109 was violated by Mr. Brooks. Notwithstanding these deficiencies, Mr. Brooks did not violate any provision of this statute related to his conduct as both a board member and president of a nonprofit entity. Furthermore, the complaint is statutorily barred pursuant to C.R.S. § 24-18-109(5)(a), as Mr. Brooks may serve on the board of a non-profit entity as a member of a governing body of a local government. Accordingly, Mr. Brooks respectfully requests that the IEC dismiss the Complaint in its entirety.

ON BEHALF OF JUSTIN BROOKS
IN HIS CAPACITY AS MAYOR OF THE TOWN OF ERIE

**HOFFMANN, PARKER, WILSON &
CARBERRY, P.C.**

By: /s/ Daniel P. Harvey
Kendra L. Carberry
Daniel P. Harvey

CERTIFICATE OF SERVICE

I certify that on this 24th day of April, 2023, I caused a true and correct copy of the foregoing **RESPONSE AND MOTION TO DISMISS COMPLAINT** to be served via email to the Independent Ethics Commission to iecinfo@state.co.us and to the Complainant, Ryan Kenward via U.S. Mail at the following address:

Ryan Kenward
2215 Lupine Pl
Erie, CO 80516



Leslie A. New, Legal Assistant

**Town of Erie
Ordinance No. _042___ - 2020**

**An Ordinance of the Board of Trustees of the Town of Erie
Amending Title 3 of the Erie Municipal Code by the Addition of a
New Chapter 6, to Establish a Diversity, Equity and Inclusion
Advisory Board**

Whereas, the Board of Trustees believes it is in the best interest of the public health, safety and welfare to establish a Diversity, Equity and Inclusion Advisory Board.

Now therefore, be it Ordained by the Board of Trustees of the Town of Erie, Colorado that:

Section 1. Title 3 of the Erie Municipal Code is hereby amended by the addition of a new Chapter 6, to read as follows:

Chapter 6. – Diversity, Equity and Inclusion Advisory Board

3-6-1: Establishment.

The Diversity, Equity and Inclusion Advisory Board (the "DEI Board") is hereby established as an advisory committee of the Town.

3-6-2: Purpose and duties.

A. Purpose: The purpose of the DEI Board is to promote diversity, equity and inclusion in the Town generally and in the Town's municipal policies, procedures, practices and organizational culture.

B. Duties: The duties of the DEI Board are as follows:

1. To advise the Board of Trustees, by written report, in connection with matters relating to diversity, equity and inclusion and related activities.

2. To occasionally survey the community to understand local perspectives on the status of diversity, equity and inclusion in the Town.

3. To promote and encourage public awareness of and engagement in Town events and activities, or at the request of interested individuals or groups, to promote diversity, equity and inclusion in the Town.

4. To create a diversity, equity and inclusion master plan with the support of the Town staff to be reviewed and approved by the Board of Trustees, updating it every five (5) years, or sooner if needed. The

initial diversity, equity and inclusion master plan shall be created by the Diversity, Equity and Inclusion Advisory Board on or prior to December 31, 2021.

5. To coordinate with Boulder and Weld Counties and neighboring jurisdictions, Town staff and other Town boards, commissions and committees to identify and promote diversity, equity and inclusion activities.

6. With the support of Town staff, to review and assess the extent to which Town policies, procedures and practices, unintentionally or not, may have a discriminatory effect of marginalizing certain people and maintaining the privilege of others, and if so determined that is the case in any area, recommend, by written report to the Board of Trustees, amendments to policies or changes in practices needed to eliminate any vestiges of such discriminatory systems.

7. To recommend, by written report, grants or other sources of funding diversity, equity and inclusion activities.

8. To biannually prepare a written report, which shall then be presented orally to the Board of Trustees at a public meeting, with the first report and presentation occurring after the first of the year and the second prior to the start of the Town's budget consideration for the following year.

9. To perform such other functions and duties associated with diversity, equity and inclusion as the Board of Trustees may direct.

3-6-3: Appointment, compensation, terms and removal.

A. Appointment:

1. The DEI Board shall consist of seven (7) members, each of whom shall be current residents of the Town.

2. All members of the DEI Board shall be appointed by the Board of Trustees.

3. If any member ceases to reside in the Town, their membership on the DEI Board shall immediately terminate.

4. The members of the DEI Board shall represent diversity, and the majority of members shall be from marginalized groups.

5. A member of the Board of Trustees shall be appointed as the liaison to the DEI Board. The liaison will attend regular DEI Board meetings and be the conduit of bidirectional information to and from the Board of Trustees. The liaison is not a member of the DEI Board, nor is the liaison entitled to vote.

B. Compensation: All members of the DEI Board shall serve without compensation.

C. Terms of office:

1. Initially, seven (7) founding members shall be appointed to the DEI Board for one (1) year terms.

2. After the initial terms, four (4) members shall be appointed to the DEI Board for four (4) year terms and three (3) members shall be appointed to the DEI Board for two (2) year terms.

3. Thereafter, all terms shall be four (4) years, except as necessary to maintain the stagger.

D. Removal:

1. The Board of Trustees may remove any member of the DEI Board for any of the following reasons:

- a. A conflict of interest;
- b. Any violation of law, regulation, or policy;
- c. Neglect;
- d. Malfeasance; or
- e. Failure to attend three (3) consecutive regularly scheduled meetings without a leave of absence approved by a majority of the Diversity, Equity and Inclusion Advisory Board.

2. Prior to removing any member of the DEI Board, the Board of Trustees shall provide written notice to such member, including the reasons for the proposed removal, and an opportunity to be heard at a public meeting of the Board of Trustees.

3-6-4: Officers.

A. Election: At its first meeting following its creation, and at its first meeting following each regular Town election thereafter, the DEI Board shall elect from its members a Chair, a Vice Chair and a Secretary.

B. Duties: The Chair shall preside at all meetings of the DEI Board. The Vice Chair shall assume the duties and responsibilities of the Chair if the Chair is absent or unable to perform. The Secretary shall keep a record of all proceedings of the DEI Board.

C. Term: The term of each office shall be one (1) year, or until the first meeting of the DEI Board following each regular Town election, whichever is shorter.

D. Vacancies: A vacancy in the office of Chair shall be filled automatically by the Vice Chair, and a new Vice Chair shall be elected at the next meeting of the DEI Board from among the remaining members. A vacancy in the office of Vice Chair or Secretary shall be filled at the next meeting of the DEI Board from among the remaining members.

3-6-6: Bylaws.

The DEI Board shall adopt bylaws, which bylaws must be approved by the Board of Trustees. Any amendment to the bylaws must be approved by both the DEI Board and the Board of Trustees.

3-6-7: Meetings.

A. Open meetings: All meetings of the DEI Board shall be open to the public, and notice of such meetings shall comply with the Colorado Open Meetings Law, C.R.S. § 24-6-401, et seq. At each meeting, the DEI Board shall allow for public comment, with reasonable time limitations.

B. Regular meetings: The DEI Board shall hold at least one (1) regular meeting at Town Hall (or virtually as permitted by applicable law) each month. The DEI Board shall determine the yearly schedule of meetings and provide such schedule to the Town Clerk for publication. Alternative dates, times, or places may be approved by the DEI Board, as long as notice of such meetings is published on the Town website and such meetings are held in public places. The DEI Board shall hold a minimum of six (6) meetings per year.

C. Special meetings: The Chair or two members of the DEI Board may call a special meeting at any time, upon notice to the remaining members of the DEI Board.

D. Quorum: A quorum shall be one-half of the total number of appointed members of the DEI Board, rounded up to the nearest whole.

E. Voting:

1. A majority vote of those members present when there is a quorum is required for all actions of the DEI Board.

2. All members, including the Chair, may vote on any item, except in the case of a conflict of interest.

F. Minutes: The DEI Board shall keep minutes of all meetings and shall file such minutes with the Town Clerk.

G. Attendance by Town Staff: The Town Administrator or their designee will attend all DEI Board meetings, and other Town staff will be available to attend meetings quarterly, at the request of the Chair.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 4. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED THIS 27TH DAY OF OCTOBER , 2020.

PUBLISHED IN FULL ON THE 4th DAY OF NOVEMBER, 2020.

**TOWN OF ERIE, COLORADO
A Colorado Municipal Corporation
s/s: Jennifer Carroll, Mayor
s/s: Heidi Leatherwood, Town Clerk**

**Town of Erie
Ordinance No. 27-2021**

**An Ordinance of the Board of Trustees of the Town of Erie
Amending Section 3-6-3 of the Erie Municipal Code Regarding the
Initial Terms for Members of the Diversity, Equity and Inclusion
Advisory Board**

**Now Be it Ordained by the Board of Trustees of the Town of Erie,
Colorado, that:**

Section 1. Section 3-6-3 of Chapter 6 of Title 3 of the Erie Municipal Code is hereby amended as follows:

3-6-3: Appointment, compensation, terms and removal.

* * *

C. Terms of office:

1. Any member appointed to the DEI Board prior to April 30, 2022 shall have a term of office expiring on April 30, 2022.

* * *

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 4. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

**Introduced, read, passed and ordered published this 14th day of
September, 2021.**

Attest:

Heidi Leatherwood, Town Clerk



Jennifer Carroll, Mayor

9/14/2021

EXHIBIT B



Colorado Secretary of State
Date and Time: 09/24/2020 01:28 PM
ID Number: 20201828384
Document number: 20201828384
Amount Paid: \$50.00

Document must be filed electronically.
Paper documents are not accepted.
Fees & forms are subject to change.
For more information or to print copies
of filed documents, visit www.sos.state.co.us.

ABOVE SPACE FOR OFFICE USE ONLY

Articles of Incorporation for a Nonprofit Corporation

filed pursuant to § 7-122-101 and § 7-122-102 of the Colorado Revised Statutes (C.R.S.)

1. The domestic entity name for the nonprofit corporation is Being Better Neighbors.

(Caution: The use of certain terms or abbreviations are restricted by law. Read instructions for more information.)

2. The principal office address of the nonprofit corporation's initial principal office is

Street address 1424 Clayton Way
(Street number and name)

Erie CO 80516
(City) (State) (ZIP/Postal Code)

United States
(Province – if applicable) (Country)

Mailing address P.O. Box 691
(leave blank if same as street address) (Street number and name or Post Office Box information)

Erie CO 80516
(City) (State) (ZIP/Postal Code)

United States
(Province – if applicable) (Country)

3. The registered agent name and registered agent address of the nonprofit corporation's initial registered agent are

Name
(if an individual) Parenti Jennifer
(Last) (First) (Middle) (Suffix)

OR

(if an entity)
(Caution: Do not provide both an individual and an entity name.)

Street address 1424 Clayton Way
(Street number and name)

Erie CO 80516
(City) (State) (ZIP Code)

Mailing address
(leave blank if same as street address)

P.O. Box 691

(Street number and name or Post Office Box information)

Erie

(City)

CO

(State)

80516

(ZIP Code)

(The following statement is adopted by marking the box.)

☒ The person appointed as registered agent above has consented to being so appointed.

4. The true name and mailing address of the incorporator are

Name
(if an individual)

Parenti

(Last)

Jennifer

(First)

(Middle)

(Suffix)

OR

(if an entity)

(**Caution:** Do not provide both an individual and an entity name.)

Mailing address

P.O. Box 691

(Street number and name or Post Office Box information)

Erie

(City)

CO

(State)

80516

(ZIP/Postal Code)

United States

(Province – if applicable)

(Country)

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

☐ The corporation has one or more additional incorporators and the name and mailing address of each additional incorporator are stated in an attachment.

5. (If the following statement applies, adopt the statement by marking the box.)

☐ The nonprofit corporation will have voting members.

6. Provisions regarding the distribution of assets on dissolution:

Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or a state or local government, for public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

7. (If the following statement applies, adopt the statement by marking the box and include an attachment.)

☒ This document contains additional information as provided by law.

8. (**Caution:** Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)

The delayed effective date and, if applicable, time of this document is/are _____.
(mm/dd/yyyy hour:minute am/pm)

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes. This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is named in the document as one who has caused it to be delivered.

9. The true name and mailing address of the individual causing the document to be delivered for filing are

Thomas	Kathryn		
(Last)	(First)	(Middle)	(Suffix)
P.O. Box 22689			
(Street number and name or Post Office Box information)			

Denver	CO	80222	
(City)	(State)	(ZIP/Postal Code)	
United States			
(Province – if applicable)		(Country)	

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

☐ This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

Disclaimer:

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).

Being Better Neighbors
Additional Articles

The Corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth above. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Initial Board of Directors

Alicia Graves
Justin Brooks
Mecca Scott
Ashraf Shaikh
Jennifer Parenti

Initial Officers

President – Alicia Graves
Vice President – Mecca Scott
Secretary – Jennifer Parenti
Treasurer - Justin Brooks

**BEFORE THE INDEPENDENT ETHICS COMMISSION
STATE OF COLORADO**

CASE NO. 23-02

In the Matter of:

JUSTIN BROOKS, Mayor of Town of Erie

AFFIDAVIT OF JUSTIN BROOKS

AFFIANT, hereby states under penalty of perjury as follows:

1. I, Justin Brooks, do state and affirm that the following statements are true and accurate as of the date hereof. I am of sound mind and lawful age. I have personal knowledge of the facts contained herein.

2. I currently serve as the Mayor of the Town of Erie, Colorado (the "Town"). On April 7, 2022, I served as a Trustee on the Board of Trustees of the Town. In my capacity as a Trustee, I served as a liaison to the Town of Erie's Diversity, Equity and Inclusion Advisory Board (the "DEI Advisory Board").

3. As a DEI Advisory Board liaison, pursuant to Erie Municipal Code Section 3-6-3(A)(5), I was not a member of the DEI Advisory Board and did not have voting authority.

4. I previously served as a board member of a nonprofit entity registered with the State of Colorado called Being Better Neighbors ("BBN"). I currently serve as the President of BBN as of November 21, 2021. I have not, and do not currently receive any compensation from BBN.

5. At the DEI Advisory Board meeting on April 7, 2022, I did not (and could not) cast a vote related to funding to BBN for its event. At no point did I direct the DEI Advisory Board to vote in any particular way or indicate to DEI Advisory Board members that I had any authority to do so.

6. On April 26, 2022, I served in my current capacity as Mayor of the Town. On that date, the Board of Trustees considered a Community Organization Grant application submitted by BBN to the Town.

7. When the agenda item came up at the public Board of Trustees meeting on April 26, 2022, I publicly disclosed my affiliation with BBN, indicated that the Mayor Pro Tem would handle this portion of the meeting instead of me, and recused myself from consideration of this matter by temporarily leaving the meeting.

8. I have reviewed the Response and Motion to Dismiss that this Affidavit accompanies. Pursuant to the IEC Rule of Procedure 5(H)(4), to the best of my knowledge, information and belief, the statements set out therein are true and accurate.

FURTHER AFFIANT SAYETH NOT


Justin Brooks

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 24th day of April, 2023, by Justin Brooks.

My commission expires: 6/3/2026


Notary Public

