

ETHICS COMMISSION/CITY OF SPOKANE



SPECIAL MEETING NOTICE/AGENDA

April 5, 2017 – 4:00 p.m.
City Council Chambers
Lower Level, City Hall
808 W. Spokane Falls Blvd
Spokane, Washington

The meeting will be open to the public with the possibility of the Ethics Commission moving into executive session only with members of the Commission and the appropriate staff.

I. Call to Order

- a. Introduction of members and guests.

II. Action Items (requires a quorum for a motion, second, and vote)

- a. Approval of April 5, 2017 Meeting Agenda;
- b. Approval of February 15, 2017 meeting minutes;
- c. Continued review of complaints filed by Joe Shogan against David Condon and Theresa Sanders, Case No. 2017-01.
- d. Review of Proposed Amendments to Ethics Code
- e. Review of Proposed Amendments to Commission Rules of Procedure.

III. Calendar

- a. Regularly Scheduled meetings for 2017; June 21st, September 20th, and December 20th.
(Regular meetings at 4:00 p.m. on the third Wednesday of the last month of each quarter).

IV. Other Business -

V. Adjournment

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Human Resources at 509.625.6363, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or jjackson@spokanecity.org. Persons who are deaf or hard of hearing may contact Human Resources through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

ORDINANCE NO. C - _____

An ordinance relating to the Code of Ethics; amending SMC section 1.04A.110 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC 1.04A.110 is amended to read as follows:

1.04A.110 Complaint Process of the Ethics Commission

- A. A complaint that this Code of Ethics has been violated by a City employee or a City officer shall be filed with the Ethics Commission.
- B. Any person may file an official written complaint or inquiry with the Ethics Commission asking whether a current City officer or employee has failed to comply with this Code of Ethics.
- C. Complaints and inquiries must be in writing on a form approved by the Ethics Commission. The form shall contain a statement that must be signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint or inquiry is true. The complaint must describe the facts that constitute the violation of this Code of Ethics in sufficient detail so that the Commission and the person who is the subject of the complaint or inquiry can reasonably be expected to understand the nature of any offense that is being alleged.
- D. The Commission, upon receipt of the complaint, shall acknowledge receipt of the complaint, forward the complaint simultaneously to the person who is complained against, if known, and the City Attorney, and promptly meet and review the complaint. As soon as practicable after giving due consideration to a complaint the Commission shall either:
 - 1. Dismiss the complaint based on any of the following grounds:
 - a. It has no jurisdiction;
 - b. The alleged violation, if true, would not constitute a violation of this article;
 - c. The alleged violation is a minor or de minimis violation;
 - d. The complaint or inquiry is, on its face, frivolous, groundless or brought for purposes of harassment;
 - e. The matter has become moot because the person who is the subject of the complaint or inquiry is no longer a City officer or employee;
 - f. The appointing authority has already taken action as a result of finding a violation and the Commission believes the action was appropriate; ((or))
 - g. The respondent had previously requested and followed the advice of the City Attorney's Office;

h. The respondent had previously been the subject of a prior ethics complaint originating from the same cause of action, which was ruled upon by the Ethics Commission.

2. Determine that:

- a. The complaint alleges facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics;
- b. Further information must be presented for the Commission to determine if a violation of the Code of Ethics has occurred.

3. The Commission Chairperson may summarily dismiss a complaint if the respondent is not subject to the Code of Ethics. The complainant may appeal the Chairperson's decision to the Commission.

- E. If the Commission determines the complaint alleges facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics, it may create a stipulation for the City officer or employee subject to the complaint resolving the complaint, the determination of compliance and the penalty, if any to be imposed.
- F. If the complaint is not resolved by stipulation, or earlier in the adjudication process, or additional information is required to establish the factual record necessary for the Commission to determine whether a violation of the Code of Ethics has occurred, the ~~((board))~~ Commission may convene a hearing at a future date certain. At such a hearing, the Commission shall consider additional evidence submitted by the parties including the submission of affidavits and documentary evidence. The Commission may consider whether to subpoena and hear the testimony of witnesses, including cross examination, if, in the opinion of the Commission, such testimony would serve the Commission establish the factual record ~~((may call additional witnesses or consider additional documentary evidence))~~. Alternatively, the Commission may appoint a hearing officer to investigate the complaint, including interviewing witnesses, and provide a report to the Commission establishing the factual record. After final deliberations on additional testimony, statements, or documents presented at the hearing, the Commission shall determine whether or not a violation of the Code of Ethics has occurred.
- G. Any person who is the subject of a complaint may designate a representative if he or she wishes to be represented by someone else ~~((, to present evidence, and to cross-examine witnesses))~~. If the complaint is not resolved prior to the hearing pursuant to paragraph F, the City shall assign legal representation at the City's expense to represent the respondent as long as the conduct alleged in the complaint occurred while the person was acting within his or her scope of employment. The person who submitted the complaint and the subject of the complaint must be allowed sufficient time to examine and respond to any evidence not presented to them in advance of the hearing.

- H. After the Commission has made its final determination, the Commission shall issue its written findings of fact and conclusions of law, along with its recommended disposition (if applicable). The Commission may, in addition, issue any additional reports, opinions, or recommendations as it deems advisable under the circumstances. All such reports shall be reviewed by the city attorney (or independent legal counsel in the event that a conflict of interest prevents the city attorney from conducting the review) prior to their issuance. The Commission's conclusions shall be based on the preponderance of the evidence standard.
- I. The investigation of complaints shall be completed by the Ethics Commission and written findings and conclusions prepared within sixty days of the date of the complaint. A copy of the written investigation findings and conclusions shall be served on any party against whom a complaint is filed within three days of the Ethics Commission's final decision. It shall be posted on the City's website for the Ethics Commission no more than twenty-four hours later. Posting on the website will clearly indicate the disposition of the issue in the text of the link and not in the text of the document only.
- J. The City Attorney may require the investigation of complaints and written findings to be completed by the Ethics Commission, in a reasonable amount of time, less than that stated in (I) in circumstances where the matter should be resolved more quickly.
- K. Any individual who is advised of another's violation of this code is responsible to direct the advising party of this code and its procedure for filing complaints.

PASSED BY THE CITY COUNCIL ON _____, 2017.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date