

### **Investigation of Complaint 11-03**

The complaint alleges that Kevin McCasky, a Jefferson County Commissioner accepted an impermissible gift in that he “negotiated for employment” in violation of Article XXIX, section 3, and Position Statement 09-02 . The complaint alleges McCasky applied for a job as executive director of the Jefferson Economic Council, (“JEC”) and concurrently pushed for an increase in funding for JEC as a County Commissioner, and voted on the JEC’s budget while his application was pending.

The complaint is largely based on a newspaper article in the Columbine Courier, dated February 15, 2011. I interviewed several members of the JEC, the person who handled the executive search on behalf of JEC, the County Commissioners (other than McCasky) and members of the search committee. I also did a CORA request for documents from Jeffco and subpoenaed documents from a former employee, Jim Moore, and from the search firm, Jorgenson Consulting (although the documents ultimately were turned over voluntarily). The investigation shows:

1. September 10, 2010: Preston Gibbs, president of Jefferson Economic Council (“JEC”) resigned his position, and JEC announced that they will initiate a nationwide search with the goal of hiring a new Executive Director by the end of the year.
2. Jorgenson Consulting was hired to do an Executive Search in October. An announcement for the job was published on the Jorgenson website and in their newsletter from November 1, 2010-November 26, 2010. There was also an ad in the Denver Business Journal. There is no information about salary in the announcement. McCasky submitted his resume on November 2, 2010. Jorgenson did an informal review of the Executive Director’s salary and determined that the salary was within the appropriate range.
3. There had been ongoing discussions within the Jeffco Board of County Commissioners (“BCC”) about increasing its contribution to JEC. McCasky had proposed increases at several times. Kathy Hartman says she received several calls from Mike McGinnis, the JEC chair, about increased funding. McGinnis remembers only one conversation in early 2010, but he acknowledges that JEC had been losing members and that there were conversations at JEC meetings about increased funds from Jeffco, and Hartman was present at several of those meetings, as was McCasky. Hartman said the increased funds were for an increase in salary for the Executive Director; both McGinnis and Mike Partheymuller, the chair of the search committee deny this. They both said that the increase was for general administration and that there were no discussions about salary until after McCasky was hired.

4. On November 4, 2010, the Board of County Commissioners (“BCC”) was briefed at a meeting on the proposed budget. There is no information about this meeting on the web, but I have notes of the meeting from three individuals. The informal minutes of the meeting state that Commissioner Hartman proposed increasing the JEC funding by \$20,000 and that the other Commissioners agreed.
5. On November 16, 2010, at a noticed and recorded public meeting, there is only minimal discussion of the proposed budget, and no discussion of the change in JEC’s budget.
6. On December 7, 2010, the BCC approved the proposed budget. There is a resolution specifically listing 31 organizations to which the County pays dues. These organizations include CCI, DRCOG, several chambers of commerce, and the JEC. The payment to JEC is \$400,000. There is no discussion on the video of this resolution, other than the motion, second and vote. The payment to JEC is \$20,000 more than it was in 2010, and it is the only organization on the list that received an increase from 2010 to 2011.
7. Commissioner McCasky seconded the motion to approve the resolution and voted on the resolution. The resolution passed 3-0. Although McCasky did not publicly disclose the potential conflict, several people told me it was common knowledge that he had applied.
8. On December 8, a representative of Jorgenson Consulting called McCasky to schedule an interview on December 15. There were three other candidates called; two from out of state, and one from an hour away by car, as well as McCasky. All interviews were conducted on December 15. Four of the six finalists attended a Colorado university for either undergraduate or graduate school. The interview questions include knowledge about Colorado and Jeffco.(I have information about the candidates, but not their names).
9. Two of the candidates, McCasky and one from the State of Washington were interviewed on January 7. The other candidate had a master’s degree as well as an MBA, and a professional certification, but no previous ties to Colorado.
10. On January 11, 2011 Mike McGinnis, the past chair of the JEC, and the chair of the search committee, and Mike Partheymuller, the chair of the JEC, met with Kevin McCasky and offered him the job. According to both Partheymuller and McGinnis they had no conversations with McCasky about the job other than at the interviews. They began negotiating an employment contract at that time. The three of them reached an

agreement on salary and terms that same day. McCasky's attorney has told me that he earns about \$5000 less than Gibson earned. The employment contract was approved by the JEC Executive Committee on January 12, 2011, and by the JEC Board of Directors on January 19, 2011.

11. McCasky's pleadings state that he did not "negotiate for employment" until the January meeting, and that at the time he voted on the budget he did not know the status of his job application with JEC.

12. Other issues:

a. Jim Moore, the previous County administrator, was also interviewed and provided documents pursuant to a subpoena. Mr. Moore was terminated by Jeffco in December 2009. He had served as county administrator for four years and worked for Jeffco for 2 years before that as the human resources director and the director of administration. He sued the County for unlawful termination and settled the case in April 2011. (He says he was fired for refusing to put items on the Agenda).

b. Mr. Moore alleges that there is a pattern of conflict of interest between JEC and the BCC. He cites two land deals in which Jeffco approved the purchase and sale of land which benefited the Stevinson auto dealership (when an employee of Stevinson was the chair of JEC, and Greg Stevinson was very active in the organization). According to Moore, these deals provided no benefit at all to the county, and were also questioned by the director of the Jeffco open space program. Moore sent the BCC an email asking what he was to do if he believed that the BCC was in violation of the law, and he was told that he should do as he was told. He also asked the county attorney for a legal opinion and was told that his duty was to the BCC, not the citizens of Jeffco.

c. He took notes of all of these conversations. In a discrimination case in which Jeffco was sued by employees, it came out during his deposition that he had notes of conversations. Moore states that Jeffco settled that case largely because of the damaging information in the notes about the BCC's conduct. Moore says that McCasky ordered him to shred the notes even though there was pending litigation, and told him that McCasky would sue Moore if the notes were released.

d. Mr. Moore also spoke about the case in which former Commissioner Congrove used public funds to hire a private investigator to follow Mike Zinna, a frequent critic of the county. Mr. Moore says McCasky was involved in that situation as well. The CBI did an investigation of the possible misuse of public funds, and referred the case to Adams

County DA Don Quick, acting as a special prosecutor. Quick declined to prosecute citing insufficient evidence.

e. Mr. Moore's information shows a pattern of self-dealing and conflicts of interest in Jeffco, but he has no information about the subject of the complaint, because he left a year prior to the hiring of McCasky. All of the information he provided is barred by the Commission's 12 month statute of limitation. Mr. Moore has asked me to forward the information to the Attorney General's Office.