

ETHICS COMMISSION/CITY OF SPOKANE



SPECIAL MEETING NOTICE/AGENDA

December 20, 2017 – 3:00 p.m.
5th Floor City Hall – Tribal Conference Room
808 W. Spokane Falls Blvd
Spokane, Washington

The meeting will be open to the public but will be conducted in a retreat format 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 Item

- a. Approval of July 12, 2017 and July 21, 2017 meeting minutes

III. Retreat Agenda

- a. Review of Commission Membership and Terms (Att. No. 1)
- b. Review of current documents:
 - i. Chapter 1.04A SMC (Att. No.2)
 - ii. Policy and Procedures Manual (Att. No. 3)
 - iii. Code of Ethics Handbook (Att. No.4)
 - iv. Complaint Form (Att. No.5)
 - v. Complaint Timeline (Att. No. 6)
 - vi. Checklist for Initial Meeting (Att. No. 7)
 - vii. Ethics Commission Checklist (Att. No. 8)
 - viii. Application of Ethics Code to former city employees (Att. No. 9)
- c. Review of proposed revisions:
 - i. Revisions to SMC (Att. No. 10)
 - ii. Revisions to Policy and Procedures Manual (Att. No. 11)
 - iii. Prehearing Order (Att. No.12)

- d. Open Government Training Instructions. (Att. No.13)
- e. Parliamentary Procedures (Att. No. 14)
- f. Update on Pending Complaint
 - i. Minutes from prior meetings addressing complaint filed by Joe Shogan. (Att. No. 15)
 - ii. Current pleadings relating to complaint filed by Joe Shogan. (Att. No. 16)

IV. Calendar

- a. Regularly Scheduled meetings for 2018; March 21st, June 20th, September 19th and December 19th. (Regular meetings at 4:00 p.m. on the third Wednesday of the last month of each quarter).
- b. Schedule next meeting.

V. Other Business -

VI. 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. 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.

**CITY OF SPOKANE
ETHICS COMMISSION
MINUTES OF JULY 12, 2017 MEETING**

Dennis Cronin commenced the meeting at 4:05 p.m. Present are Chair, Dennis Cronin, Sarah O'Hare, and Brian Steverson. Commission Counsel, Michael Piccolo, is also present.

The agenda for the meeting is reviewed and Dennis asks if there is a motion to amend the order of the agenda, deleting items E & F. Brian so moves and Sarah seconds. All are in Favor. Agenda, as amended, is approved.

The Minutes from the June 14, 2017 meeting are reviewed. Brian moves to approve the minutes, as amended with his last name corrected from "Schaeffer" to Steverson. That modification is approved and will be made. Minutes unanimously approved with that modification.

NICOLE MOORE

The members meet with Nicole Moore (she prefers "Nicky") and review her application to the Commission. Sarah states she works at GU. She states she loves her job and works with lovely people.

Her largest "ethics" involvement is currently academically related with issues such as plagiarizing, false data, etc. as it is in relation to science. She questions if a project has a good "end", which can be debatable, such as weapons for example. She would not work with weapons, personally.

She served on the Board of the Junior League, a training organization for women. There, she learned how to fund raise and how to run projects. Her focus is regional literacy. She states she is bad at asking people for money, so she never does campaign activities.

Brian asks Nicole if she has reviewed the Ethics Commission's work and she said she had. She states she has never dealt with issues of moral turpitude exactly.

Nicole states she ran to be on the Honor Board- but never made it. She had dealings with student issues – like someone had set a banister on fire, for example.

She states she likes to come at things with trust. She gives take home tests without limit and open book with a focus on trust.

She states she has a subscription to the Spokesman, but doesn't read the articles.

Dennis asks Nicole if she has a conflict for her work on the commission serving with Brian Steverson who also works for GU and she states she doesn't think so. Dennis notes there is some public interest in what the Commission members do and what the members and who they are. Journalists investigate the EC members, and Dennis asks what are Nicole's

**CITY OF SPOKANE
ETHICS COMMISSION
MINUTES OF JULY 21, 2017 MEETING**

Dennis Cronin commenced the meeting at 12:00 p.m.

The Minutes from the July 12, 2017 are reviewed and approved as they are.

This meeting will consist of a telephone interview for the Ethics Commission's candidate interview of Chrissy Davis Jones, Ph.D.

Present is Commission Counsel, Michael Piccolo. Brian, Amina, Dennis and Sarah are in attendance via phone conferencing. Dr. Jones is conferenced in while traveling out of town.

Dr. Jones is employed at Spokane Falls Community College. She is very active and serves on various committees and councils and she has received many awards for her many various accomplishments.

Her main focus is education and she aspires to assist as many students as she can to complete their education and move forward responsibly in life.

She would like to serve on the Commission to again serve the community in a new way. She thinks she would be useful having worked on ethics issues over the years. She is a very busy and involved woman and likes to stay that way.

After reviewing her extensive resume, Dennis wonders if she would have the time to serve on the Commission. Dr. Jones states that she believe she does and that her varied experience would be of benefit to the Commission.

The conference call was concluded with thanks to Dr. Jones for her interest.

Following the call, the members discussed her vast experience and current work load and wonder together if she would have adequate time to commit to the Commission. Brian indicates there are the others that have been interviewed to be still consider. The Commission decides they will discuss all the applicants at the next meeting.

Meeting adjourned at 12:30.

Reviewed and approved:

Dennis Cronin, Chair

2018 MEMBERSHIP

TERM

- | | |
|--------------------------------|-------------------------------------------|
| 1) Dennis Cronin, Chair | 1/1/16 to 12/31/18 (1 st Term) |
| 2) Brian Steverson, Vice-Chair | 1/1/16 to 12/31/18 (2 st Term) |
| 3) Amina Fields | 1/1/16 to 12/31/18 (1 st Term) |
| 4) Michelle Bleek | 1/1/17 to 12/31/19 (1 st Term) |
| 5) Clayton McFarland | 1/1/17 to 12/31/19 (1 st Term) |
| 6) Kenneth Hall | 1/1/18 to 12/31/20 (1 st Term) |
| 7) Sarah O'Hare | 1/1/18 to 12/31/20 (1 st Term) |

SMC 1.04A.080 Ethics Commission

- A.** The Ethics Commission shall be comprised of seven members who shall be appointed by the mayor and confirmed by the city council. The initial six members shall be appointed for a one-, two- and three-year term and may be reappointed for one additional three-year term. The seventh member who shall be appointed by members of the Ethics Commission shall serve an initial three-year term and may be reappointed for a second three-year term. The Ethics Commission appointees shall include representatives from the following segments of the community:
1. A person with a professional or academic background in the legal profession including attorneys, law professors or members of the judiciary.
 2. A person from local business with experience in human resources/personnel.
 3. A person who possesses familiarity with government and the political process.
 4. A person with experience in ethics.

Chapter 01.04A Code of Ethics

Section 01.04A.010 Purpose

- A. It is the policy of the City of Spokane to uphold, promote and demand the highest standards of ethics from all of its employees and City officers, whether elected, appointed or hired. City officers and employees shall maintain the utmost standards of responsibility, trustworthiness, integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants including the appearance of impropriety, and never use their City position, authority or resources for personal gain.
- B. It is the intent of the City Council that this chapter be reasonably construed to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest or any other violation of this Code of Ethics. This Code of Ethics is supplemental to state law, including, but not limited to, chapter 42.20 RCW – Misconduct of Public Officers, chapter 42.23 RCW – Code of Ethics for Municipal Officers – Contract Interests, and chapter 42.36 RCW – Appearance of Fairness Doctrine.
- C. It is the function of the Ethics Commission to pursue the above stated policy of the City of Spokane. The Ethics Commission shall develop training, programs and initiatives in support of this goal.

Section 01.04A.020 Definitions

The following words and phrases as used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings:

- A. "Agency" means any City board, commission, bureau, committee, department, institution, division or tribunal in City government.
- B. "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to or otherwise provide assistance to another person, believing that the action is of help, aid, advice or assistance of the person with intent so to assist such person.
- C. "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.
- D. "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust or any legal entity organized for profit.
- E. "City" means the City of Spokane, Washington.
- F. "City action" means any action on the part of an agency, including, but not limited to:
 - 1. a decision, determination, finding, ruling or order; and
 - 2. a grant, payment, award, license, contract, transaction, sanction or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling or order.

- G. "City officer" means every individual elected, appointed, hired or otherwise selected to an office or position with the City, or any subdivision, agency, committee or board thereof, whether such individual is paid or unpaid.
- H. "Compensation" means anything of economic value, however designated, that is paid, loaned, granted or transferred, or to be paid, loaned, granted or transferred for, or in consideration of, personal services to any person.
- I. "Confidential information" means:
1. Specific information, rather than generalized knowledge, that is not available to the general public on request; or
 2. Information made confidential by law including but not limited to taxpayer information, RCW 82.32.330; information regarding organized crime, RCW 43.43.856; criminal history information, Chapter 10.97 RCW; medical records, Chapter 70.02 RCW; and juvenile records, RCW 13.50.010; or
 3. Information that is initially disclosed or discussed in executive session, and which is not available to the general public on request; however
 4. Confidential information does not include information authorized by the mayor or a majority vote of the council to be disclosed.
- J. "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement or a sales agreement.
- K. "Ethics Commission" means the commission on ethical conduct for and duly appointed by the City.
- L. "Employee" means any person holding a regularly compensated position of employment with the City but does not include elected officers and persons who serve without compensation on City boards and commissions.
- M. "Exempt employee" shall mean those City employees not represented by a recognized labor union and identified by both the City administration and the applicable labor unions as exempt confidential employees
- N. "Family member" means:
1. a spouse or domestic partner; or
 2. any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or
 3. any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the City officer or employee.
- O. "Gift" means anything of economic value or tangible worth for which no consideration is given. "Gift" does not include:
1. items from family members or friends where it is clear that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;
 2. items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
 3. items exchanged among officials and employees or a social event hosted or sponsored by a City officer or City employee for coworkers;
 4. payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging and subsistence expenses incurred the day before through the day after the event;
 5. items a City officer or City employee is authorized by law to accept;
 6. payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade or charitable association or institution. As used in this subsection, "reasonable expenses" are

- limited to travel, lodging and subsistence expenses incurred the day before through the day after the event;
7. items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;
 8. campaign contributions reported under chapter 42.17 RCW;
 9. discounts available to an individual as a member of an employee group, occupation or similar broad-based group;
 10. awards, prizes, scholarships or other items provided in recognition of academic or scientific achievement;
 11. attendance of a City officer or employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business or where official attendance by the officer or employee as a City representative is appropriate;
 12. an award publicly presented in recognition of public service; or
 13. any item of nominal value which cannot reasonably be presumed to influence the vote, action or judgment of the City officer or employee, or be considered as part of a reward for action or inaction. An item of nominal value shall include incidental items associated with the professional conduct or courtesies of a City officer or employee's duty including the acceptance during the conduct of official business of such items as refreshments, note pads, pens, pins and books.
- P. "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.
- Q. "Honorarium" means money or thing of value offered to a City officer or City employee for a speech, appearance, article or similar item or activity in connection with the City officer's or City employee's official role.
- R. "Household member" means any person having a close relationship with and residing in the same household of the City officer or employee, and having agreed to be jointly responsible for basic living expenses.
- S. "Person" means any individual, partnership, association, firm, institution or corporation, business or other entity, however constituted, organized or designated.
- T. "Personal interest" means direct or indirect pecuniary or material benefit accruing to a City officer or employee as a result of legislation or a contract or transaction which is or may be the subject of an official act or action by or with the City except for such contracts or transactions which confer similar benefits to all other persons and/or property similarly situated. For the purpose of this chapter, an City officer or employee is deemed to have a personal interest in the affairs of:
1. any person who is a City officer or employee's family member or household member, as defined in this chapter;
 2. any business entity in which the City officer or employee is an officer, director or employee;
 3. any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent of the total stock or total legal and beneficial ownership, is controlled or owned directly or indirectly by the City officer or employee;
 4. any person or business entity with whom a contractual relationship exists with the City officer or employee; provided, that a contractual obligation of less than five hundred dollars, or a commercially reasonable loan made in the ordinary course of business or a contract for a commercial retail sale shall not be deemed to create an interest in violation of this chapter.
- U. "Regulatory agency" means any City board, commission, department or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative

- proceedings, issue permits or licenses, or to control or affect interests of identified persons.
- V. "Represented employee" shall mean a City employee represented by a recognized labor union.
 - W. "Responsibility" in connection with a transaction involving the City, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove or otherwise direct City action in respect of such transaction.
 - X. "Staff Director" means the employee appointed by the City Attorney to, in addition to other responsibilities, assist the Ethics Commission in its duties.

Section 01.04A.030 Prohibited Conduct

The following shall constitute a violation of this Code of Ethics:

- A. General Prohibition Against Conflicts of Interest.
In order to avoid becoming involved or implicated in a conflict of interest or impropriety, or an appearance of conflict of interest or impropriety, no current City officer or employee shall have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that might be seen as conflicting with the City officer or employee's proper discharge of his or her official duties, the conduct of official City business or as adverse to the interests of the City. Performance of a legally required duty by a City officer or employee shall not be considered a violation of the Code of Ethics.
 - 1. Any employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor or appointing authority of the potential conflict.
 - 2. Upon receipt of such a notification, the supervisor or appointing authority shall take action to resolve the potential conflict of interest within a reasonable time, which may include, but is not limited to, designating an alternative employee to perform the duty that is involved in the potential conflict. The supervisor or appointing authority shall document the disposition of the potential conflict in writing in files maintained by the appointing authority. The supervisor or appointing authority may request an advisory opinion from the Ethics Commission before addressing and resolving of the potential conflict.
- B. Personal Interests in Contracts Prohibited.
No City officer or employee shall participate in his or her capacity as a City officer or employee in the making of a contract in which he or she has a personal interest, direct or indirect, or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the City. Except, that this prohibition shall not apply where the City officer or employee has only a remote interest in the contract, and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, and thereafter the governing body authorizes, approves or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the City officer(s) having the remote interest as defined below.
- C. Remote Interest.
For purposes of this section, a "remote interest" means:
 - 1. that of a non-salaried non-compensated officer of a nonprofit corporation;
 - 2. that of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
 - 3. that of a landlord or tenant of a contracting party;

4. that of a holder of less than one percent of the shares of a corporation, limited liability company or other entity which is a contracting party.
- D. **Personal Influence in Contract Selection Prohibited.**
No City officer or employee shall influence the City's selection of, or its conduct of business with, a corporation, person or firm having or proposing to do business with the City if the City officer or employee has a personal interest in or with the corporation, person or firm, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, as defined in the preceding section. Provided, however, that no City officer or employee may receive anything of value from the City as a result of any contract to which the City shall be a party except for the City officer or employee's salary or lawful compensation.
 - E. **Representation of Private Person at City Proceeding Prohibited.**
No City officer or employee shall appear on behalf of a private person, other than himself/herself or a family member or household member, as defined in this chapter, or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the City or a City officer in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City. Representation of a private person pursuant to a legally required duty by a City officer or employee is permitted and shall not be considered a violation of the Code of Ethics.
 - F. **Certain Private Employment Prohibited.**
No City officer or employee shall engage in or accept private employment, or render services for, any private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.
 - G. **Personal Interest in Legislation Prohibited.**
No City officer or employee may benefit either directly or indirectly from any legislation or contract to which the City shall be a party except for the lawful compensation or salary of the City officer or employee unless such interest is a remote interest where the facts and extent of such interest is disclosed. City council members' participation in the enactment of legislation shall be governed by chapter 42.23 RCW – The Code of Ethics for Municipal Officers and chapter 42.36 RCW – The Appearance of Fairness Doctrine. City council members shall not be prohibited from participating in the adoption of legislation when the council member has only a remote interest in the legislation, which has been disclosed, and the legislation is applicable to the general public and not unique to the council member.
 - H. **Continuing Financial Interest.**
Where a City officer, employee, or family member of a City officer or employee, has a substantial ongoing financial relationship with a corporation, firm, or person seeking a contract, or proposing to do business with the City, such City officer or employee shall not:
 1. Influence or participate in the City's contract selection of or conduct business with such corporation, firm, or person; nor
 2. Influence or participate in the City's contract selection of, or conduct business with, a corporation, firm, or party competing against a party that a City officer or employee has such a substantial ongoing financial relationship.
 3. For purpose of this section, a substantial ongoing financial relationship is defined as: expanding beyond just a formal contractual relationship. Rather it encompasses any financial interest, direct or indirect, where a City officer, employee, or family member of a City officer or employee is involved in a client-service relationship in which:

- a. the City officer, employee, or family member of a City officer or employee, receives a substantial portion of his or her revenue or like compensation through such relationship, whether received through his or her corporation, firm, or as an individual; or
 - b. such client-service relationship is likely to continue to provide considerable potential business or has provided substantial business in the past. This does not include prior financial relationships that are so far removed in time or rare in frequency as to be insignificant.
4. Corporations, firms or persons doing business with the City shall be advised of this provision, and shall certify, as part of any contract with the City, that they are aware of the restrictions in this policy.
- I. Disclosure of Confidential Information
1. Disclosure of Confidential Information
No City officer or employee shall, except as required or reasonably believed to be required for the performance of his/her duties, disclose confidential information gained by reason of his/her official position or use such information for his/her own personal interest. "Confidential information" is all information, whether transmitted orally or in writing, that the employee has been informed, is aware, or has reason to believe is intended to be used only for city purposes, is not intended for public disclosure, or is otherwise of such a nature that it is not, at the time, a matter of public record or public knowledge.
 2. Confidential information includes, but is not limited to, personal information regarding City officials and employees; private financial and other personal information provided by city taxpayers, license holders, contractors, and customers; intelligence and investigative information, including the identity of persons filing complaints; formulas, designs, drawings, and research data obtained or produced by the city and preliminary, non-final assessments, opinions, and recommendations concerning city policies and actions. Any public official who is uncertain as to whether certain information is confidential should consult the City Attorney. An employee who is uncertain as to whether certain information is confidential should consult their immediate supervisor or department head.
- J. Acceptance of Compensation, Gifts, Favors, Rewards or Gratuity.
City employees shall not, directly or indirectly, solicit any gift or give or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form, under the following circumstances:
1. It could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or
 2. The gift was intended to serve as a reward for any official action on their part.
- Public officials and city employees may accept de minimis gifts such as, but not limited to, calendars, coffee mugs, flowers, candy, and other similar items that are given as a customary business practice and have no material significance to the recipient, with such gifts from any one source not to exceed one hundred dollars in value in any twelve-month period. City employees should report any gift to their immediate supervisor. This section shall not apply to gifts made to the city. All such gifts shall be given to the mayor for official disposition. This prohibition shall not apply to those items which are excluded from the definition of gift in SMC 1.04A.020.
- K. Fair and Equitable Treatment.
1. No City officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use position to secure special privileges or exceptions for himself/herself or for the benefit, gain or profits of any other persons.

2. No City officer or employee shall employ or use the employment of any person under the City officer's or employee's official control or direction for the personal benefit, gain or profit of the City officer or employee or another beyond that which is available to every other person.
 3. No City officer or employee shall use City-owned vehicles, equipment, materials, money or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business (not personal use), and for such purposes and under such conditions as can be reasonably expected to be approved by City policies.
 4. Except as authorized by law and in the course of his or her official duties, no City officer or employee shall use the power or authority of his or her office or position with the City in a manner intended to induce or coerce any other person to provide such City employee or any other person with any compensation, gift, or other thing of value directly or indirectly.
 5. City Officers and employees are encouraged to participate in the political process on their own time and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition, but shall not use or authorize the use of City facilities or resources for such purposes except as authorized by the provisions of RCW 42.17.13.
- L. False and Frivolous complaints prohibited.
No person subject to the Code of Ethics shall knowingly file a false complaint or report of a violation of this Code of Ethics. A person who files a complaint with a good faith belief that a violation of the Code of Ethics has occurred shall be protected by the City's Whistleblower Protection policy as set forth in SMC 1.04A.180.
- M. Aiding others prohibited.
No City officer or employee may knowingly aid or assist any City officer or employee in the violation of any provision of this Code of Ethics.
- N. Commission of Acts of Moral Turpitude or Dishonesty Prohibited.
No City officer or employee shall commit any act of moral turpitude or dishonesty relating to his or her duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude or dishonesty, the nature of which demonstrates lack of fitness for the position held, shall be considered conclusive evidence of a violation of this Code of Ethics. Demonstrated acts of moral turpitude or dishonesty are not limited to felony or misdemeanor criminal convictions.
- O. Prohibited Conduct After Leaving City Service.
1. Disclosure of Privileged, Confidential or Proprietary Information Prohibited.
No former City officer or employee shall disclose or use any privileged, confidential or proprietary information gained because of his or her City employment.
 2. Participation in City Matters Prohibited.
No former City officer or employee shall, within a period of one year after leaving City office or employment:
 - a. participate in matters involving the City if, while in the course of employment with the City, the former City officer or employee was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter;
 - b. represent any person as an advocate in any matter in which the former City officer or employee was involved while a City officer or employee; or
 - c. participate as or with a bidder, vendor or consultant in any competitive selection process for a City contract in which he or she assisted the City in determining the project, or work to be done, or the process to be used.

3. Duty to Inform.
Whenever a City officer or employee wishes to contract with a former City officer or employee for expert or consultant services within one year of the latter's leaving City service, advance notice and approval received from the Ethics Commission. Said approval shall be in written form and copied to the mayor at the same time that it is given to the individual making the request.
 4. Exceptions.
 - a. The prohibitions of subsections (2)(a) and (2)(b) of this section shall not apply to a former City officer or employee acting on behalf of a governmental agency if the Ethics Commission has determined that the service to the agency is not adverse to the interest of the City.
 - b. Nothing in this chapter shall prohibit an official elected to serve a governmental entity other than the City of Spokane from carrying out their official duties for that government entity.
 5. Corporations, firms or persons doing business with the City shall be advised of this provision, and shall certify, as part of any contract with the City, that they are aware of the restrictions in this policy. If a firm or person doing business with the City assists an employee in violating the provisions of the Code, the firm or business may be disbarred, excluded from contracting with the City for 5 years.
- P. Failure to Produce Public Records
No City officer or employee shall willfully and without just cause delay or fail to produce any city records in his or her possession or control in response to a public records request filed with the city pursuant to Chapter 42.56 RCW.
1. A "city record" is a "public record" as defined by RCW 42.56.010(3).
 2. "Just cause" to delay or fail to produce means:
 - a. A reasonable belief that production of the record is exempt from public disclosure pursuant to Chapter 42.56 RCW or other statute which exempts or prohibits disclosure of specific information or records; and/or
 - b. The city record is subject to legal review to determine whether it is subject to an exemption from disclosure pursuant to Chapter 42.56 RCW; and/or
 - c. The requester has been notified in writing that additional time is required to produce the city record and/or determine whether it is subject to an exemption from disclosure pursuant to Chapter 42.56 RCW.

Section 01.04A.040 Penalties for Noncompliance

- A. If the alleged violating party stipulates to the decision of the Ethics Commission, the decision that violation has occurred and acceptance of the consequences specified in the decision becomes final without hearing. However, if stipulation is not acceptable to the party against whom the complaint is filed, the matter will proceed to hearing by the Ethics Commission.
- B. A stipulation or hearing determination by the Ethics Commission that a violation has occurred shall subject the party found in violation to any of the following penalties, which may be imposed by the Ethics Commission:
 1. A cease and desist order as to violations of this Code of Ethics.
 2. A recommendation to the city council that an appointed committee or commission member be removed from the board or commission.
 3. An order to pay to the City damages sustained by the City that are caused by the conduct constituting the violation.
 4. In the case of a violator who receives wages from the City, a civil penalty of up to five thousand dollars per violation or three times the economic value of anything received or sought in violation of this chapter or rules adopted under it, whichever is greater, may be imposed. Alternatively, the violator who is a member of a board

- or commission may be suspended for a number of days to be decided by the Ethics Commission, in lieu of fine but not in lieu of damages.
5. In the case of an elected official, a written reprimand may be issued by the Ethics Commission if the Commission determines that while the elected official did violate the Ethics Code, there was no intent to commit the violation. The written reprimand shall set for the nature of the violation, the elected official's response and the reasons why a reprimand is appropriate. A written reprimand may not be issued if the elected official stipulates to the decision of the Ethics Commission pursuant to SMC 1.04A.040 A. The written reprimand shall be filed with the City Clerk and placed in the City Council minutes.
 6. An employee of the city who commits a violation of this chapter may be subjected to disciplinary action, up to and including termination from employment; provided that such disciplinary action is consistent with Career Service Guidelines and any applicable collective bargaining agreement.
 7. Costs, including reasonable investigative costs, shall be included as part of the limit under subsection (B)(4) of this section. Costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.
 8. As appropriate, the Ethics Commission may refer the disposition of a complaint to the City or County prosecuting attorney's office for appropriate action.
 9. Damages under this section may be enforced in the same manner as a judgment in a civil court.

Section 01.04A.050 Recall of Elected Official for Violation of Code of Ethics

- A. Pursuant to City Charter Section 8.5, the city council may consider a resolution to place an elected official's name on a recall ballot based upon the Ethics Commission's recommendation to the city council that the elected official be subject to a recall election. The Ethics Commission must determine that:
 1. an elected official of the City has knowingly committed a violation of the Code of Ethics,
 2. the violation constitutes moral turpitude rendering the elected official unfit to remain in office, and
 3. there are no mitigating circumstances.
- B. In considering whether to place an elected official's name on a recall ballot, the city council shall have a resolution submitted to the city clerk's office setting forth the Ethics Commission's determination and recommendation regarding the violation of the Code of Ethics and calling for a public hearing on the matter. The city council shall schedule a hearing at least thirty days from the date the resolution is submitted to the city clerk's office. A copy of the resolution and hearing date shall be personally served upon the elected official. At the time the city council is scheduled to consider the resolution, the chairperson of the Ethics Commission or the Ethics Commission's designee shall appear before the city council to present the Ethics Commission's determination and recommendation. The Ethics Commission shall deliver to the city council all records maintained by the Commission created pursuant to its review and determination of the matter. The elected official who is the subject of the Ethics Commission's shall be given an opportunity to respond to the Ethics Commission's determination and recommendation and to present argument against passage of the resolution by the city council to place the elected official's name on a recall ballot. Both the Ethics Commission's representative and the elected official shall be permitted to respond to questions from the city council.
- C. The city council, by a majority plus one vote of the city council, may pass the resolution to place the elected official's name on a recall election ballot for action by the voters of the City on the next available general or special election established by state law. The city

clerk's office shall forward the required resolution to the Spokane County auditor's office pursuant to state law requesting the ballot proposition be placed on the next available general or special election. The city attorney's office shall be responsible for preparing a ballot synopsis for the recall election and any necessary resolutions or other legal documents.

- D. If approved by a majority of the electors voting in the election, the elected official shall be removed from office effective the date the recall election results are certified by the Spokane County auditor.

Section 01.04A.060 Where to Seek Initial Review

- A. Any person who has been assessed a monetary fine and/or cost bill, or has been disciplined or removed from office, for a violation of this chapter may seek initial review at the Spokane city council by delivering a written notice of appeal to the office of the city council within twenty days of receiving a decision of the Ethics Commission regarding a written notice of the assessed fine and/or cost bill.
- B. The notice of appeal shall be in writing and shall include the mailing address and, if different, the street address where papers may be served on the appellant. The notice of appeal shall contain, in separate numbered paragraphs, statements of the specific findings of fact, conclusions of law, or aspects of the fine and/or cost bill on which the appellant seeks review, the basis for the appeal, and a brief statement of the relief requested. The appellant shall attach a copy of the committee's written decision being appealed.
- C. The city council will forward a copy of the written notice of appeal to the Ethics Commission and the person making the original complaint within ten days of receiving the notice of appeal from the appellant.
- D. The Ethics Commission shall provide the city council with a copy of the recorded proceedings and all documents offered into evidence at the Ethics Commission hearing within twenty days of receiving a copy of the written notice of appeal from the council.
- E. The city council may determine its own procedures for hearing each appeal by majority vote, as long as it does not conflict with the procedures in this chapter.
- F. In considering the amount of any monetary penalty and/or cost bill, the city council may allow additional testimony. The council may also modify the amount of any monetary penalty and or cost bill.
- G. Any decision to reverse the Ethics Commission's decision finding a violation must be based solely on the administrative record below and after determining that the Commission's decision was arbitrary, capricious or not supported by substantial evidence in the Commission's record.
- H. The city council may not modify any part of the Commission's decision under an appeal filed to the city council under this section unless there is a majority plus one vote.
- I. The Commission's decision shall be deemed to have been upheld unless the city council reverses or modifies the Commission's decision within seventy-five days after the notice of appeal is filed.

Section 01.04A.070 Where to Seek Judicial Review

A person who receives a penalty for noncompliance from the Ethics Commission or an adverse decision from the city council upon review pursuant to SMC 1.04.070 may appeal the decisions by seeking a writ from the Spokane County superior court pursuant to chapter 7.16 RCW, or other appropriate legal action.

Section 01.04A.080 Ethics Commission

- A. The Ethics Commission shall be comprised of seven members who shall be appointed by the mayor and confirmed by the city council. The initial six members shall be appointed for a one-, two- and three-year term and may be reappointed for one additional three-year term. The seventh member who shall be appointed by members of the Ethics Commission shall serve an initial three-year term and may be reappointed for a second three-year term. The Ethics Commission appointees shall include representatives from the following segments of the community:
 - 1. A person with a professional or academic background in the legal profession including attorneys, law professors or members of the judiciary.
 - 2. A person from local business with experience in human resources/personnel.
 - 3. A person who possesses familiarity with government and the political process.
 - 4. A person with experience in ethics.
- B. All reasonable efforts shall be used to locate individuals who satisfy the requirements in subsection (A). In the event that any one of the requirements in subsection (A) cannot reasonably be satisfied, a substitute may be appointed. The substitute shall have a background in a profession which includes a code of ethics as an element of the profession.
- C. The City Attorney shall appoint a Staff Director to the Ethics Commission. The Staff Director shall provide assistance to the Commission as necessary for the Commission to fulfill its obligations and duties.
- D. Commission members shall serve without compensation.

Section 01.04A.090 Duties and Powers

- A. The Ethics Commission shall, with the assistance of the Staff Director, create a manual of its operating policies, procedures, forms, and rules consistent with this chapter and subject to the approval of the city council. The Ethics Commission shall review its manual at least annually for possible modifications. The manual shall be posted and maintained as part of the City's website. (See 1.04.090 D)
- B. The Ethics Commission may, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Commission;
 - 1. In case of refusal to obey a subpoena issued to a person, the Ethics Commission shall petition the superior court of a county within the jurisdiction of which the investigation, proceeding or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business for an order requiring the person to appear before the Ethics Commission or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt.
- C. All hearings of the Ethics Commission shall be conducted as contested hearings under applicable provisions of the Spokane Municipal Code and the rules and regulations

adopted by the Ethics Commission. All hearings shall be open to the public. The record of the hearings, as well as all documents submitted in regards to the complaint and the Ethics Commission's investigation, shall be subject to public disclosure laws, chapter 42.56 RCW - Public Records Act.

- D. A Commission member who has a conflict regarding a specific complaint before the Ethics Commission shall recuse himself or herself from hearing that complaint, but shall remain a member of the Commission for future complaints.
- E. The Ethics Commission may, when circumstances make it necessary to do so, retain outside legal counsel and other experts, as needed, after solicitation of recommendations from the City Attorney (unless the need to retain outside counsel is caused by a conflict involving the City Attorney's Office).
- F. The Ethics Commission may make recommendations to the city council for amendments to this chapter and for such other legislation affecting the subject matter of this chapter as the Ethics Commission may deem necessary or desirable.
- G. The Ethics Commission shall develop educational programs which inform agencies, public officials and city officers and employees about City, state and federal ethics laws, and the importance of ethics to the public's confidence in municipal government.

Section 01.04A.100 Ex Parte Communications

- A. After a complaint has been filed and during the pendency of a complaint before the Ethics Commission, no member of the Commission may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the complaint, except that:
 - 1. The members of the Commission may obtain legal advice from the City Attorney or, in the event of a conflict, with independent legal counsel and may discuss the complaint with their staff.
 - 2. The members of the Commission may discuss the complaint at a lawfully conducted meeting. Commission deliberations concerning complaints are subject to exemption from the Open Public Meetings Act, as permitted by law. If any person attempts to communicate with a Commission member regarding the pending complaint, the Commission member shall report the substance of the communication to the Commission on the public record at the next regular meeting of the Commission.
 - 3. The Commission shall not take testimony or comments from any person regarding complaint except as presented in an investigative report or in the course of a duly noticed public hearing.

Section 01.04A.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
 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.
- 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 may convene a hearing at a future date certain. At such a hearing, the Commission may call additional witnesses or consider additional documentary evidence. 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. 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.

Section 01.04A.120 Training

- A. The Ethics Commission, with the assistance of the Staff Director, shall prepare, distribute and periodically update an employee handbook on the Code of Ethics, after obtaining the city attorney's review. In addition to the updates the Commission shall disseminate any change in policy that results from a finding of the Commission if it applies to other city employees.
- B. Every appointing authority shall give a copy or electronic version of the handbook and any updates to each employee annually and shall provide annual training to employees regarding the Code of Ethics. Each City employee or official shall read and agree in writing to the City of Spokane Code of Ethics.
- C. Information shall be provided to employees terminating city service regarding the restrictions on former city employees.

Section 01.04A.130 Restrictions on Ethics Commission Members.

- A. Restrictions on Holding Office.

No member or employee of the Ethics Commission may hold any other City or County office, or be an officer of a political party.

- B. Restrictions on Employment.

No member or employee of the Ethics Commission may be a registered lobbyist or campaign consultant, or be employed by or receive gifts or other compensation from a registered lobbyist or campaign consultant. No member of the Ethics Commission may hold employment with the City or County and no employee of the Commission may hold any other employment with the City or County.

- C. Restrictions on Political Activities.

No member or employee of the Ethics Commission may participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure or a City officer running for any elective office. For the purposes of this section, participation in a campaign includes but is not limited to making contributions to or soliciting contributions from any Commission within the Ethics Commission's jurisdiction, publicly endorsing or urging endorsement of a candidate or ballot measure or participating in decisions by organizations to participate in a campaign.

- D. Restrictions after Employment.

Members and employees of the Ethics Commission are subject to the post - employment restrictions set forth in the City of Spokane Code of Ethics.

Section 01.04A.140 Vacancy and Removal

- A. In the event a vacancy occurs, the mayor shall appoint a qualified person to complete the remainder of the term.
 - 1. A member of the Commission may be removed only for misconduct pursuant to this chapter.
 - 2. Any member of the Ethics Commission guilty of official misconduct or convicted of a crime involving moral turpitude or dishonesty shall be removed by the city council upon recommendation by the mayor.

Section 01.04A.150 Limitation Period

- A. Any action taken under this chapter must be commenced within three years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within three years from the date the violation was discovered or reasonably should have been discovered:
 - 1. by any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or
 - 2. if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate Ethics Commission

Section 01.04A.160 Applicability

The Code of Ethics shall be applicable to all elected or appointed officers and exempt confidential employees and shall not be applicable to represented employees unless the City and the respective labor union have entered into a collective bargaining agreement providing that compliance with the Code of Ethics is a condition of employment.

Section 01.04A.170 Advisory Opinion

- A. Upon request of any employee, the mayor or a member of the city council, or any City Officer, the Ethics Commission may also render written advisory opinions concerning the applicability of the Code to hypothetical circumstances and/or situations solely related to the persons making the request.
- B. Upon request of the mayor, or two members of the city council, the board of ethics may also render written advisory opinions concerning the applicability of the code to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

Section 01.04A.180 Whistleblower Protection

A. GENERAL

This subsection implements Washington State's Local Government Whistleblower Protection Act, Chapter 42.41 RCW.

B. DEPARTMENTS/DIVISIONS AFFECTED

This subsection shall apply to all City divisions and departments.

C. DEFINITIONS

1. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.
2. "Improper governmental action" means any action by a local government officer or employee:
 - a. that is undertaken in the performance of the officer's or employee's official duties, whether or not within the scope of the employee's employment, and
 - b. that is in violation of any federal, state or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds. The phrase does not include any personnel or labor actions.
3. "Retaliatory action" means:
 - a. any adverse change in an employee's employment status or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action;
 - b. hostile actions by another employee towards the employee that were encouraged by a supervisor or senior manager or official.

D. POLICY

It is the policy of the City of Spokane to encourage employees to report information concerning any allegedly improper action by the City's officers or employees. It is further the policy of the City to prevent retaliation against any employee who in good faith reports such allegedly improper action. Employees who feel they have been retaliated against may appeal to the hearing examiner.

E. PROCEDURE

1. Reporting Allegedly Improper Action
 - a. Every City employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.
 - b. Any City employee who desires to report allegedly improper governmental action shall first report in writing such action to one of the following persons:
 1. the hearing examiner, or;
 2. human resources director, or;
 3. county prosecuting attorney.

It is the responsibility of the receiving official to forward the information on to the Whistleblower Panel comprised of a representative from the human resources department, the office of the city attorney, the city council office selected by the city council, the finance department and the employee's bargaining unit representative. A member of the Whistleblower Panel who is also the subject of a complaint shall recuse themselves from the investigation.

- c. The Whistleblower Panel shall investigate the received complaint (to include the hiring of outside investigators, if needed) and make a final report to the complainant and the Human Resources Director. The Panel shall endeavor to have a final report within ninety (90) working days of convening. A copy of the report shall be provided to the Human

Resources Director and the complainant upon completion. If the Panel fails to complete its report within ninety days, the Panel shall provide an explanation to the complainant for the delay and an estimated completion date.

- d. Except in the case of an emergency, an employee shall NOT provide information of an improper governmental action to a person or an entity who is not a public official or person listed in subsection 6.1.2 above. An employee who fails to make a good faith attempt to follow this procedure shall not receive the protections of this subsection or the State Whistleblower Protection Act.
 - e. The City *shall* keep confidential the identity of the person reporting to the extent possible under law, unless the employee authorizes in writing the disclosure of his or her identity.
2. Retaliatory Action Forbidden
- c. No City official or employee may take retaliatory action against a City employee because the employee provided information in good faith in accordance with the provisions of this subsection that an improper governmental action occurred.
 - d. If an employee believes she or he has been retaliated against in violation of this subsection, the employee must provide a written notice of the charge or retaliatory action to the Hearing Examiner of the City. The notice must specify the alleged retaliatory action, and the relief requested.
 - e. The charge must be delivered to the Hearing Examiner no later than sixty (60) calendar days after the occurrence of the alleged retaliatory action or the date the employee reasonably should have been aware that retaliation has taken place. The City will then have thirty (30) calendar days to respond to the charge and the request for relief.
 - f. Upon receipt of either the response by the City or after the lapse of the thirty (30) calendar days, the employee may request a hearing to determine whether a retaliatory action has occurred and to obtain appropriate relief. The request for a hearing must be made within fifteen (15) calendar days of receipt of the response by the City or the lapse of the City's thirty (30) calendar day response time. Requests must be in writing and made to the City Hearing Examiner.
 - g. If the claimant has met all the time requirements, the hearing examiner will hold a hearing. The burden of proof is on the employee to prove his or her claim by a preponderance of the evidence. The hearing examiner will issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five (45) calendar days following the request for hearing. The hearing examiner may grant extensions of time upon the request of either party upon a showing of good cause or on his or her own motion.
 - h. The hearing examiner may grant the following relief, as appropriate: reinstatement, with or without back pay, and injunctive relief as may be necessary to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The hearing examiner may award costs and reasonable attorneys' fees to the prevailing party. The hearing examiner may also impose a civil penalty of up to five thousand dollars (\$5,000) payable by each person found to have retaliated against the employee and may recommend to the City that the person found to have retaliated be suspended or discharged.

- i. Either party may appeal to Superior Court from an adverse determination by the hearing examiner. The hearing examiner's decision is subject to judicial review under the arbitrary and capricious standard.

F. RESPONSIBILITIES

The human resources department shall administer this subsection.

Section 01.04A.190 Severability

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter.

CITY OF SPOKANE ETHICS COMMISSION POLICY AND PROCEDURES MANUAL

RULE 1 – GENERAL PRINCIPLES

1.1 PURPOSE

It is the purpose of the City of Spokane Ethics Commission (“Commission”) in adopting this policy and procedure manual to provide a method of conduct for its meetings, hearings and other activities. This policy and procedural manual shall not conflict with the City’s Code of Ethics contained in Chapter 1.04A SMC. In the event of a conflict, the Code of Ethics shall prevail.

1.2 ROBERT’S RULES OF ORDER

Matters of procedure not otherwise provided for herein shall, insofar as practical, be determined by reference to Robert’s Rules of Order, Newly Revised.

Rule 2. Meetings

2.1 Scheduling and Announcement of Meetings. The Ethics Commission shall schedule and announce its meet times consistent with City policy and the Open Public Meetings Act, Chapter RCW 42.30.

2.2 Quorum- Voting. Four members of the Commission shall constitute a quorum for transaction of business. A simple majority of the quorum is necessary to take action, other than action by the Commission in determining and issuing its written findings and conclusions regarding a complaint, inquiry or request for an advisory opinion, which shall require four affirmative votes of the Commission members present for the meeting.

2.3. Meetings. Regularly scheduled Commission meetings shall be held on the third Wednesday in March, June, September and December beginning at 4:00. P.M. Meetings shall be held in the Briefing Center located in the basement level of City Hall, W. 808 Spokane Falls Blvd.

A regular meeting may be cancelled or rescheduled or a special meeting scheduled at the direction of the chairperson consistent with the Open Public Meeting Act. All meetings of the Ethics Commission shall be open to the public.

2.4 Agenda. The chairperson shall prepare the meeting agenda with the assistance of City staff.

2.5 Telephonic Participation. Other than meetings to consider and decide complaints regarding violations of the Code of Ethics, Commission members may participate in meetings by phone with prior approval of the chairperson.

2.6 Recusal. Commission members who have a conflict regarding a specific complaint shall recusal himself or herself from hearing that complaint but shall remain a member of the Commission.

Rule 3. Commission Membership and Staff

3.1 Appointment and Terms. Commission members' appointments and terms shall be in accordance with SMC 1.04A.080.

3.2 Chairperson. The Commission members shall elect a chair and vice-chair who shall serve for one year and may be reappointed by the Commission for one additional term.

3.3 Restrictions on Commission Members. Commission members are subject to certain restrictions relating to their employment and political activities as set forth in SMC 1.04A.130.

3.4 Staff Director. The staff director appointed by the City Attorney pursuant to SMC 1.04A.080 C shall assist the Commission, its chairperson and other assigned staff with its duties and obligations set forth in Chapter 1.04A SMC. As part of the employee training process under SMC 1.04A.120, the staff director may assist individual employees or officials with specific questions regarding compliance with the Code of Ethics that pertain to the employee or official. The staff director shall not provide direction or guidance to ethical issues related to allegations against employees or officials but shall direct those complaints to the Commission.

Rule 4. Complaint Process

4.1 Filing of Complaints. Complaints shall be filed with the Commission chairperson or with the staff person assigned to assist the Commission pursuant to the process set forth in SMC 1.04A.100 and within the time period set forth in SMC 1.04A.150. Complaints must be written, signed under declaration by the complainant and directed to the Commission. The complaint shall set forth the facts which the complainant believes substantiates a violation of the Code of Ethics and which provisions of the code the complainant believes were violated.

Within five business days of the filing of the complaint with the Commission, the Chairperson, or his or her designee, shall inform the complainant that the Commission has received the complaint and shall provide a copy of the complaint to the employee or official (hereinafter referred to as the respondent) identified in the complaint as having violated the Code of Ethics.

4.2 Recording of Complaints. Upon receipt, complaints shall be assigned a reference number. The Commission shall maintain and keep current for public inspection a status sheet which shall contain with respect to each complaint: its reference number, the date received by the Commission, the name of the complainant, the name of the respondent, and its present status, including the date of any scheduled hearings.

4.3 Adjudication Process

(1) The Commission shall request an initial written response to the complaint from the respondent, which shall be filed with the Commission at least ten business days before the Commission holds an initial meeting to review the complaint. The initial response shall pertain to whether the complaint should be dismissed pursuant to SMC 1.04A.110 D. 1. a. – f. and shall not address the merits of the complaint.

(2) Within thirty calendar days of the receipt of the complaint by the Commission, the Commission shall schedule an initial meeting to review the complaint in order to make a determination consistent with SMC 1.04A.110 D.

(3) 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 shall meet with the respondent to create a stipulation resolving the complaint, the determination of compliance and the penalty, if any, to be imposed consistent with SMC 1.04A.110 E. Such meeting shall be open to the public.

4.4 Complaint Hearing Process. Complaints that are not resolved through adjudication under SMC 1.04A.110 D or the stipulation process under SMC 1.04A.E, shall proceed to an investigation process pursuant to SMC 1.04A.110 F.

4.5 Notice of Hearing and Respondent's Answer

(1) The Commission shall provide notice of the public hearing to the complainant and the respondent.

(2) The notice shall include the Commission's determination regarding jurisdiction and the factual allegations, as well as the date, time and place for the hearing. The notice shall provide that the respondent shall be entitled to appear in person or otherwise, with or without counsel, submit testimony, be fully heard, and present and cross-examine witnesses.

(3) The respondent may file a written answer to the complaint with the Commission any time after receipt of the complaint but not later than ten business days prior to the hearing date.

(4) Notice of the hearing shall be provided to all parties no less than fourteen day before the hearing date, unless the parties stipulate otherwise.

4.6 Conduct of Hearings

(1) Hearings shall be conducted consistent with SMC 1.04A.110.F. – K.

(2) All hearings conducted under this section are open to the public. The Commission's deliberations on a complaint shall be conducted consistent with SMC 1.04A.100 A. 2., the Open Public Meeting Act and other applicable regulations.

(3) The respondent shall be a party to the hearing and permitted to testify before the Commission. All parties involved in the complaint are prohibited from ex parte communication with the Commission. Neither the complainant nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the Commission beyond that which is permitted by Chapter 1.04A SMC.

4.7 Prehearing Conferences

(1) In any proceeding, the Commission on its own motion or upon request by a party or their authorized representative may direct the parties to appear at a specified time and place for a conference to consider:

- (a) Simplification of issues;
- (b) The necessity of amendments to the hearing notice;
- (c) The possibility of obtaining stipulations, admissions of facts and of documents;
- (d) Limitation on the number of witnesses; and
- (e) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Following the prehearing conference, the chairperson shall issue an order reciting the action taken and decisions made at the conference.

Rule 5. Procedures Applicable to Advisory Opinions

The Commission shall issue advisory opinions upon request with regard to the application of the Code of Ethics pursuant to Chapter 1.04A.170 SMC and the

rules adopted under the chapter. The following procedures apply to requests for advisory opinions:

- (1) Requests for advisory opinions may be made by any person subject to the Code of Ethics. A request must be stated hypothetically unless the individual requests a specific opinion concerning his or her own conduct and situation. Requests must be written, signed, and directed to the chair of the Commission. Requests shall supply such information as the Commission requires enabling it to issue the opinion.
- (2) Within five business days of the filing of the request for an advisory opinion with the Commission, the Chairperson, or his or her designee, shall inform the party filing the request that the Commission has received the request and of any subsequent meeting.
- (3) The Commission shall within sixty calendar days either:
 - (a) Issue a written advisory opinion; or
 - (b) notify the person requesting such opinion that the request is denied and the reason(s) for the denial.
- (4) Upon receipt, requests shall be assigned a reference number. The Commission shall maintain and keep current for public inspection a status sheet which shall contain with respect to each request: Its reference number, the date received by the Commission, and its present status.
- (5) The Commission shall make available to the public copies of the status sheets and advisory opinions issued by the Commission.

Rule 6 Penalties

6.1 Purpose. The purpose of this rule is to set forth the criteria that the Commission may consider when imposing penalties for a violation of chapter 1.04A SMC.

6.2. Criteria for Determining Sanctions.

In determining the appropriate penalties, including the amount of any civil penalty, the Commission may consider the following factors, as well as other factors which the Commission may find appropriate in a particular case:

- (1) The monetary cost of the violation, including:
 - (a) The cost of the violation to the City;
 - (b) The value of anything received or sought in the violation;
 - (c) The amount of any damages incurred by the City as a result of

the violation;
(d) The costs incurred in enforcement, including reasonable investigative costs;

(2) The nature of the violation, including whether the violation:

- (a) Was continuing in nature;
- (b) Was motivated by financial gain;
- (c) Involved criminal conduct;
- (d) Impaired a function of the agency;
- (e) Tended to significantly reduce public respect for or confidence in city government or city government officers or employees;
- (f) Involved personal gain or special privilege to the violator;

(3) Aggravating circumstances, including whether the violator:

- (a) Intentionally committed the violation with knowledge that the conduct constituted a violation;
- (b) Attempted to conceal the violation prior to the filing of the complaint;
- (c) Was untruthful or uncooperative in dealing with the Commission or the Commission's staff;
- (d) Had significant official, management, or supervisory responsibility;
- (e) Had committed prior violations found by the Commission;
- (f) Incurred no other sanctions as a result of the violation;

(4) Mitigating factors, including:

- (a) Prior corrective action taken against the violator;
- (b) Prior recovery of damages to the state;
- (c) The unethical conduct was approved or required by the violator's supervisor or agency;
- (d) The violation was unintentional;
- (e) The violator relied on advice from Commission staff or designated ethics advisers;
- (f) Other mitigating factors deemed relevant by the Commission.

6.3. Process for Implementing Decision.

The Commission may utilize all available procedures to implement its decision including providing a copy of the decision to the appropriate administrative officer or commission or board chairperson.

CITY OF SPOKANE CODE OF ETHICS HANDBOOK

The Spokane City Council adopted the City's Code of Ethics in January of 2006 (Ordinance No. C-33785) and updated the Code of Ethics with the recognition of the Ethics Commission through the adoption of Ordinance No. C-35148 in January of 2015. The City's Code of Ethics is set forth in Chapter 1.04A of the Spokane Municipal Code and is applicable to elected and appointed officials, exempt-confidential employees and represented employees pursuant to applicable collective bargaining agreements.

SMC 1.04A.010 A describes the purpose of the Code of Ethics as follows:

It is the policy of the City of Spokane to uphold, promote and demand the highest standards of ethics from all of its employees and City officers, whether elected, appointed or hired. City officers and employees shall maintain the utmost standards of responsibility, trustworthiness, integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants including the appearance of impropriety, and never use their City position, authority or resources for personal gain.

This Employee Handbook provides a summary of the Code of Ethics and is intended to provide City officials, officers and employees with an introduction to the City's ethics requirements. This Employee Handbook does not replace the Code of Ethics. Additional ethical standards may also apply to specific employees based upon their own professional occupation or license. Additional information regarding the Code of Ethics, the Ethics Commission and its past decisions can be found on the City's website at:
<https://my.spokanecity.org/bcc/commissions/ethics-commission/>.

Prohibited Conduct

The main focus of the Code of Ethics is to identify the prohibited conduct that would constitute an ethics violation. SMC 1.04A.030 sets forth the prohibited conduct summarized as follows:

A. Conflicts of Interest – In order to avoid having a conflict of interest or engaging in impropriety, or creating an appearance of conflict of interest or impropriety, no City officers or employees are to have a direct or indirect interest or engage in a business, transaction or professional activity that might be seen as a conflict with the officer or employee's discharge of his or her official duties, the conduct of official city business or as adverse to the interest of the City.

An employee who becomes aware that he or she might have a potential conflict of interest that arises in the course of his or her official duties shall notify in writing his or her supervisor of the potential conflict of interest.

B. Personal Interests in Contracts Prohibited - No City officer or employee shall participate in their official capacity as a City officer or employee in the making of a contract in which he or she has a direct or indirect personal interest or performs some function of the contract requiring the exercise of discretion on behalf of the City.

C. Personal Influence in Contract Selection Prohibited – No City officer or employee shall influence the City's selection of, or its conduct of business with an entity having or proposing to do business with the City if the City officer or employee has a personal interest in or with the entity, unless such interest is a remote interest.

D. Representation of Private Person at City Proceeding Prohibited - No City officer or employee shall appear on behalf of a person, other than himself/herself or a family member, or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action to which the City or a City officer in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City.

E. Certain Private Employment Prohibited – No City officer or employee shall engage in or accept private employment, or render services for, any private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

F. Personal Interest in Legislation Prohibited - No City officer or employee may directly or indirectly benefit from any legislation or contract to which the City shall be a party except for the lawful compensation or salary of the City officer or employee unless such interest is a remote interest where the facts and extent of such interest is disclosed. This prohibition does not apply to council members participating in the enactment of legislation when his or her interest is remote and has been disclosed and the legislation is applicable to the general public.

G. Continuing Financial Interest - Where a City officer, employee, or family member of a City officer or employee has a substantial ongoing financial relationship with a corporation, firm, or person seeking a contract, or proposing to do business with the City, the City officer or employee shall not influence or participate in the City's contract selection of or conduct business with such corporation, firm, or person; nor influence or participate in the City's contract selection of, or conduct business with, a

corporation, firm, or party competing against a party that a City officer or employee has such a substantial ongoing financial relationship.

H. Disclosure of Confidential Information - No City officer or employee shall, except as required or reasonably believed to be required for the performance of his/her duties, disclose confidential information gained by reason of his/her official position or use such information for his/her own personal interest.

I. Acceptance of Compensation, Gifts, Favors, Rewards or Gratuity - City employees cannot directly or indirectly solicit any gift or give or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form, when it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or the gift was intended to serve as a reward for any official action on the employee's part. Public officials and city employees may accept de minimis gifts such as calendars, coffee mugs, flowers, candy, and other similar items that are given as a customary business practice and have no material significance to the recipient. Such gifts from any one source cannot exceed one hundred dollars in value in any twelve-month period. City employees should report any gift to their immediate supervisor.

J. Fair and Equitable Treatment - City officers and employees shall not knowingly use their office or position, the employment of any person under their control or direction, or any City-owned property or personal benefit, gain or profit. Nor shall a City officer or employee use the power or authority of their office or position with the City in a manner intended to induce or coerce any other person to provide such City officer or employee or any other person with any compensation, gift, or other thing of value.

K. False and Frivolous Complaints Prohibited - No person subject to the Code of Ethics shall knowingly file a false complaint or report of a violation of the Code of Ethics. However, a person who files a complaint with a good faith belief that a violation of the Code of Ethics has occurred shall be protected by the City's Whistleblower Protection policy as set forth in SMC 1.04A.180.

L. Aiding Others Prohibited - No City officer or employee may knowingly aid or assist any City officer or employee in the violation of any provision of this Code of Ethics.

M. Commission of Acts of Moral Turpitude or Dishonesty Prohibited - No City officer or employee shall commit any act of moral turpitude or dishonesty relating to their duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude or dishonesty, the nature of which demonstrates lack of fitness for the position held, shall be considered conclusive evidence of a violation of this Code of Ethics. Demonstrated acts of moral turpitude or dishonesty are not limited to felony or misdemeanor criminal convictions.

N. Prohibited Conduct After Leaving City Service – After leaving City employment, the former officer or employee may not disclose or use any privileged confidential or proprietary information gained because of their employment with the City. Within one year of leaving City office or employment, the former officer or employee may not:

- a. participate in matters involving the City if, while in the course of employment with the City, the former City officer or employee was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter;
- b. represent any person as an advocate in any matter in which the former City officer or employee was involved while a City officer or employee; or
- c. participate as or with a bidder, vendor or consultant in any competitive selection process for a City contract in which he or she assisted the City in determining the project, or work to be done, or the process to be used.

There are exceptions including approval from the Ethics Commission when the City desires to contract with the former officer or employee for expert or consulting services or when the officer or employee is acting on behalf of a governmental agency if the Ethics Commission determines that the service to the agency is not adverse to the City's interest.

Potential Penalties – A stipulation or determination by the Ethics Commission that a violation has occurred shall subject the party found in violation to any of the following penalties, which may be imposed by the Ethics Commission:

1. A cease and desist order as to violations of this Code of Ethics.
2. An order to pay to the City damages sustained by the City that are caused by the conduct constituting the violation.
3. A civil penalty of up to five thousand dollars per violation or three times the economic value of anything received or sought in violation of this chapter or rules adopted under it, whichever is greater.

An employee of the city who commits a violation of this chapter may be subjected to disciplinary action, up to and including termination from employment; provided that such disciplinary action is consistent with Career Service Guidelines and any applicable collective bargaining agreement.

A member of a board or commission may also receive a recommendation from the Ethics Commission to the City Council that they be removed from the board or commission or may be suspended from the board or commission by the Ethics Commission in lieu of a fine or damages.

In the case of an elected official, a written reprimand may be issued by the Ethics Commission if the Commission determines that while the elected official did violate the Ethics Code, there was no intent to commit the violation.

As appropriate, the Ethics Commission may refer the disposition of a complaint to the City or County prosecuting attorney's office for appropriate action.

Complaint Process

Filing of Complaints. Complaints shall be filed with the Ethics Commission chairperson or with the staff person assigned to assist the Commission pursuant to the process set forth in SMC 1.04A.100 and within three years of the date of the alleged violation. Complaints must be written, signed by the complainant and directed to the Commission. The complaint shall set forth the facts which the complainant believes substantiates a violation of the Code of Ethics and which provisions of the code the complainant believes were violated.

Adjudication Process. The Ethics Commission engages an adjudication process to resolve complaints. The Commission shall request an initial written response to the complaint from the respondent, which shall pertain to whether the complaint should be dismissed pursuant to the reasons set forth in SMC 1.04A.110 D. 1. a. – f., which includes the Commission's lack of jurisdiction, the matter is moot, corrective action has already been taken, or the alleged violation would be a minor or de minimis violation. The initial response shall not address the merits of the complaint. The Commission shall conduct a hearing to determine whether the complaint shall be dismissed pursuant to SMC 1.04A.110 D.

Stipulation Process. If the Commission determines that the complaint shall not be dismissed pursuant to SMC 1.04A.110 and that the complaint alleges facts, which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics, it shall schedule a time to meet with the respondent to create a stipulation resolving the complaint, the determination of compliance and the penalty. Such meeting shall be open to the public.

Investigation and Hearing Process. Complaints that are not resolved through the adjudication or the stipulation process under SMC 1.04A.E, shall proceed to an investigation and hearing process pursuant to SMC 1.04A.110 F.

RECUSAL. Commission members who have a conflict regarding a specific complaint shall recusal himself or herself from hearing that complaint but shall remain a member of the Commission.

RESTRICTIONS ON COMMISSION MEMBERS. Commission members are subject to certain restrictions relating to their employment and political activities as set forth in SMC 1.04A.130.

REMOVAL. Commission members may be removed from the Commission by the City Council upon recommendation of the Mayor for official misconduct or conviction of a crime involving moral turpitude or dishonesty.

CITY OF SPOKANE ETHICS COMMISSION

ETHICS COMPLAINT FORM

Please review the City of Spokane's Code of Ethics – Chapter 1.04A SMC – before completing this complaint form. When you have completed this form, submit it to:

City of Spokane Ethics Commission
Attention: Rebecca Riedinger
Office of the City Attorney
5th Floor Municipal Building
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

or at: riedinger@spokanecity.org

Pursuant to the City of Spokane's Code of Ethics, I am filing a complaint regarding conduct which I believe constitutes a violation of the City's Code of Ethics.

Name, position, and department of person(s) I believe to have violated the Code of Ethics:

Name: _____

Position/Title: _____

Nature of Code of Ethics violation:

What specific provision of SMC 1.04A.030 do you believe has been violated?

Describe in as much detail as possible the alleged Code of Ethics violation conduct. Attach additional sheets of paper, if necessary. Please include all documentation you believe demonstrates a violation. Your description should include the date, location and frequency of the alleged violation.

Names and positions of the persons who may have witnessed the event:

Evidence or documentation

Please list any evidence or documentation that would support your allegation of a Code of Ethics violation. Indicate whether you can personally provide that information.

Complainant Declaration

I declare under penalty of perjury of the laws of the State of Washington that to the best of my knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true and correct.

Complainant's Signature

Date

Date and Place (e.g. City, State)

Name (please print):

Address:

Phone Number(s):

E-Mail Address:

ETHICS COMPLAINT TIMELINE

- I. Filing of Ethics Complaint with Ethics Commission.
- II. Within **5 business** days of the filing of the complaint, the Commission informs complainant of receipt of complaint and provides a copy of the complaint to the respondent. **Rule 4.1**
- III. Within **thirty calendar days** of the receipt of the complaint by the Commission, the Commission shall schedule an initial meeting to review the complaint in order to make a determination consistent with SMC 1.04A.110 D. **Rule 4.3 (2)**
- IV. Commission shall request the respondent to file an initial written response to the complaint which shall be submitted **at least ten business days** before the Commission holds an initial meeting to review the complaint. **Rule 4.3(1)**
- V. The respondent may file a written answer to the complaint with the Commission any time after receipt of the complaint but **not later than ten business days** prior to the hearing date. **Rule 4.5 (3)**
- VI. Notice of the hearing regarding the complaint shall be provided to all parties no less than fourteen day before the hearing date, unless the parties stipulate otherwise.
- VII. Completion of investigation and issuance of Findings and Conclusions within **sixty calendar days** of the date of the complaint. **(SMC 1.04A.110 I)**
 - Serve copy of written investigation findings and conclusions on person whom a complaint was filed within **3 days** of the Ethics Commission's final decision. **(SMC 1.04A.110 I)**
 - Post decision on Ethics Commission's web site within **24 hours**. **(SMC 1.04A.110 I)**

CHECKLIST FOR INITIAL MEETING – SMC 1.04A.110

To determine whether it has jurisdiction, the Commission shall consider the following questions:

- 1) Was the complaint submitted in writing on a complaint form approved by the Commission? Did the complaint substantially meet the requirements of the complaint form?
- 2) Did the complaint allege a violation of the Code of Ethics by a person who is subject to the Code of Ethics?
- 3) Did the complaint identify a section of the Code of Ethics alleged to have been violated?
- 4) Did the complaint describe facts that constitute the violation of the Code of Ethics in sufficient detail that the respondent and the Commission can reasonably be expected to understand the nature of the complaint?

If the first four questions are answered in the affirmative, the Commission would next consider the following questions:

- 1) Does the complaint alleged facts that, if found to be true, would be sufficient to constitute a violation of the Code of Ethics?
- 2) Is the alleged violation a minor or de minimis violation?
- 3) Is the complaint, on its face, frivolous, groundless or brought for purposes of harassment?
- 4) Has the matter become moot because the person who is the subject of the complaint no longer a City officer or employee?
- 5) Has the appointing authority already taken action as a result of finding a violation and the Commission believes the action was appropriate?

If the Commission determines it has jurisdiction and that the complaint alleged facts that, if found to be true, would be sufficient to constitute a violation of the Code of Ethics, the Commission may create a stipulation for the City officer or employee resolving the complaint, the determination of compliance and the penalty, if any to be imposed. (SMC 1.04A.040 A and SMC 1.04A.110 E)

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 Commission may convene a hearing at a future date certain. At such a hearing, the Commission may call additional witnesses or consider additional documentary evidence. 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. (SMC 1.04A.110 F)

ETHICS COMMISSION CHECKLIST

Upon receipt of complaint, staff will within twenty-four hours:

- 1) Log the date and time complaints were received and open file for complaint.
- 2) Provide copies of complaint to respondent with instruction that the Ethics Commission will inform them of the subsequent date for the initial meeting to discuss jurisdictional issues.
- 3) Provide response to complainant that the complaint was received and that the Ethics Commission will inform them of the subsequent date for the initial meeting to discuss jurisdictional issues.
- 4) Provide copies of the complaint to the City Clerk's Office.
- 5) Provide copies of the complaint to the Ethics Commission Chairperson to distribute to the other members of the Commission.

Application of City of Spokane Code of Ethics to Former City Employees.

The City of Spokane's Code of Ethics, Chapter 1.04A SMC, is applicable to City elected and appointed officers and employees. It is the purpose of the Code of Ethics to establish a policy of the City to uphold, promote and demand the highest standards of ethics from all of its employees and City officers. While the Code of Ethics is applicable to current City officers and employees, sections of the Code of Ethics apply to former City officers and employees. As a soon-to-be retired City officer or employee, it is important for you to be aware of these requirements.

SMC 1.04A.030 (O) lists the specific conduct City officers and employees are prohibited from engaging in after leaving City service, which are as follows:

1. Disclosure of Privileged, Confidential or Proprietary Information Prohibited.
No former City officer or employee shall disclose or use any privileged, confidential or proprietary information gained because of his or her City employment.
2. Participation in City Matters Prohibited.
No former City officer or employee shall, within a period of one year after leaving City office or employment:
 - a. participate in matters involving the City if, while in the course of employment with the City, the former City officer or employee was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter;
 - b. represent any person as an advocate in any matter in which the former City officer or employee was involved while a City officer or employee; or
 - c. participate as or with a bidder, vendor or consultant in any competitive selection process for a City contract in which he or she assisted the City in determining the project, or work to be done, or the process to be used.

There are exceptions to the one year prohibition on employment if a City wishes to contract with a former officer or employee for expert or consulting services within the one year period of the officer or employee leaving the City, which requires notice to and approval from the City Ethics Commission. There are other exceptions for former officers and employees acting on behalf of a government agency and officials elected to serve a governmental entity.

Please consult with the Ethics Commission staff if you have questions regarding prohibited conduct for former City officers and employee by calling the Ethics Commission staff director Mike Piccolo at 625-6237.

ORDINANCE NO. C - _____

An ordinance relating to the Code of Ethics; amending SMC sections 1.04A.020 1.04A.110 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC 1.04A.020 is amended to read as follows:

1.04A.020 Definitions

Section 2. 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 based upon the same set of facts and alleging the same provision of the Code of Ethics in which the Ethics Commission issued a decision.

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 Chairperson shall issue a written decision setting forth the legal and/or factual basis for the dismissal, which shall be provided to the complainant and the Commission. The complainant may appeal the Chairperson's decision to the Commission within ten days of the date of the Chairperson's decision.

E. If the Commission determines the complaint alleges facts which, if found to be true by a preponderance of the evidence, 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 ~~((beard))~~ Commission may convene a hearing at a future date certain.

1. As part of the hearing process, the Commission may consider preliminary motions, such as a motion to dismiss. 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 to establish the factual record ((may call additional witnesses or consider additional documentary evidence)). The Commission may issue a prehearing order, including for hearing matters involving the testimony of witnesses.

2. The Commission may utilize the rules of evidence of judicial tribunals for purposes of admitting and evaluating evidence, however, such rules are not

binding and the Commission may determine the relevancy and weight to be given to the submitted evidence.

3. Alternatively, the Commission may appoint a hearing officer to assist in the investigation of the complaint and the gathering of evidence, including interviewing witnesses, all of which shall be set forth in a report to the Commission.

4. 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))~~). 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:

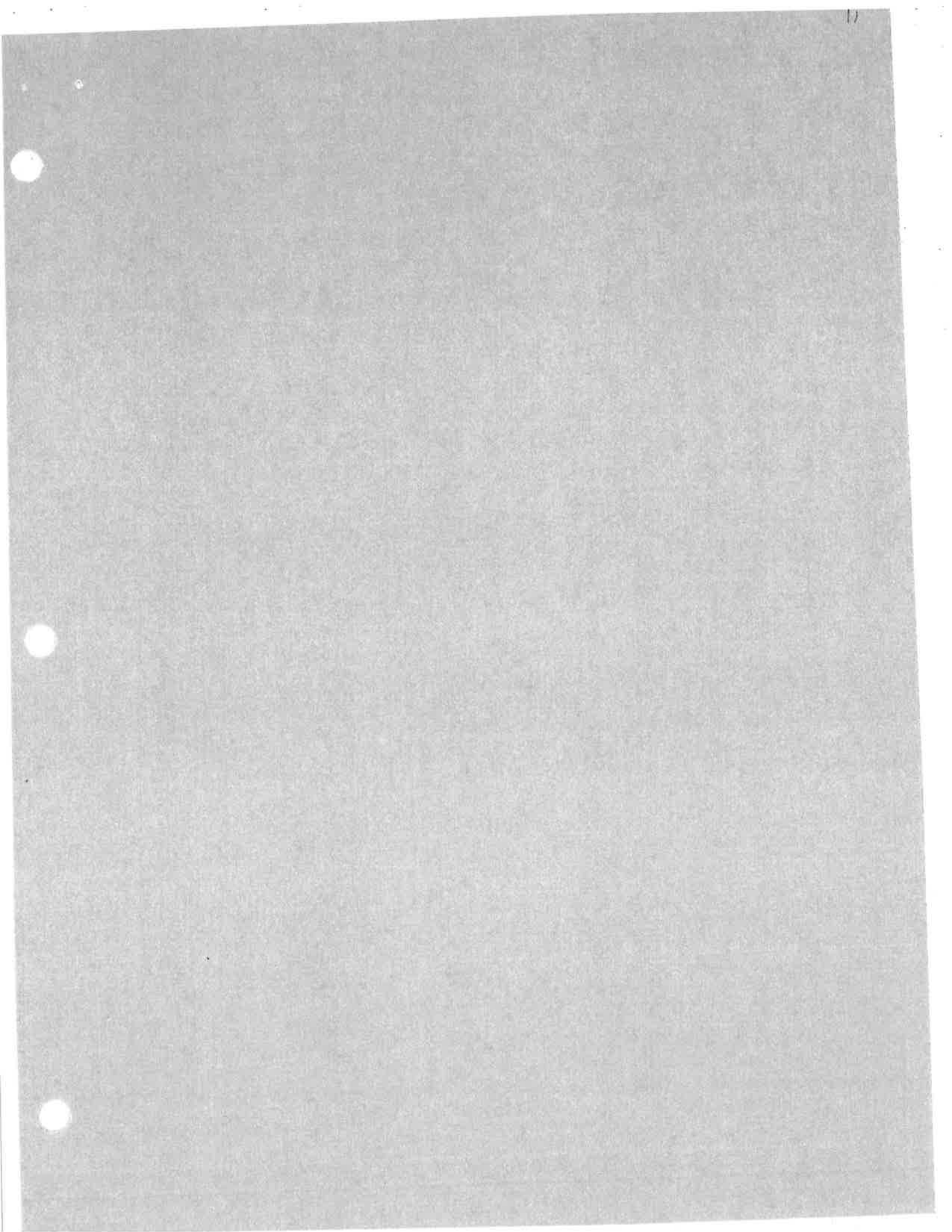
City Clerk

Assistant City Attorney

Mayor

Date

Effective Date



**CITY OF SPOKANE ETHICS COMMISSION
POLICY AND PROCEDURES MANUAL**

RULE 1 – GENERAL PRINCIPLES

1.1 PURPOSE

It is the purpose of the City of Spokane Ethics Commission ("Commission") in adopting this policy and procedure manual to provide a method of conduct for its meetings, hearings and other activities. This policy and procedural manual shall not conflict with the City's Code of Ethics contained in Chapter 1.04A SMC. In the event of a conflict, the Code of Ethics shall prevail.

1.2 ROBERT'S RULES OF ORDER

Matters of procedure not otherwise provided for herein shall, insofar as practical, be determined by reference to Robert's Rules of Order, Newly Revised.

Rule 2. Meetings

2.1 Scheduling and Announcement of Meetings. The Ethics Commission shall schedule and announce its meet times consistent with City policy and the Open Public Meetings Act, Chapter RCW 42.30.

2.2 Quorum- Voting. Four members of the Commission shall constitute a quorum for transaction of business. A simple majority of the quorum is necessary to take action, other than action by the Commission in determining and issuing its written findings and conclusions regarding a complaint, inquiry or request for an advisory opinion, which shall require four affirmative votes of the Commission members present for the meeting.

2.3 Meetings. Regularly scheduled Commission meetings shall be held on the third Wednesday in March, June, September and December beginning at 4:00. P.M. Meetings shall be held in the Briefing Center located in the basement level of City Hall, W. 808 Spokane Falls Blvd.

A regular meeting may be cancelled or rescheduled or a special meeting scheduled at the direction of the chairperson consistent with the Open Public Meeting Act. All meetings of the Ethics Commission shall be open to the public.

2.4 Agenda. The chairperson shall prepare the meeting agenda with the assistance of City staff.

2.5 Telephonic Participation. Other than meetings to consider and decide complaints regarding violations of the Code of Ethics, Commission members may participate in meetings by phone with prior approval of the chairperson.

2.6 Recusal. Commission members who have a conflict regarding a specific complaint shall recusal himself or herself from hearing that complaint but shall remain a member of the Commission.

Rule 3. Commission Membership and Staff

3.1 Appointment and Terms. Commission members' appointments and terms shall be in accordance with SMC 1.04A.080.

3.2 Chairperson. The Commission members shall elect a chair and vice-chair who shall serve for one year and may be reappointed by the Commission for one additional term.

3.3 Restrictions on Commission Members. Commission members are subject to certain restrictions relating to their employment and political activities as set forth in SMC 1.04A.130.

3.4 Staff Director. The staff director appointed by the City Attorney pursuant to SMC 1.04A.080 C shall assist the Commission, its chairperson and other assigned staff with its duties and obligations set forth in Chapter 1.04A SMC. As part of the employee training process under SMC 1.04A.120, the staff director may assist individual employees or officials with specific questions regarding compliance with the Code of Ethics that pertain to the employee or official. The staff director shall not provide direction or guidance to ethical issues related to allegations against employees or officials but shall direct those complaints to the Commission.

Rule 4. Complaint Process

4.1 Filing of Complaints. Complaints shall be filed with the Commission chairperson or with the staff person assigned to assist the Commission pursuant to the process set forth in SMC 1.04A.100 and within the time period set forth in SMC 1.04A.150. Complaints must be written, signed under declaration by the complainant and directed to the Commission. The complaint shall set forth the facts which the complainant believes substantiates a violation of the Code of Ethics and which provisions of the code the complainant believes were violated.

Within five business days of the filing of the complaint with the Commission, the Chairperson, or his or her designee, shall inform the complainant that the Commission has received the complaint and shall provide a copy of the complaint to the employee or official (hereinafter referred to as the respondent) identified in the complaint as having violated the Code of Ethics.

4.2 Recording of Complaints. Upon receipt, complaints shall be assigned a reference number. The Commission shall maintain and keep current for public inspection a status sheet which shall contain with respect to each complaint: its reference number, the date received by the Commission, the name of the complainant, the name of the respondent, and its present status, including the date of any scheduled hearings.

4.3 Adjudication Process

(1) The Commission shall request an initial written response to the complaint from the respondent, which shall be filed with the Commission at least ten business days before the Commission holds an initial meeting to review the complaint. The initial response shall pertain to whether the complaint should be dismissed pursuant to SMC 1.04A.110 D. 1. a. - ~~((f))~~ G. and shall not address the merits of the complaint.

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(2) Within thirty calendar days of the receipt of the complaint by the Commission, the Commission shall schedule an initial meeting to review the complaint in order to make a determination consistent with SMC 1.04A.110 D.

(3) If the Commission determines the complaint alleges facts which, if found to be true by a preponderance of the evidence, would be sufficient to constitute a violation of the Code of Ethics, it shall meet with the respondent to create a stipulation resolving the complaint, the determination of compliance and the penalty, if any, to be imposed consistent with SMC 1.04A.110 E. Such meeting shall be open to the public.

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4.4 Complaint Hearing Process. Complaints that are not resolved through adjudication under SMC 1.04A.110 D or the stipulation process under SMC 1.04A.E, shall proceed to an investigation process pursuant to SMC 1.04A.110 F.

4.5 Notice of Hearing and Respondent's Answer

(1) The Commission shall provide notice of the public hearing to the complainant and the respondent.

(2) The notice shall include the Commission's determination regarding jurisdiction and the factual allegations, as well as the date, time and place for the hearing. The notice shall provide that the respondent shall be entitled to appear in person or otherwise, with or without counsel, submit testimony, be fully heard, and present and cross-examine witnesses.

(3) The respondent may file a written answer to the complaint with the Commission any time after receipt of the complaint but not later than ten business days prior to the hearing date.

(4) Notice of the hearing shall be provided to all parties no less than fourteen day before the hearing date, unless the parties stipulate otherwise.

4.6 Conduct of Hearings

(1) Hearings shall be conducted consistent with SMC 1.04A.110.F. – K.

(2) All hearings conducted under this section are open to the public. The Commission's deliberations on a complaint shall be conducted consistent with SMC 1.04A.100 A. 2., the Open Public Meeting Act and other applicable regulations.

(3) The respondent shall be a party to the hearing and permitted to testify before the Commission. All parties involved in the complaint are prohibited from ex parte communication with the Commission. Neither the complainant nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the Commission beyond that which is permitted by Chapter 1.04A SMC.

(4) The Commission decides issues before it based upon the preponderance of the evidence standard. That is, a violation must be more likely than not to have occurred before the Commission will hold for the complainant. The Commission shall rely, for its ultimate decision, upon evidence, whether or not technically admissible into evidence in a court of law, on which a reasonably prudent person would base significant decisions affecting his or her person or business.

4.7 Prehearing Conferences

(1) In any proceeding, the Commission on its own motion or upon request by a party or their authorized representative may direct the parties to appear at a specified time and place for a conference to consider:

- (a) Simplification of issues;
- (b) The necessity of amendments to the hearing notice;
- (c) The possibility of obtaining stipulations, admissions of facts and of documents;
- (d) Limitation on the number of witnesses; and

(e) Procedural and such other matters as may aid in the disposition of the proceeding.

(2) Following the prehearing conference, the chairperson shall issue an order reciting the action taken and decisions made at the conference.

(3) The format of the Prehearing Order shall be substantially the same in format and content as the specimen prehearing order attached as Exhibit "A" to these Rules.

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Rule 5. Procedures Applicable to Advisory Opinions

The Commission shall issue advisory opinions upon request with regard to the application of the Code of Ethics pursuant to Chapter 1.04A.170 SMC and the rules adopted under the chapter. The following procedures apply to requests for advisory opinions:

(1) Requests for advisory opinions may be made by any person subject to the Code of Ethics. A request must be stated hypothetically unless the individual requests a specific opinion concerning his or her own conduct and situation. Requests must be written, signed, and directed to the chair of the Commission. Requests shall supply such information as the Commission requires enabling it to issue the opinion.

(2) Within five business days of the filing of the request for an advisory opinion with the Commission, the Chairperson, or his or her designee, shall inform the party filing the request that the Commission has received the request and of any subsequent meeting.

(3) The Commission shall within sixty calendar days either:

- (a) Issue a written advisory opinion; or
- (b) notify the person requesting such opinion that the request is denied and the reason(s) for the denial.

(4) Upon receipt, requests shall be assigned a reference number. The Commission shall maintain and keep current for public inspection a status sheet which shall contain with respect to each request: its reference number, the date received by the Commission, and its present status.

(5) The Commission shall make available to the public copies of the status sheets and advisory opinions issued by the Commission.

Rule 6 Penalties

6.1 Purpose. The purpose of this rule is to set forth the criteria that the Commission may consider when imposing penalties for a violation of chapter 1.04A SMC.

6.2. Criteria for Determining Sanctions.

In determining the appropriate penalties, including the amount of any civil penalty, the Commission may consider the following factors, as well as other factors which the Commission may find appropriate in a particular case:

(1) The monetary cost of the violation, including:

- (a) The cost of the violation to the City;
- (b) The value of anything received or sought in the violation;
- (c) The amount of any damages incurred by the City as a result of the violation;
- (d) The costs incurred in enforcement, including reasonable investigative costs;

(2) The nature of the violation, including whether the violation:

- (a) Was continuing in nature;
- (b) Was motivated by financial gain;
- (c) Involved criminal conduct;
- (d) Impaired a function of the agency;
- (e) Tended to significantly reduce public respect for or confidence in city government or city government officers or employees;
- (f) Involved personal gain or special privilege to the violator;

(3) Aggravating circumstances, including whether the violator:

- (a) Intentionally committed the violation with knowledge that the conduct constituted a violation;
- (b) Attempted to conceal the violation prior to the filing of the complaint;
- (c) Was untruthful or uncooperative in dealing with the Commission or the Commission's staff;
- (d) Had significant official, management, or supervisory responsibility;
- (e) Had committed prior violations found by the Commission;
- (f) Incurred no other sanctions as a result of the violation;

(4) Mitigating factors, including:

- (a) Prior corrective action taken against the violator;
- (b) Prior recovery of damages to the state;

- (c) The unethical conduct was approved or required by the violator's supervisor or agency;
- (d) The violation was unintentional;
- (e) The violator relied on advice from Commission staff or designated ethics advisers;
- (f) Other mitigating factors deemed relevant by the Commission.

6.3. Process for Implementing Decision.

The Commission may utilize all available procedures to implement its decision including providing a copy of the decision to the appropriate administrative officer or commission or board chairperson.

Rule 7 – Definitions

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The Commission shall use the following definitions in conducting its procedures:

(1) "moral turpitude" is conduct which that violates commonly accepted standards of good morals, honesty, and justice; the application of this standard depends upon the collective conscience and judgment of the members of the Commission.

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(2) "dishonesty" is defined by Black's Law Dictionary as "behavior tha deceives or cheats people; untruthfulness; untrustworthiness." It is not possible to be negligently "dishonest."

(3) "jurisdiction," for purposes of SMC 01.04A.110, means that the Commission has authority to hear and decide the case, pursuant to SMC chapter 01.04A.

(4) "stipulation" means agreement.

(5) "false and frivolous complaint" means a complaint with no basis in fact, and generally suggests an improper purpose on the part of the complainant.

(6) "mitigating circumstances" means factors for the Commission's determination that might explain a violation, in whole or in part, or make the violation more understandable and/or less subject to condemnation; and

(7) "de minimis" means a violation of lesser significance, or a violation more technical than substantial.

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CITY OF SPOKANE ETHICS COMMISSION

FINAL PREHEARING ORDER

_____,
Complainant,
vs.
_____,
Respondent

The Spokane Ethics Commission met on _____, 2017, and after input from the parties and their representatives, now, therefore, enters the following pretrial order:

I. Date, time and location of full hearing:

The full hearing on this matter will be held on: _____, 2017, at _____ p.m. at Spokane City Hall, Council Chambers, or as otherwise directed.

II. Subpoenas for witnesses to attend hearing:

Proposed subpoenas must be provided to the Spokane Ethics Commission two weeks in advance of the hearing. The Commission will meet in special session two weeks before the hearing to decide whether to issue the subpoenas presented. IT IS THE RESPONSIBILITY OF EACH PARTY TO ASSURE THAT ANY WITNESS WHOSE TESTIMONY IS SOUGHT WILL BE AVAILABLE AND WILL ATTEND THE FULL HEARING. The Ethics Commission does not guarantee the attendance of witnesses; its subpoenas are not self-executing.

III. Preliminary Order

(i) This Order shall control the conduct of the full hearing of this matter.

(ii) Only parties of record may present argument or witnesses at the full hearing.

(iii) All witnesses shall testify under oath.

(iv) The Chair may cause the removal of any person who is being disruptive at the full hearing.

(v) The parties should assume that members of the Commission have read the document commonly known as the “_____,” or have at least some familiarity with such Report. However, the Commission recognizes that the Report is not evidence, and advises the parties not to rely on the Report when deciding whether to call witnesses or offer exhibits.

(vi) The Commission has dismissed Count __ of Complainant’s _____, 20__ Complaint, as clarified or amended without objection, on a voice vote. Entry of appropriate written findings and conclusions regarding Count __ will take place following the full hearing of this matter, or otherwise at an open meeting properly noticed pursuant to applicable law.

(vii) All pending motions are hereby dismissed, without prejudice to any party’s ability to re-file or re-open motions on leave of the Commission. Any motion any party wishes to be heard must be made in writing to the Commission, with copies served on all parties. No action will be taken on any motion unless the motion is filed on or before _____, 2017.

IV. Conduct of hearing:

1. Allocation of time at full hearing: Each side is allotted 90 minutes. Each side may use the allotted time in any manner chosen. Staff will keep track of each party’s time, and will notify the Commission and parties when the allotted time is completed. Opening statement, direct and cross examination of witnesses, argument over objections, and closing argument will all be allocated to the party examination of the witness, making the argument, arguing the objection, or otherwise addressing

1 the Commission, as in opening or closing. Once the party's 90 minutes is completed, that party may
2 not present further evidence or argument.

3 **2. Commission participation:** Members of the Commission will be allowed to ask questions.
4 Such questioning will not count against any party's allotted time. Parties are permitted to follow up on
5 questions asked by Commissioners and answers received, but the time used in any follow-up questions,
6 and answers, will be charged against the party asking following up.

7
8 **3. Exhibits and Briefs:**

9 **A. Service and filing of exhibits:** Exhibits shall be served and filed two weeks in advance of
10 the full hearing. Electronic delivery is preferred, but hard/paper copies will be accepted.

11 **B. Objections to exhibits** must be filed one week prior to the full hearing. Responses are due
12 48 hours before the full hearing.

13 **C. Admissibility of exhibits:** Any exhibit not objected to will be deemed admissible.
14 Objections to exhibits will be argued on the day of the full hearing, in advance of the presentation of
15 testimony. Exhibits shall be offered at the full hearing by number; no objections will be permitted
16 during the full hearing to the admissibility of the exhibit used, except as set forth below (impeachment
17 exhibits).

18 **D. Numbering exhibits: exhibit lists:** Complainant will use exhibit numbers 1-20,
19 Respondent will use exhibit numbers 21-40. Each submitting party will pre-number and pre-mark
20 exhibits, and shall submit a list of all exhibits simultaneously with the exhibits served.

21 **E. Impeachment exhibits:** Any party may impeach any witness by exhibits offered to reflect
22 on the credibility of the witness. Newspaper articles and other, similar documents may not be used for
23 impeachment purposes unless the document was submitted in advance of, and opportunity was given
24 for argument prior to, the full hearing. These are the only impeachment documents which must be pre-
25 disclosed, in advance of the full hearing.

26 **F. The full hearing will commence with argument over objections to exhibits and/or**

1 **witnesses.** Time spent in such argument will be limited by the Chair to no more than ten minutes per
2 side, but this time will not be counted toward the 90 minute allocation for each party. Time-counting
3 will commence with item 5(A)(2), below.

4 **G. Hearing Briefs:** Parties must serve and file any briefing they wish the Commission to
5 consider on week prior to the full hearing. No later-filed brief shall be considered by the Commission,
6 unless prior to the full hearing, the Commission approves of such late filing.

7
8 **4. Witnesses lists:**

9 **A.** Witness lists shall be served on each party and filed with staff on or before _____, 2017.
10 Any objections must be served and filed on or before _____, 2017. Requests for subpoenas shall
11 be served and filed on or before _____, 2017. The Commission will hold a special meeting
12 on _____, 2017, two weeks before the full hearing, in order to issue subpoenas if requested, *inter*
13 *alia*.

14
15 **B.** Witnesses shall testify under oath.

16 **5. Conduct of hearing:**

17 **A. Presentation of testimony and argument** at the full hearing shall occur as follows,
18 subject to the time allocations and limitations set forth above:

- 19 1. Introduction of hearing by Commission Chair.
- 20 2. Opening Statement (non-argumentative summary of evidence to be presented)
21 by Complainant. Time shall be counted toward party's allotted 90 minutes.
- 22 3. Presentation of Complainant's Case (Presentation of Witness and Documentary
23 Evidence). Complainant calls witnesses.
- 24 4. Cross Examination of witnesses by Respondent.
- 25 5. Questions by Commission. (Time not counted against either party's allocation.)

- 1 6. Follow-up Questions by Complainant and Respondent.
- 2 7. Complainant rests.
- 3 8. Opening Statement (non-argumentative summary of evidence to be presented)
- 4 by Respondent. Time shall be counted toward party's allotted 90 minutes.
- 5 9. Presentation of Respondent's Case (Presentation of Witness and Documentary
- 6 Evidence). Respondent calls witnesses.
- 7
- 8 10. Cross Examination of witnesses by Complainant.
- 9
- 10 11. Questions by Commission. (Time not counted against either party's allocation.)
- 11 12. Follow-up Questions by Complainant and Respondent.
- 12
- 13 13. Respondent rests.
- 14 14. Final Arguments.

15 **B. Rules of evidence:** It is the intention of the Ethics Commission to hear all relevant
16 evidence. Lack of conformity to state or federal rules of evidence goes to the weight, not the
17 admissibility, of evidence. However, questions with the purpose or effect of harassing or intimidating
18 a witness will not be tolerated. Cumulative or argumentative testimony, speculations of a witness, and
19 testimony based solely upon hearsay are not helpful to the truth-finding process and may therefore be
20 excluded, in the discretion of the Chair. Counsel are encouraged to point out to the Commission that
21 the opposing party's evidence, in whole or in part, consists of evidence that could be deemed
22 inadmissible under evidentiary rules applicable in other fora.

23
24 **C. Motions to dismiss** shall not be made or considered during the full hearing.

25
26 **6. Evidentiary objections at full hearing:** It is a part of the purpose of this Order to minimize
27 the objections made at hearing to preserve the flow of evidence and complete the full hearing in a
28 timely manner. However, parties retain the right to object when it is deemed advisable to do so.

1 Objections shall be directed to the Chair, who will alone determine the appropriate response to the
2 objection. The Chair may consult with Commission counsel before ruling, but need not do so.

3 **V. Issue to be decided following full hearing:**

4 Whether Respondent _____ violated SMC 01.04A.030 __ (State Facts of Alleged
5 Conduct.)

6 **VI. Waiver of Right to Hearing Prior to Date and Time Scheduled for Full Hearing, and**

7 **Waiver of Objection of Same:**

8 At prior hearings in this matter, the parties were given opportunity to object to the delays
9 incurred in bringing this matter to full hearing. The delays have been caused by a desire to provide a
10 fair hearing by accommodating both counsel. No party has objected. Accordingly, it is ordered that the
11 parties and their attorneys have waived the right, if any, to have this matter heard prior to the date and
12 time set forth in this Prehearing Order.
13

14 Approved by unanimous vote on the tenth day of _____, 2017.

15
16
17
18 _____
19 Chair, Spokane Ethics Commission
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CITY OF SPOKANE
ADMINISTRATIVE POLICY

ADMIN 0520-17-06
LGL 2017-0035

TITLE: OPEN GOVERNMENT TRAINING FOR ELECTED OFFICIALS,
GOVERNING BOARD MEMBERS AND PUBLIC OFFICERS

EFFECTIVE DATE: October 20, 2017

REVISION EFFECTIVE DATE:

RECEIVED

OCT 10 2017

CITY CLERK'S OFFICE

1.0 GENERAL

1.1 The Washington State legislature enacted the Open Government Training Act effective July 1, 2014. The Act provides in part that:

- a. Every member of a governing board of a public agency must complete training on the requirements of the Open Public Meetings Act (OPMA) (RCW 42.30.205);
- b. Each local elected official and each person appointed to fill a vacancy in a local office must complete training regarding the provisions of the Public Records Act (PRA) and records retention (RCW 42.56.150);
- c. Public records officers must complete training regarding the provisions of the PRA and records retention (RCW 42.56.152).

This policy sets forth the process by which the City will ensure that all members of City boards, commissions, and committees; all elected and appointed officials to elective office; and all public records officers, including designated departmental public records coordinators, complete the required training.

1.2 TABLE OF CONTENTS

- 1.0 GENERAL
- 2.0 DEPARTMENTS/DIVISIONS AFFECTED
- 3.0 REFERENCES
- 4.0 DEFINITIONS
- 5.0 POLICY
- 6.0 PROCEDURE
- 7.0 RESPONSIBILITIES
- 8.0 APPENDICES

2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to members of City boards, commissions, and committees which constitute a governing body of a public agency pursuant to the OPMA, all elected and appointed officials of elective office and all designated public records officers, including designated departmental public records coordinators.

3.0 REFERENCES

RCW 42.30.205
RCW 42.56.150
RCW 42.56.152
ADMIN 0260-17-05
ADMIN 0260-17-03
ADMIN 5300-17-06

4.0 DEFINITIONS

- 4.1 "Appointing Authority" means either the Mayor or the City Council depending on which is appointing a member to a board, commission, or committee, or the governing body which has appointment authority by state law or city ordinance.
- 4.2 "Elected Official" means the mayor, the council president and the members of the city council whether elected or appointed to their respective elective office pursuant to state law or city ordinance.
- 4.3 "Governing Body" means those City boards, commissions or committees that qualify as a governing body under RCW 42.30.010 (2).
- 4.4 "Member" means an appointed member of a city board, commission, or committee that qualifies as a governing body of a public agency pursuant to the OPMA.
- 4.5 "Public Records Officer" or "Records Officer" means the person designated under RCW 40.14.040 as the officer responsible for compliance with records retention requirements under state law or 42.56.580 as the officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with public records

disclosure requirements. Reference Section 5.1.2 of City policy and procedure ADMIN 0260-17-03 for designated Records Officers. For purposes of this policy "Records Officer" shall also include designated departmental records coordinators (reference 6.2.1 of City policy and procedure ADMIN 0260-17-05).

5.0 POLICY

- 5.1 All members of a city board, commission or committee shall complete the open government training relating to the OPMA requirements pursuant to RCW 42.30.205 and the requirement of the PRA contained in Chapter 42.56 RCW.
- 5.2 Elected officials shall complete open government training relating to the PRA requirements and records retention protocols pursuant to RCW 42.56.150.
- 5.3 All designated public records officers or records officers shall complete the open government training relating to the PRA and public records retention pursuant to RCW 42.56.152.

6.0 PROCEDURE

- 6.1 Appointed Members of Boards, Commissions and Committees. Upon appointment to a city board, commission, or committee, the Appointing Authority, or its designee, shall provide written instructions to the member on how to complete the required training. The instructions shall be included in the Appointing Authority's appointment letter to the member. The instructions shall state:

Washington State law requires that all members of city boards, commissions and committees complete training on the requirements of the Open Public Meeting Act, Chapter 42.30 RCW, within 90 days of appointment. Please visit the City's Board & Commission website (<https://my.spokanecity.org/bcc/vacancies/>) for more information regarding open government training.

The information contained on the City's website shall state:

As part of your appointment, you shall, within ninety (90) days of your appointment letter, complete training regarding the Open Public Meetings

Act and the Public Records Act. The training can be completed online through the Attorney General website at <http://www.atg.wa.gov/open-government-training>. You will need to review the written material under Lesson 1 regarding open government and then watch the videos under Lesson 2, regarding Public Records Act training, and Lesson 3, regarding the Open Public Meeting Act training. Once you have completed the training, you can upload the attached certificate of training and file the certificate with the City Clerk's Office. You may contact the City Clerk's Office at 625-6350 if you have any questions.

The member shall complete the open government training relating to the OPMA requirement pursuant to RCW 42.30.205.

- 6.2 Elected or Appointed Officials to Elective Office. Upon election or appointment to elective office, the elected official shall complete the open government training relating to the OPMA and PRA requirements and records retention protocols pursuant to RCW 42.30.205 and RCW 42.56.150.
- 6.3 Designated Public Records Officer. The designated public records officers shall complete the open government training relating to the PRA and public records retention protocol pursuant to RCW 42.56.152.
- 6.4 Board, Commission and Committee Members, elected officials and public records officers may complete their respective required training through the Attorney General's internet based training at <http://www.atg.wa.gov/open-government-training> or through other government agencies such as the Secretary of State, through public section related associations such as the Association of Washington Cities. Please contact the City Attorney's Office if you are uncertain if the training in question qualifies to satisfy the requirements of state law. Once the training is completed, the member, elected official or public records officer or records officer shall complete the Certificate of Training, which shall be filed with the City Clerk's Office. The training shall be completed within ninety (90) days of the member assuming his or her duties as a board or commission member, the elected official taking the oath of office or the public records officer assuming responsibilities as a public records officer or records officer. Training must be completed at least once every four years.

6.5 Administrative Policy Regarding City- and Personally-Owned Communication Devices.

The City has adopted Administrative Policy No. 5300-17-06 regarding City- and Personally-Owned Communication Devices, which regulated the use of how such devices can and cannot be used by volunteers such as board, commission and committee members. The City departments are to review this policy with their respective boards and commissions members.

7.0 RESPONSIBILITIES

7.1 The department and/or department head/staff most closely associated with a board, commission or committee shall be responsible to implement this policy to make sure new members and reappointed members receive the appropriate training and that the Certificates of Training are filed with the City Clerk's Office. A list of boards, commissions and committees and their respective departments and/or department heads or staff is included as Appendix No. 1, which may be updated as appropriate by the City Clerk.

7.2 The Office of the Mayor shall be responsible to implement this policy as it relates to the Mayor.

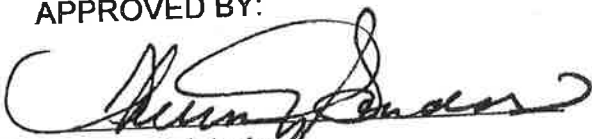
7.3 The Office of the City Council shall be responsible to implement this policy as it relates to the Council President and Council Members.

7.4 The City Clerk's Office shall be responsible to implement this policy as it relates to the designated public records officer or records officer.


8.0 APPENDICES

Appendix No. 1 – List of Boards, Commissions and Committees

APPROVED BY:


City Administrator

10/5/2017
Date


Assistant City Attorney

10-4-17
Date

Appendix 1: List of Boards, Commissions, and Committees and the respective departments

Arts Commission –
Bicycle Advisory Board- Planning and Economic Development Department
Boiler Advisory Board –Development Services Department
Boiler Examiners and Appeals Board - Development Services Center
Citizens' Transportation Advisory Board – Streets Department
Civil Service Commission – Civil Service Department
Community Housing and Human Services Board – CHHS Department
Construction Review Board - Business and Developer Services Department
Decennial District Board- City Council
Design Review Board - Planning and Economic Development Department
Employees' Retirement System Board – Retirement Department
Ethics Commission – City Attorney's Office
Fire Code Advisory and Appeals Board – Fire Department
Fire Pension Board – Retirement Department
Historic Landmarks Commission – Historic Preservation Department/Officer
Human Rights Commission – CHHS Department
Library Board – Spokane Public Library
Lodging Tax Advisory Committee - City Council Office
Ombudsman Commission – Office of Police Ombudsman
Public Development Authority (PDA)
 Northeast PDA - Planning and Economic Development Department
 University District PDA - Planning and Economic Development Department
Park Board – Parks and Recreation Department
Parking Advisory Committee – Neighborhood Services and Code Enforcement
Parking and Business Improvement Area Rate Payers Advisory Boards
 Downtown PBIA – DSP Director
 East Sprague PBIA – Business and Developer Services Department
Plan Commission – Planning and Economic Development
Police Advisory Committee – Police Department
Police Pension Board – Retirement Department
Salary Review Commission – City Council and Human Resources Department
Spokane Hotel-Motel Commission
Targeted Investment Pilot (TIP) Advisory Board – Planning and Economic Development
Department
Urban Forestry Tree Committee – Parks and Recreation Department
West Quadrant Tax Increment Financing Neighborhood Project Advisory Committee –
Planning and Economic Development Department

Robert's Rules of Order

The following section summarizes important points from *Robert's Rules of Order*.

- All Commission Members have equal rights. Each speaker must be recognized by the Chair prior to speaking. Each speaker should make clear his or her intent by stating, "I wish to speak for/against the motion" prior to stating arguments.
- Only one person may speak at any given time. When a motion is on the floor, the mover of a motion speaks first, so that the Commission understands the basic premise of the motion. The mover is also the last to speak, so that the Commission has an opportunity to consider rebuttals to any arguments opposing the motion.
- Only one subject may be before the Commission at one time. Each item to be considered is proposed as a motion which requires a "second" before being put to a vote. Once a motion is made and seconded, the Chair places the question before the Commission by restating the motion.
- Each item presented for consideration is entitled to a full and free debate. Each person speaks once, until everyone else has had an opportunity to speak.
- "Negative" motions are generally not permitted. To dispose of an agenda item, the motion should be phrased as a positive action to take, and then, if the Commission desires not to take this action, the motion should be voted down.
- The rights of the minority must be protected, but the will of the majority must prevail. Persons who do not share the point of view of the majority have a right to have their ideas presented for consideration, but ultimately the majority will determine what the Commission will or will not do.

Motions

Action items are brought before the Commission by motions, a formal procedure for taking actions. To make a motion, a Commission Member must first be recognized by the Chair. After the Commission Member has made a motion and after the motion is seconded, the Chair must then restate it or rule it out of order, then call for discussion.

Robert's Rules of Order provides for four general types of motions:

1. **Main Motions:**

The most important are main motions, which bring before the Commission, for its action, an agenda item. Main motions cannot be made when any other motions are before the Commission.

2. **Subsidiary Motions:**

Subsidiary motions are motions which direct or change how a main motion is handled. These motions include:

Tabling.

Used to temporarily postpone discussion until the Council decides by majority vote to resume discussion. By adopting the motion to "table," a majority has the power to halt consideration of the question immediately without debate. A motion to table requires a second, is non-debatable, and is not subject to amendments.

Previous Question or Close Debate.

Used to bring the Commission to an immediate vote. It closes debate and stops further amendments. The majority of the Commission decides when enough discussion has occurred, not the Chair. The formal motion is to "call for the question" or "call for the previous question," or simply, "I move to close debate." The motion requires a second, is not debatable and requires a two-thirds majority, i.e. five votes.

Limit/Extend Debate.

May be desired if the group has adopted a rule limiting the amount of time that will be spent on a topic, or if the group desires to impose a time limitation.

Postpone to a Definite Time.

Similar to tabling, except that the motion directs that the matter will be taken up again at some specific date and time.

Refer to Committee.

Directs that a committee will study the matter and report back.

Amendment.

Used to "fine tune" a motion to make it more acceptable to the Commission. The amendment must be related to the main motion's intent and cannot be phrased in a way that would defeat the main motion. Two amendments may be on the floor at one time: the first amendment modifies the main motion, and the second amendment must relate to the first amendment. When an amendment is on the floor, only the amendment may be debated. The amendments are voted on in the reverse order in which they were made, as each amendment changes to some degree the intent of the main motion. As each amendment is voted on, an additional primary or secondary amendment may be introduced. A motion to amend requires a second, is debatable, and requires a majority vote.

Postpone Indefinitely.

This motion effectively kills a motion, because, if adopted, a two-thirds vote is subsequently required to take the matter up again.

3. Incidental Motions:

Incidental motions are housekeeping motions which are in order at any time, taking precedence over main motions and subsidiary motions. These motions include:

Point of Order

To bring to the Commission's attention that the rules are being violated. A Commission Member does not need to be recognized prior to making a point of order. This is not really a motion, but requires the Chair to make a ruling as to whether or not immediate consideration is proper.

Appeal from the Decision of the Chair

The Commission can overrule the Chair on any procedural decision. While the motion must be seconded, it cannot be amended. When this motion is moved and seconded, the Chair immediately states the question, "Shall the decision of the chair stand as the judgment of the Commission?" If there is a tie vote, the Chair's decision is upheld. The motion is not debatable when it applies to a matter of improper use of authority or when it is made while there is a pending motion to close debate. However, the motion can be debated at other times. Each person may speak once, and the moderator may also state the basis for the decision.

Request to Withdraw a Motion

A request to withdraw a motion requires majority approval and cannot be withdrawn by its mover.

Suspension of the Rules

When matters are to be taken out of order, or a particular task can be better handled without formal rules in place, this motion can be approved by a vote of five members of the Commission.

Reconsider

A motion for reconsideration is available when the Commission needs to discuss further a motion that has already been defeated at the same meeting. A majority of the Commission must approve taking additional time to debate the motion again. The motion can be made only by a person who voted on the prevailing side earlier on the question.

4. Other Motions:**Point of Privilege**

A Commission Member may assert a point of privilege when there is a matter that concerns the welfare of the Commission. A point of privilege can be raised even when another person is speaking. A point of privilege does not require a second, is not debatable, and no vote is required.



The Distinction between 'Legal' and 'Ethical' Behavior

December 11, 2017 by [Jim Doherty](#)
Category: [Ethics and Conflicts of Interest](#)



Over the years MRSC has received numerous questions asking whether certain actions are legal or ethical – and the way the questions are asked indicates that there is often confusion over the use of the words 'legal' and 'ethical'. The distinction is important.

Actions are 'legal' if they do not violate the laws or codes of the local government, state, or federal government. Actions are 'ethical' or 'moral' (I will treat the words as synonymous in this article) if they meet an individual's personal

code of conduct, which may be based on a particular social, religious, or other group norms. Unfortunately, the word 'ethics' is often used more broadly – for example, when a 'code of ethics' is officially adopted in the state statutes (see, for example, [chapter 42.23. RCW](#)) or by a local government as the [local code of ethics](#). A formally adopted code of ethics is a legal requirement; when you violate a state or local government code of ethics there are specific consequences.

So why all this fuss over words? Well, some people are of the view that if you comply with the law, which sets the minimum standards for our society, that is all that is required. And that is fine if their goal is to only meet the minimum standards accepted for our society in order to not face criminal or civil penalties.

Most people, however, aspire to more – and that is where morality and ethics (in its broader sense) come into play. Individually none of us are required to help our neighbors, the homeless, a lost child, or an injured pedestrian in the street – but we all hope that most of our neighbors will assist us and others in ways beyond the minimum requirements set by law.

Treating others with respect, whether in our social groups or at the workplace, is the basic glue that keeps groups working positively to resolve problems. Though we may disagree with others on various issues, we should take the time to listen to opposing views and to understand why someone else might have a different perspective. Did you spot the word "should" in that last sentence? Modern democracies do not legislate that we treat each other with respect, they can only point the way and legislate regarding the minimum 'legal' requirements.

I started my first draft of this article prior to the recent wave of publicity and allegations regarding a serious lack of respect for women, which in many cases constituted illegal conduct. The many descriptions that have been provided in the media point to a serious problem, and one that will not be righted when we all behave 'legally' toward each other. There's more. We need to examine our conduct to see if we are respecting others in the many ways that we interact.

Ultimately the issue comes down to who we feel is worthy of respect. Do we extend basic respect to all people — men and women, those of a different race or religion, or holding different political views, etc. — or do we draw the line short of that? The tapestry of our society is being torn by a lack of willingness to really listen to each other.

That gets us back to local government here in our communities and my New Year's wish for 2018: That all of us accord respect to each other. Particularly, that all those who serve on local government legislative bodies or boards make an effort to really listen to the other members and try to understand the worthwhile aspects of others' views. During discussions, instead of constantly thinking of how you can rebut or argue against another person's views, take the time to listen carefully and find common ground. We serve our communities best when policy decisions incorporate a broad range of perspectives.

Questions? Comments?

If you have questions about this or any other local government issues, please use our [Ask MRSC form](#) or call us at (206) 625-1300 or (800) 933-6772. If you have comments about this blog post or other topics you would like us to write about, please email me jdoherty@mrsc.org.



About Jim Doherty

Jim has over 24 years of experience researching and responding to varied legal questions at MRSC. He is the lead attorney consultant and has special expertise in transmission pipeline planning issues, as well as the issues surrounding medical and recreational marijuana.

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Comments

0 comments on The Distinction between 'Legal' and 'Ethical' Behavior

Blog post currently doesn't have any comments.

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Parliamentary Procedure: A Brief Guide to Robert's Rules of Order

This page provides a brief overview of important aspects of Robert's Rules of Order as applied to parliamentary procedure for local governments in Washington State.

Overview

Parliamentary procedure provides the process for proposing, amending, approving and defeating legislative motions. Although following parliamentary procedure is not required, it can make council meetings more efficient and reduces the chances of council actions being declared illegal or challenged for procedural deficiencies.

A city may adopt, by ordinance or resolution, its own set of rules governing the conduct of council meetings, or it may adopt by reference formalized rules such as Robert's Rules of Order. Many Washington cities have adopted Robert's Rules, supplementing those rules with additional rules on issues such as voting abstentions and motions for reconsideration.

Basic Rules

- **Only one subject may be before a group at one time.** Each item to be considered is proposed as a motion which usually requires a "second" before being put to a vote. Once a motion is made and seconded, the chair places the question before the council by restating the motion.
- **"Negative" motions are generally not permitted.** To dispose of a business item, the motion should be phrased as a positive action to take, and then, if the group desires not to take this action, the motion should be voted down. The exception to this rule is when a governing body is asked to take action on a request and wishes to create a record as to why the denial is justified.
- **Only one person may speak at any given time.** When a motion is on the floor, an order of speaking is prescribed by Robert's Rules, allowing the mover of a motion to speak first, so that the group understands the basic premise of the motion. The mover is also the last to speak, so that the group has an opportunity to consider rebuttals to any arguments opposing the motion.
- **All members have equal rights.** Each speaker must be recognized by the moderator prior to speaking. Each speaker should make clear his or her intent by stating, "I wish to speak for/against the motion" prior to stating arguments.
- **Each item presented for consideration is entitled to a full and free debate.** Each person speaks once, until everyone else has had an opportunity to speak.
- **The rights of the minority must be protected, but the will of the majority must prevail.** Persons who don't share the point of view of the majority have a right to have their ideas presented for consideration, but ultimately the majority will determine what the council will or will not do. Use parliamentary procedure as a tool, not a bludgeon.

Motions

Business is brought before the council by motions, a formal procedure for taking actions. To make a motion, a councilmember must first be recognized by the mayor. After the councilmember has made a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are a few exceptions.

Exact wording of motions and amendments is important for clarity and recording in the minutes. If it's a complex motion, the motion should be written down for the chair to read.

Robert's Rules of Order provides for four general types of motions: main motions, subsidiary motions, incidental motions, and renewal motions.

Main Motions

The most important are main motions, which bring before the council, for its action, any particular subject. Main motions cannot be made when any other motions are before the group.

Subsidiary Motions

Subsidiary motions are motions which direct or change how a main motion is handled. These motions include:

- **Tabling.** Used to postpone discussion until the group decides by majority vote to resume discussion. By adopting the motion to "lay on the table", a majority has the power to halt consideration of the question immediately without debate. Requires a second, non-debatable, not amendable.
- **Previous question or close debate.** Used to bring the body to an immediate vote. It closes debate and stops further amendment. Contrary to some misconceptions, the majority decides when enough discussion has occurred, not the moderator. The formal motion is to "call for the question" or "call for the previous question," or simply, "I move to close debate." The motion requires a second, is not debatable and requires a two-thirds majority.
- **Limit/extend debate.** May be desired if the group has adopted a rule limiting the amount of time that will be spent on a topic, or if the group desires to impose a time limitation.
- **Postpone to a definite time.** Similar to tabling, except that the motion directs that the matter will be taken up again at some specific date and time.
- **Refer to committee.** Directs that some other body will study the matter and report back.
- **Amendment.** Used to "fine tune" a motion to make it more acceptable to the group. The amendment must be related to the main motion's intent and cannot be phrased in a way that would defeat the main motion. Two amendments may be on the floor at one time: the first amendment modifies the main motion, and the second amendment must relate to the first amendment. When an amendment is on the floor, only the amendment may be debated. The amendments are voted on in the reverse order in which they were made, as each amendment changes to some degree the intent of the main motion. As each amendment is voted on, an additional primary or secondary amendment may be introduced. Requires a second, debatable, majority vote.
- **Postpone indefinitely.** This motion effectively kills a motion, because, if adopted, a two-thirds vote is subsequently required to take the matter up again.

Incidental Motions

Incidental motions are housekeeping motions which are in order at any time, taking precedence over main motions

and subsidiary motions. These motions include:

- **Point of order.** To bring to the group's attention that the rules are being violated. You don't need to be recognized prior to making a point of order. This is not really a motion, but requires the moderator to make a ruling as to whether or not immediate consideration is proper.
- **Appeal from the decision of the chair.** The group can overrule the chair on any decision. While the motion must be seconded, it cannot be amended. When this motion is moved and seconded, the moderator immediately states the question, "Shall the decision of the chair stand as the judgment of the council?" If there is a tie vote, the chair's decision is upheld. The motion is not debatable when it applies to a matter of improper use of authority or when it is made while there is a pending motion to close debate. However, the motion can be debated at other times. Each person may speak once, and the moderator may also state the basis for the decision.
- **Parliamentary inquiry.** Not a motion, but a question as to whether an action would be in order.
- **Point of information.** A person may rise to offer information that is considered necessary for the group. This provision is not used to offer debate.
- **Division of assembly.** To require a more precise method of counting votes than by a voice vote, such as having persons raise hands, or stand. No second, not debatable, no vote required.
- **Request to withdraw a motion.** Contrary to popular misconception, a motion cannot be withdrawn by its mover. This request requires majority approval.
- **Suspension of the rules.** When matters are to be taken out of order, or a particular task can be better handled without formal rules in place, this motion can be approved by a two-thirds vote of the group. However, until the rules are restored, only discussion can occur; no decisions can be made. Second required, not debatable, not amendable.
- **Object to consideration of a question.** When a motion is so outrageous, intended to distract the group from resolving legitimate business. The motion can be objected to and ruled out of order without debate. However, if the chair does not rule the motion out of order, a two-thirds vote of the group can block further consideration.

Renewal Motions

Once the group has taken action, renewal motions require the group to further discuss or dispose of a motion. The motions include:

- **Reconsider.** When the group needs to discuss further a motion that has already been defeated at the same meeting. A majority of the council must approve taking additional time to debate the motion again. The motion can be made only by a person who voted on the prevailing side earlier on the question. Contrary to another popular misconception, the motion may be brought up again at a subsequent meeting. If the moderator believes that there is no indication that the group's wishes have changed, however, the motion can be ruled out of order, subject to an appeal from the decision of the chair.
- **Take from the table.** Unless the original motion to table directed that the motion be brought back at a specific date and time, a majority of the group must pass a motion to take from the table. Such a motion is non-debatable.
- **Rescind.** When the group wishes to annul some action, a motion to rescind is in order at any time. If prior notice has been given to the group that this action will be considered, the motion to rescind can pass with a simple majority vote; however, if no prior notice has been given, the vote requires a two-thirds majority.

Questions of Privilege

Finally, there are a few questions of privilege that are in order at any time and must be disposed of prior to resuming discussion on the matter at hand:

- **Fix the time for next meeting.** This is in order at any time, including when a motion to adjourn is pending. Second required, not debatable, amendable.
- **Adjourn.** To bring the meeting to a halt. Second required, not debatable, not amendable. Alternatively, instead of a motion, the chair can ask if there is any further business. If there is no response, the chair can say, "since there is no further business, the meeting is adjourned."
- **Recess.** A temporary break in the meeting; should state a time at which the meeting will resume. Second required, not debatable, not amendable.
- **Point of privilege.** A matter that concerns the welfare of the group. Can be raised even when another person is speaking. No second, not debatable, no vote required. Call for the orders of the day. A demand that the group return to the agenda. Can be taken when another person is speaking, no second required, not debatable, no vote required.

Recommended Resources

- [The Official Robert's Rules of Order Website](#) - Includes a short history of Robert's Rules, how an organization can adopt it, the basics of parliamentary procedure, a question and answer forum, and an "Ask the Authors" feature.
- [Georgia Municipal Association: Parliamentary Procedure: A Guide for City Officials \(2007\)](#)
- [Jurassic Parliament](#) – Guidance and resources from Ann MacFarlane, a Professional Registered Parliamentarian and one of MRSC's [Council/Commission Advisors](#).
- [National Association of Parliamentarians \(NAP\)](#)
- [American Institute of Parliamentarians \(AIP\)](#)

Last Modified: February 19, 2016

RECEIVED

MAR 3 2017

OFFICE OF THE CITY ATTORNEY

CITY OF SPOKANE ETHICS COMMISSION

ETHICS COMPLAINT FORM CLARIFIED II Complaint

Please review the City of Spokane's Code of Ethics – Chapter 1.04A SMC – before completing this complaint form. When you have completed this form, submit it to:

City of Spokane Ethics Commission
Attention: Rebecca Riedinger
Office of the City Attorney
5th Floor Municipal Building
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

or at: rriedinger@spokanecity.org

Pursuant to the City of Spokane's Code of Ethics, I am filing a complaint regarding conduct which I believe constitutes a violation of the City's Code of Ethics.

Name, position, and department of person(s) I believe to have violated the Code of Ethics:

Name: David A. Condon | Theresa Sanders
Position/Title: Mayor of the City of Spokane | Spokane City Administrator

Nature of Code of Ethics violation:

What specific provision of SMC 1.04A.030 do you believe has been violated?

Section 1.04A.030(N) Commission of Acts of Moral Turpitude or Dishonesty.

Describe in as much detail as possible the alleged Code of Ethics violation conduct. Attach additional sheets of paper, if necessary. Please include all documentation you believe demonstrates a violation. Your description should include the date, location and frequency of the alleged violation.

ORIGINAL

Complainant Declaration

I declare under penalty of perjury of the laws of the State of Washington that to the best of my knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true and correct.

Alexander J. Shogan, Jr
Complainant's Signature

2/28/2017
Date

Date and Place (e.g. City, State)

Spokane, Washington

Name (please print): Alexander J. Shogan Jr.

Address: 5726 N. Sutherland St. Spokane, WA 99205

Phone Number(s): (509) 954-0727

E-Mail Address: joeshoganjr@gmail.com

RECEIVED

MAR 3 2017

OFFICE OF THE CITY ATTORNEY

CITY OF SPOKANE ETHICS COMMISSION

ALEXANDER J. SHOGAN, JR.) NO. **II CLARIFIED**
 Complainant) SWORN COMPLAINT ALLEGING
 DAVID CONDON, MAYOR OF) VIOLATION OF SECTION 01.04A.030
 THE CITY OF SPOKANE;) CITY OF SPOKANE CODE OF ETHICS
 THERESA SAUNDERS, SPOKANE CITY)
 ADMINISTRATOR)
 Respondents)

STATE OF WASHINGTON)
 : ss
 County of Spokane)

ALEXANDER J. SHOGAN, JR being duly sworn, on oath, states as follows:

A. That he is a Resident of the City of Spokane currently living in the Northwest area of the 3rd Council District and a Registered Voter in that District.

B. That he has read and is familiar with the City of Spokane Code of Ethics contained in Chapter 01.04A of the Code.

C. That he is filing this **II Clarified Complaint** Alleging Violations of Section 1.04A.030 of the City of Spokane Code of Ethics in Compliance with the Decision of the Ethics Commission on February 15, 2017 that Complainant Provide the Commission with SPECIFIC FACTS of FALSE STATEMENTS by Respondents Mayor David Condon and City Administrator Theresa Saunders to Spokane City Council President Ben Stuckart as well as to Spokane City Council Member Karen J. Stratton in order to Allow the Commission to Make a **Reasoned Decision** on whether Complainant's Allegations in his **Clarified II Complaint** are Sufficient to Permit the Commission to find that It has Jurisdiction; and, that the Allegations, if Found to be True, would be Sufficient to constitute Violations of the City of Spokane Code of Ethics, Section 01.04A.030.

D. That Respondent Condon is the **Elected Mayor of the City of Spokane** and Respondent Saunders is the **Spokane City Administrator**; and, as such, Both are **Public Officials** governed by the City of Spokane Code of Ethics.

ORIGINAL

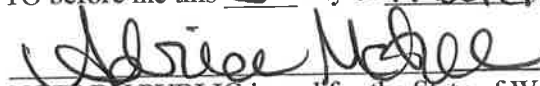
1 E. That, as Mayor, Respondent Condon; and, as City Administrator,
2 Theresa Saunders were Both Dishonest in their Communication
3 of the Facts surrounding the Allegations of Sexual
4 Harassment made by Monique Cotton against then-Spokane
5 Police Chief Frank Straub to Spokane City Council President
6 Ben Stuckart as well as to Spokane City Council Member
7 Karen Stratton (refer to Exhibit A: A Copy of Pages 1,2,3
8 and 104 of the July 25,2016 Seabold Group Investigation of
9 the Resignation of Chief Frank Straub; Exhibit B: A Copy of
10 Pages 12,13 & 15 of Ben Stuckart's March 22, 2016 Interview
11 by the Seabold Group; and, Exhibit C Affidavit of Spokane
12 City Council Member Karen J. Stratton re: pages 26,27 and 28
13 of her March 16, 2016 Interview by the Seabold Group).

14 Such **Dishonest Communications** by the **Respondents to Spokane City**
15 **Council President Ben Stuckart** as well as **to Spokane City**
16 **Council Member Karen Stratton** constitute **Violations** of
17 **Section 01.04A.030 Prohibited Conduct** of the Spokane
18 Code of **Ethics** as follows:

19 **N. Commission of Acts of Moral Turpitude or Dishonesty**
20 **Prohibited.**

21 
22 ALEXANDER J. SHOGAN JR

23 SUBSCRIBED AND SWORN TO before me this 3 day of March 2017.

24 
25 NOTARY PUBLIC in and for the State of Washington,
26 residing at Spokane.

27 My Commission Expires: 2/15/2021



Exhibit A

TO: Investigative Oversight Committee
FROM: Seabold Group
DATE: July 25, 2016
RE: Investigation of the Resignation of Chief Frank Straub

I. INTRODUCTION

On September 22, 2015, Spokane Mayor David Condon announced in a press conference that Police Chief Frank Straub was resigning.¹ In the months before Chief Straub's resignation, it was well known throughout City Hall and the Spokane Police Department (SPD) that media outlets were pursuing various rumors about the relationship between Chief Straub and one of his subordinates, Monique Cotton. In addition to informal media inquiries, Nick Deshais, a reporter with the Spokesman-Review, had filed a public records request on August 18, 2015, seeking information about complaints asserted by Ms. Cotton against Chief Straub. There also had been at least two articles in August raising questions about Ms. Cotton's abrupt transfer out of the SPD into the Parks Division in May 2015.

After reading a short statement during the September 22nd press conference, Mayor Condon fielded questions from reporters. One of the most pointed questions came from an *Inlander* reporter who asked:

"Were there any sexual harassment complaints lodged against Frank?"

Mayor Condon replied, "No."

In response to a follow up question from a KHQ reporter, Mayor Condon added, "[T]here had been no official filings of anything."

In addition to the Mayor's denial during the September 22nd press conference, Theresa Sanders, the City Administrator, publicly denied knowledge of any difficulties between Straub and Cotton and instead portrayed Ms. Cotton's move to Parks as a promotion.

Many weeks later, and after the Mayor's re-election, the City released documents in response to Deshais' August 18th public records request, revealing for the first time that Ms. Cotton had made sexual harassment allegations against Chief Straub in April 2015, and that her transfer to Parks was not a promotion, but rather she was moved because of

¹ Several minutes before that announcement, the City had issued a press release giving conflicting accounts for Chief Straub's sudden departure. It was reported that Chief Straub had "decided to leave the Spokane Police Department to pursue new opportunities and be closer to family." It was also reported that Mayor Condon had received letters from police leadership expressing "concerns about his management style." See Exhibit 1.

Based on all of the evidence we considered, we conclude that Mayor Condon, Ms. Sanders, Mr. Coddington, and Ms. Isserlis intentionally withheld information from the City Clerk about the existence of the documents at issue with the intent and purpose of delaying the production of those records until after the Mayor's election. We also conclude that Pat Dalton, the senior assistant city attorney, deliberately delayed the release of the Torok text messages until after Mayor Condon's re-election.

II. THE INVESTIGATION SCOPE

The scope of this investigation was determined by the Investigation Oversight Committee ("Committee"). The Committee's original members included: Brian McClatchey, City Council Policy Advisor; Laura McAloon, a private attorney who was recently appointed by Mayor Condon as the new City Attorney; Councilmember Karen Stratton; and Rick Romero, the former Director of City Utility. Councilmember Stratton withdrew from the Committee after being informed that she was a witness in the investigation. She was replaced by Councilmember Breean Beggs.

The issues that were included in the scope of the investigation are described in the attached "Memorandum of Proposed Scope." (Exhibit 2). We attempted to provide every witness who agreed to be interviewed with a copy of the scope document before his or her interview.

After the investigation began, two modifications to the scope were agreed to by the Committee. The first modification was to add a complaint filed with the City by Carly Cortright, alleging hostile work environment, gender discrimination, and retaliation. The written complaint was dated December 21, 2015, and received by the HR Director on or about December 29, 2015. (Exhibit 7).

The second modification was to narrow the scope of "Issue 5," which originally provided:

What are the City's policies and procedures for responding to public record requests and were they followed in responding to media requests for documents related to Chief Straub and Ms. Cotton?

As we got into the investigation, we learned that there were at least 34 (possibly more) public records requests, resulting in the production of many thousands of pages of records, that were potentially encompassed within the original scope. Such an undertaking would have consumed the investigation budget and likely much, much more. Accordingly, at the investigator's recommendation, the Committee agreed to limit the inquiry to the documents that were produced on November 13, 2015, and November 24, 2015, in response to a records request filed by the Spokesman-Review on August 18, 2015.

For purposes of our report, we have slightly reformatted and re-ordered the issues as they are described in the scope memo. They include the following:

Mayor Condon admitted he and his staff, to include Ms. Sanders and Mr. Coddington, knowingly and intentionally withheld information from the public (and the City Council) regarding Ms. Cotton's sexual harassment allegations.

Ms. Sanders stipulated to violating the City Code of Ethics prohibiting dishonesty, and Mr. Coddington admitted in his investigative interview that he knowingly concealed information from the media relating to Cotton's sexual harassment allegations.

The Condon Administration also on several occasions knowingly misrepresented the facts and circumstances of Ms. Cotton's transfer to Parks. And while Ms. Isserlis and Ms. Jacobson never commented publicly about the circumstance of Ms. Cotton's transfer to Parks, they too was aware that the Condon administration had misrepresented and concealed the true reasons for Ms. Cotton's transfer.

11. The Mayor's December 11, 2015 Letter to the City Council was Misleading Regarding the Reasons for the Delay in Responding to the August 18, 2015 Public Records Request.

Mayor Condon submitted a response to questions from the City Council in a letter dated December 11, 2015. That letter and other public statements attributed to the Mayor suggested that the delay in producing records in response to Deshais' August 18th request was because of the City Clerk's workload and lack of resources. That is not factually accurate. The City Clerk's Office was not the cause of the delay. It was the City Attorney's Office that controlled the timing of the release of Straub/Cotton records, a fact that was omitted in the Mayor's letter, along with other relevant information known to the CAO. We address that section of the Mayor's letter below.

Regarding the August 18, 2015 public records request, the City Council posed the following questions:

- Why did it take three months for the release of documents responsive to a media public records request regarding Ms. Cotton?
- When were the documents released by the City on Nov 24 actually discovered?
- If these documents were discovered prior to November 24, why were these documents not released when they were discovered?
- Please explain when responsive documents were provided to the City Clerk for review and release?

Mr. Dalton drafted the section of the Mayor's letter addressing the Council's questions, which appears at pages 5-8 of Attachment A.⁸⁹

⁸⁹ The entire letter with both attachments is attached as Exhibit 58.

Exhibit B

**IN THE MATTER OF SPOKANE POLICE DEPARTMENT
RESIGNATION OF CHIEF FRANK STRAUB**



- COURT REPORTING
- LEGAL VIDEOGRAPHY
- VIDEOCONFERENCING
- TRIAL PRESENTATION
- MOCK JURY SERVICES
- LEGAL TRANSCRIPTION
- COPYING AND SCANNING
- LANGUAGE INTERPRETERS



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INTERVIEW OF

**BEN STUCKART
CITY COUNCIL PRESIDENT**

**TAKEN ON
TUESDAY, MARCH 22, 2016
11:22 A.M.**

**SPOKANE COUNTY COURTHOUSE
1116 WEST BROADWAY AVENUE
SPOKANE, WASHINGTON 99260**

1 rumors were actually true. So if you're trying to deflect -
2 - if you're trying to deflect the truth, you're going to
3 blame somebody else for spreading the truth and call it a
4 rumor? I -- I can't even fathom that situation still to
5 this day, how somebody could call me in the office, actually
6 accuse me of spreading rumors about something that they know
7 to be true. That's as duplicitous as you can possibly get
8 in trying to be open and transparent with the public.
9 Because from that point on, I was like, "Wow. Yeah, if they
10 think I'm spreading these rumors the press is coming to me
11 about, you know, then they're, obviously, just rumors."

12 **Q. Did --**

13 **A. Because I'm not spreading them.**

14 **Q. Do you recall if you and Theresa talked about**
15 **anything else, other than what you just described, in that**
16 **late August meeting?**

17 **A. No, that was it. It was a quick meeting. It was**
18 **ten minutes at the most. I drew on the chalkboard. She**
19 **said they weren't true. I said I wasn't spreading those**
20 **rumors, and they must be coming from somewhere else.**

21 **Q. Do you recall whether public records requests had**
22 **already been filed by the Spokesman?**

23 **A. Yes. They were -- I think that it -- I think they**
24 **had probably just been filed, and that was -- I think those**
25 **public records requests probably got filed the week before,**

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regarding the circumstances of Ms. Cotton's transfer, I consider their response to my question to be untruthful and dishonest.

4. On March 16, 2016 I was interviewed by Kris Cappel of the Seabold Group regarding this and other city matters. A true and correct copy of pages 26-28 of this interview is attached as Exhibit "A" to this affidavit. I affirm that the contents of those pages accurately reflect my recollections of the discussions at executive session on September 21, 2015.

Karen J. Stratton
KAREN J. STRATTON

SUBSCRIBED AND SWORN TO before me this 1 day of March, 2017.



Adria McGeer
NOTARY PUBLIC in and for the State of Washington, residing at Spokane, Washington.
My Commission expires: 2/15/2021

Mayon



- COURT REPORTING
- LEGAL VIDEOGRAPHY
- VIDEOCONFERENCING
- TRIAL PRESENTATION
- MOCK JURY SERVICES
- LEGAL TRANSCRIPTION
- COPYING AND SCANNING
- LANGUAGE INTERPRETERS

**IN THE MATTER OF SPOKANE POLICE DEPARTMENT
RESIGNATION OF CHIEF FRANK STRAUB**

INTERVIEW OF

KAREN STRATTON

**TAKEN ON
WEDNESDAY, MARCH 16, 2016
1:52 P.M**

**SPOKANE COUNTY
1116 WEST BROADWAY AVENUE
SPOKANE, WASHINGTON 99260**



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- Ex. A -

1 MS. CAPPEL: Okay. And she did come back?

2 MS. STRATTON: She did.

3 MS. CAPPEL: All right. Let's talk about how did
4 you learn and when did you learn that there were serious
5 concerns that had been raised by Chief Straub's senior staff
6 that the Mayor intended to address?

7 MS. STRATTON: It was during an executive session
8 -- or executive -- yeah, executive session of the City
9 Council. Executive session is held after our briefing on
10 Mondays at 3:30. We have a briefing and then if we need to
11 go into executive session, we do. And usually those are
12 reserved for legal issues, anything that we need time
13 together as a Council, if the attorney's in there or whoever
14 to talk about issues.

15 MS. CAPPEL: That includes personnel issues?

16 MS. STRATTON: Correct. And it was at that time
17 that the Mayor and Theresa Sanders were there. They had a
18 letter. They were holding a letter. They explained to us
19 that they had gotten letters from the Mayor's -- the police
20 captains and lieutenants and his executive staff and that it
21 -- it reflected his management style that was abusive and
22 they had complaints about it.

23 MS. CAPPEL: Did he show you the letters?

24 MS. STRATTON: Yeah, he was -- they were standing
25 in front of the room so they had the letters

- Ex. A -

1 able to see them later, but it was made very clear that they
2 brought up some very serious concerns about how the Chief
3 was managing the department and obvious that there were big,
4 big concerns about it. And that they were going to meet
5 with the Chief. They had talked to him by phone and they
6 were going to meet with him the next morning.

7 **MS. CAPPEL:** Did they -- did the Mayor or Theresa
8 say what they planned to do?

9 **MS. STRATTON:** No. And it -- my perception was I
10 left there thinking they would talk to him in the morning
11 and either map out a plan to correct the behavior or to
12 verify the information and to have a plan moving forward or
13 -- you know, and there was a possibility that, you know, he
14 would be -- he's an at-will employee, so he could be, you
15 know, fired. But I -- I left that thinking that there were
16 discussions still left to have with the Chief.

17 **MS. CAPPEL:** And was there any further discussion
18 or questions asked of the Mayor and Theresa before the
19 meeting broke?

20 **MS. STRATTON:** Yes. Because we had heard so much
21 within City Hall about Monique Cotton and there were rumors
22 and people talking about it constantly, I did ask the
23 question if it had anything to do with Monique Cotton and
24 was told no.

25 **MS. CAPPEL:** And what was -- you were asking

1 whether -- when you say "it" had anything to do with Monique
2 Cotton, what are you referring to?

3 **MS. STRATTON:** When they were talking about, you
4 know, they had concerns from the upper staff and the
5 captains and lieutenants, my mind didn't go to abusive
6 language, my mind went to Monique Cotton. So that was the
7 "Does this have something to do with Monique Cotton?"

8 **MS. CAPPEL:** And that was because of rumors that
9 you had heard?

10 **MS. STRATTON:** Right.

11 **MS. CAPPEL:** Were you -- before the Mayor and
12 Theresa shared the existence of the letters and described
13 them as abusive management style, had any of -- had that
14 come to your attention as a Council member that his staff
15 thought he had an abusive style?

16 **MS. STRATTON:** Not necessarily, I mean, his
17 administrative staff they always seemed, you know, when we
18 would have meetings, especially public safety meetings once
19 a month, so we would see them and they seemed to be -- they
20 seemed to work together fine. And then once in a while you
21 would hear that he -- he had a hot temper or, you know, he
22 would, you know, get upset about something and yell at
23 somebody, but to the extent that was in the letter and that
24 has since come out, no.

25 **MS. CAPPEL:** Okay. Had any members of the police

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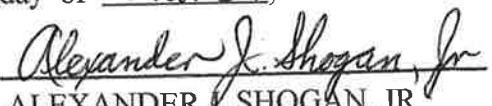
CITY OF SPOKANE ETHICS COMMISSION

)
) CLARIFIED II COMPLAINT
) WITNESS LIST AS WELL AS
ALEXANDER J. SHOGAN, JR.) REQUEST FOR SUBPOENAS
Complainant) BY COMPLAINANT SHOGAN
)
DAVID CONDON, MAYOR OF)
THE CITY OF SPOKANE;)
TERESA SAUNDERS, SPOKANE)
<u>CITY ADMINISTRATOR</u>)
Respondents)

ALEXANDER J. SHOGAN, JR, Complainant in This Matter, HEREBY Submits the Following Witness List and Requests the Ethics Committee **Issue Subpoenas** as follows:

- MAYOR DAVID CONDON - **ISSUE SUBPOENA**
- CITY ADMINISTRATOR THERESA SANDERS - **ISSUE SUBPOENA**
- CITY COUNCIL MEMBER KAREN STRATTON - **ISSUE SUBPOENA**

DATED at Spokane, Washington, this 3rd day of March, 2017


ALEXANDER J. SHOGAN, JR
 Complainant Herein

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CITY OF SPOKANE ETHICS COMMISSION

ALEXANDER J. SHOGAN, JR.

Complainant,

vs.

**DAVID CONDON, MAYOR OF THE
CITY OF SPOKANE; THERESA
SAUNDERS, SPOKANE CITY
ADMINISTRATOR,**

Respondents.

NOTICE OF APPEARANCE FOR
MAYOR DAVID CONDON

TO: Plaintiff, Alexander J. Shogan, Jr. (Pro Se):

YOU WILL PLEASE TAKE NOTICE that the defendant, DAVID CONDON,
MAYOR OF THE CITY SPOKANE herein enters his appearance regarding the Ethics
Complaint submitted on or about March 3, 2017, (a copy of the Ethics Complaint is attached)
and requests that all further pleadings and papers (except process) be served upon the
undersigned attorneys at the address below.

DATED at Spokane, Washington this 7 day of March, 2017.

EVANS, CRAVEN & LACKIE, P.S.

By

James B. King, WSBA #8723
Attorney for Respondent David Condon

Evans, Craven & Lackie, P.S.

818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 7 day of March, 2017, the foregoing was delivered to the following persons in the manner indicated:

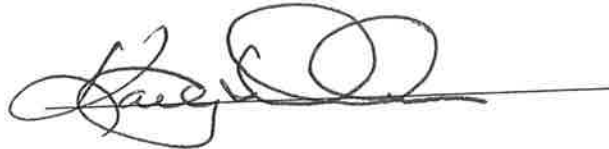
Alexander J. Shogan, Jr.
5726 N. Sutherlin Street
Spokane, WA 99205

VIA REGULAR MAIL
VIA CERTIFIED MAIL []
VIA FACSIMILE []
HAND DELIVERED []

Theresa Saunders
Spokane City Administrator
City Hall, Seventh Floor
808 W. Spokane Falls Blvd.
Spokane, WA 99201

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CITY OF SPOKANE ETHICS COMMISSION

ALEXANDER J. SHOGAN, JR.

Complainant,

vs.

**DAVID CONDON, MAYOR OF THE
CITY OF SPOKANE; THERESA
SAUNDERS, SPOKANE CITY
ADMINISTRATOR,**

Respondents.

DEFENDANTS'
MOTION TO DISMISS
COMPLAINANT'S "CLARIFIED II
COMPLAINT"

COMES NOW David Condon, Mayor of the City of Spokane, and moves the Ethics Commission to dismiss, for lack of jurisdiction and because the Complaint is frivolous and spurious, the latest iteration in Complainant's ongoing bad faith effort to smear Mayor Condon.

This Motion is based on the records and files herein and upon the attached Declaration of James King and is premised upon the following showing:

I. PROCEDURAL HISTORY

Complainant Shogan began his spurious campaign against Mayor Condon by filing, on December 2, 2015, an ethics complaint (Exhibit 1 to the Decl. King) alleging violation of Section 1.04.030 of the City of Spokane Code of Ethics claiming Mayor Condon lied when he

1 stated there had been no sexual harassment complaints lodged against former Chief Frank
2 Straub in September of 2015 and that he had only heard of issues regarding misconduct by
3 Chief Frank Straub within the last several weeks, again in September of 2015.

4 Shogan then filed an Amended Complaint on December 14, 2015, (Exhibit 2 to Decl.
5 King) making the same allegations as in the initial Complaint and alleging further that City of
6 Spokane employee Carly Cortwright had complained to Mayor Condon of misbehavior
7 involving Chief Straub in August of 2013. Complainant Shogan was then confronted with the
8 uncontroverted Declaration of Carly Cortwright (Exhibit 3 to the Decl. King) stating that she
9 had never made any kind of complaint, formal or informal, to anyone at the City of Spokane
10 until after Chief Straub resigned in September 2015. Cortwright also testified she had never
11 made a complaint in or around August 13 to anyone and that Mr. Shogan never made any sort
12 of investigation regarding when Cortwright had first complained regarding behavior of Chief
13 Straub.
14

15
16
17 On January 27, 2016, the Ethics Commission dismissed Complainant Shogan's
18 allegations contained in paragraph C of his sworn Amended Complaint alleging that Mayor
19 Condon was dishonest when he stated in September of 2015 that with regard to rumors of
20 misconduct by Chief Straub that he had heard of "these issues" in the "last several weeks" and
21 left for further determination Complainant Shogan's allegation in paragraph C that Mayor
22 Condon had been dishonest when he stated at a press conference on September 22, 2015, that
23 no sexual harassment claims had been lodged against Chief Straub. (Exhibit 4)
24

25
26 On February 16, 2016, Complainant Shogan withdrew the remaining allegation in his
27 complaint regarding alleged dishonesty at the September 22, 2015, press conference. (Exhibit
28 5).
29
30

1 On October 6, 2016, Complainant Shogan filed yet another Amended Complaint
2 attempting to resurrect, after a hiatus of eight months, his allegation in the previously
3 voluntarily dismissed Complaint that Mayor Condon had lied at the September 22, 2015, press
4 conference. Shogan added an allegation that came from a draft of the Seabold Group report
5 which alleged that Mayor Condon and others intentionally withheld information from the City
6 Clerk regarding public documents with the intent and purpose of delaying the production of
7 the records until after the Mayor's election. (Exhibit 6)
8

9
10 Complainant Shogan in the same document also claimed he was entitled to
11 reconsideration on his previously voluntarily dismissed Complaint and on the allegation
12 dismissed before the voluntary dismissal having to do with "rumors of Straub's misconduct"
13 as addressed by Mayor Condon in the press conference. (Exhibit 6)
14

15 On December 22, 2016, Complainant Shogan then filed a CLARIFIED Sworn
16 Complaint against Mayor Condon resurrecting, by using precisely the same language, the
17 allegations in paragraph D of his original Sworn Complaint filed December 2, 2015, and
18 reiterating allegations having to do with Mayor Condon's response at the September 22, 2015,
19 press conference regarding the lack of any complaints for sexual harassment being filed by
20 Monique Cotton against former Chief Straub. (Exhibit 7) Shogan also added a contention that
21 Mayor Condon violated the Code of Ethics based on an article in the Spokesman Review. The
22 article (Exhibit 8 to the Decl. of King), of course, makes no statement attributable to Council
23 President Stuckart that Mayor Condon had lied to the Council President.
24
25

26
27 On February 15, 2017, the Ethics Commission met in regular session and formally
28 dismissed Complainant Shogan's complaints and amended complaints or their remnants filed
29 by Complainant Shogan in 2015 and 2016 by referring to the actions taken at its December 21,
30

1 2016, meeting and formally dismissed any and all remaining allegations as to the Complaints
2 or Amended Complaints filed December 2, 2015, December 14, 2015, and October 6, 2016.
3 The Commission determined that it was not bound by the stipulated withdrawal of the
4 complaints by the parties on February 16, 2016. The Commission ruled that the extant
5 complaints, including the October 6, 2016, complaint, did not allege facts that constituted a
6 violation in sufficient detail so that both the Commission and the Respondent could reasonably
7 be expected to understand the nature of the alleged violations. (Exhibit 10)
8

9
10 Complainant Shogan responded to the dismissal by filing on December 22, 2016, his
11 fourth Complaint (Exhibit 7) resurrecting allegations made in paragraph D of his original
12 Sworn Complaint filed December 2, 2015, and reiterating allegations having to do with Mayor
13 Condon's response at the September 22, 2015, press conference regarding the lack of any
14 complaints for sexual harassment being filed by Monique Cotton against former Chief Straub.
15 (Exhibit 7) Shogan also added a contention that Mayor Condon violated the Code of Ethics
16 based on an article in the Spokesman Review. The article (Exhibit 8), of course, makes no
17 statement attributable to Council President Stuckart that Mayor Condon had lied to the
18 Council President.
19
20

21 On February 15, 2017, the Ethics Commission also undertook to evaluate for
22 jurisdictional purposes the CLARIFIED SWORN COMPLAINT filed on December 22, 2016.
23 At its February 15, 2017, meeting the Ethics Commission concluded that with respect to the
24 allegations in the December 22, 2016, CLARIFIED COMPLAINT regarding the September
25 22, 2015, press conference, that the same incident had already been considered in the
26 Pendleton matter and had been dismissed because the allegations, even if true, would be a *de*
27 *minimis* violation of the code. (See Exhibit 11, Decl. of King).
28
29
30

1 Mr. Shogan's "Clarified II Complaint" is now the fifth effort by Mr. Shogan to smear
2 and defame Mayor Condon. Shogan's past efforts have been unsuccessful and his contempt
3 for the rules and processes of the Ethics Commission has been amply demonstrated.

4 In this latest iteration, Mr. Shogan claims that Mayor Condon made "Dishonest
5 Communications" to Spokane City Council President Ben Stuckart and to Spokane City
6 Council Member Karen Stratton. Neither Council President Stuckart nor Council Member
7 Stratton have filed a complaint.

8 Mayor Condon will address each of the allegations separately.

9
10
11 **II. ALLEGED DISHONEST COMMUNICATIONS**
12 **BY MAYOR CONDON TO BEN STUCKART**

13 In support of his content that Mayor Condon made "Dishonest Communications" to
14 Council President Ben Stuckart, Mr. Shogan attaches to his Complaint excerpts from an
15 interview of Mr. Stuckart taken on Tuesday, March 22, 2016, as part of the Seabold
16 investigation. The attached Exhibit 14 to the Declaration of James B. King, contains excerpts
17 from that interview, and specifically, pages 12, 13 and 14, establish one fact that is beyond
18 dispute. None of the conversations described by Mr. Stuckart in that excerpt were
19 conversations between Mr. Stuckart and Mayor Condon except a conversation that took place
20 in an executive session of the City Council which took place on September 22, 2015.

21 That conversation was addressed specifically and directly in the Seabold report in
22 paragraph 11, page 89, as follows:

23
24
25
26 The controversy surrounding the September 21 executive session can be
27 reduced to one question that Councilmember Stratton posed to Mayor Condon
28 after he told the Council he had asked for Straub's resignation.

29 Councilmember Stratton asked in words or substance whether Mayor Condon's
30 decision to ask for Straub's resignation related to Monique Cotton or rumors

1 relating to Monique Cotton. He [Condon] responded, "No." As discussed above,
2 that was a truthful answer. Ms. Cotton was not a factor in the Mayor's decision.
3 At most, she was one of many who had been exposed to Chief Straub's abusive
4 management style.

5 The Seabold investigation also addressed on page 88 of the same report in Section 10
6 that Monique Cotton was a non-factor in the process that led to the termination of Chief
7 Straub.

8 Accordingly, Mr. Shogan's claim that Mayor Condon dishonestly communicated with
9 Council President Stuckart on September 21, 2015, is meritless, frivolous and is belied by the
10 very document that Shogan cites as supporting the allegations.

11 In addition to the foregoing, on the 22nd day of December, 2016, Mr. Shogan filed the
12 exact same allegation against Mayor Condon claiming that the Mayor had been dishonest in
13 the September 21, 2015, executive session of the Council. That allegation was dismissed by
14 the Ethics Commission.
15

16
17 **III. ALLEGED DISHONEST COMMUNICATIONS BY MAYOR CONDON TO**
18 **COUNCIL PERSON STRATTON**

19 Councilperson Stratton was apparently persuaded to sign an affidavit under penalty of
20 perjury which is attached as Exhibit C to the Shogan Complaint dated March 1, 2017.

21 In her affidavit, Councilperson Stratton, obviously at the urging of Mr. Shogan and for
22 political purposes, took great liberties with the question that was actually put to Mayor
23 Condon in the September 21, 2015, executive session of the City Council. As Councilperson
24 Stratton's interview transcript shows, she asked if the action by Mayor Condon requiring
25 Chief Straub to resign had anything to do with Monique Cotton. Transcript p. 28, ll. 3-7. She
26 was told, "No" by Mayor Condon. This statement by Mayor Condon was addressed by the
27
28
29

1 Seabold report again at pages 88 and 89 in which Seabold concluded that Ms. Cotton and her
2 issues were not a factor in Mayor Condon's decision to ask for Chief Straub's resignation and
3 that Mayor Condon truthfully responded to the Council's questions about Ms. Cotton during
4 the September 21, 2015, executive session. (See Stratton statement, Exhibit 15 to the
5 Declaration of James B. King.)
6

7 **IV. ALLEGATION THAT MAYOR CONDON INTERFERED WITH**
8 **PUBLIC RECORDS DISCLOSURES**
9

10 Complainant Shogan also contemptuously and dishonestly alleges a violation of
11 the Code of Ethics by Mayor Condon in allegedly interfering with timely disclosures of
12 public records based on a public information request by the Spokesman Review.
13

14 In his CLARIFIED II Complaint, Mr. Shogan adopts language from a draft of
15 the Seabold Group report regarding its investigation of circumstances surrounding the
16 Straub resignation and associated topics including the City's Response to Public
17 Records Requests. Shogan cites language in a draft of the report which alleged,
18 without support, that Mayor Condon with others had withheld information from the
19 City Clerk regarding certain documents with the intent and purpose of delaying
20 production of the records until after the mayoral election.
21

22 What Mr. Shogan fails to explain, in an egregious display of lack of candor, is
23 that the exhibits to his Complaint, consisting of an investigative summary by the
24 Seabold group were withdrawn by the Seabold group. Seabold, in its final and official
25 report, concluded on page 20 as follows:
26

27 We also conclude that Ms. Isserlis and Ms. Sanders deliberately
28 withheld information from the City Clerk regarding the existence
29 of the November 24 documents with the intent and purpose of
30

1 delaying the production of those records until after the Mayor's
2 re-election.

3 The contrast between the withdrawn version and the version published and filed
4 for public consumption is stark. The last paragraph on page 3, section 1, does not
5 conclude that Mayor Condon acted in an inappropriate fashion with respect to
6 document requests.
7

8 **V. CONCLUSION**

9 Clarified II Complaint of the contumacious and vexatious Mr. Shogan should be
10 dismissed.
11

12 DATED at Spokane, Washington this 3 day of April, 2017.

13 EVANS, CRAVEN & LACKIE, P.S.

14 By

15 
16 James B. King, WSBA #8723
17 Attorney for Respondent David Condon
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CERTIFICATE OF SERVICE

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Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 3 day of April, 2017, the foregoing was delivered to the following persons in the manner indicated:

Alexander J. Shogan, Jr.
5726 N. Sutherlin Street
Spokane, WA 99205

VIA REGULAR MAIL
VIA CERTIFIED MAIL []
VIA FACSIMILE []
HAND DELIVERED []
via email

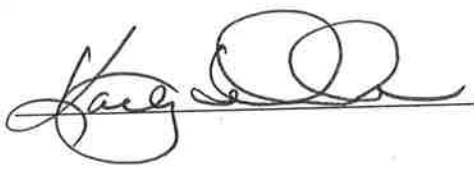
Keller W. Allen
Keller W. Allen, P.C.
5915 S. Regal St., Suite 211
Spokane, Washington 99223

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VIA CERTIFIED MAIL []
VIA FACSIMILE []
HAND DELIVERED

Milton G. Rowland
FOSTER PEPPER PLLC
618 W. Riverside, Suite 300
Spokane, WA 99201

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4-3-17 / Spokane, WA
(Date/Place)



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CITY OF SPOKANE ETHICS COMMISSION

ALEXANDER J. SHOGAN, JR.

Complainant,

vs.

**DAVID CONDON, MAYOR OF THE
CITY OF SPOKANE; THERESA
SAUNDERS, SPOKANE CITY
ADMINISTRATOR,**

Respondents.

DECLARATION OF
JAMES B. KING –
DEFENDANTS’
MOTION TO DISMISS
COMPLAINANT’S “CLARIFIED II
COMPLAINT”

James B. King, under penalty of perjury, states and declares as follows:

1. I am the attorney for Mayor David Condon, the respondent herein, and make the statements contained in this Declaration on personal knowledge.
2. Attached to this Declaration as Exhibit 1 is a true and correct copy of the Complaint filed by complainant on December 2, 2015.
3. Attached to this Declaration as Exhibit 2 is a true and correct copy of Shogan’s Ethics Complaint filed on or about December 14, 2015.
4. Attached to this Declaration as Exhibit 3 is a true and correct copy of the Declaration of Carley Cortright dated January 19, 2016.

1 5. Attached to this Declaration as Exhibit 4 is a true and correct copy of the
2 City of Spokane Ethics Commission Findings, conclusion and Decision dated January
3 27, 2016 regarding Shogan's Complaint against David Condon.

4 6. Attached to this Declaration as Exhibit 5 is a true and correct copy of
5 Shogan's Stipulation for Voluntary Withdrawal of Ethics Complaint dated February 16,
6 2016.

7 7. Attached to this Declaration as Exhibit 6 is a true and correct copy of the
8 Re-Filing of Complaint and Amended Complaint Alleging Violation of Section
9 1.04A.030 of the City of Spokane Code of Ethics dated October 56, 2016.

10 8. Attached to this Declaration as Exhibit 7 is a true and correct copy of the
11 CLARIFIED Sworn Complaint Alleging Violation of Section 1.04A.030 of the City of
12 Spokane Code of Ethics dated December 22, 2016.

13 9. Attached to this Declaration as Exhibit 8 is a true and correct copy of the
14 Spokesman Review article entitled "Stuckart: Mayor Condon lied about sexual
15 harassment claim" dated November 25, 2015.

16 10. Attached to this Declaration as Exhibit 9 is a true and correct copy of the
17 Declaration of James B. King filed with the Ethics Commission in this matter February
18 1, 2017.

19 11. Attached to this Declaration as Exhibit 10 is a true and correct copy of
20 the "Special Meeting Notice/Agenda" by the Ethics Commission for the February 15,
21 2017, meeting.

1 12. Attached to this Declaration as Exhibit 11 is a true and correct copy of
2 the City of Spokane Ethics Commission's Findings, Decision and Conclusion dated
3 January 27, 2016 entered in the *Pendleton* Ethics Complaint.

4 13. Attached to this Declaration as Exhibit 12 is a true and correct copy of
5 the Ethics Complaint, "Clarified II" Complaint filed by Shogan on February 28, 2017.

6 14. Attached to this Declaration as Exhibit 13 is a true and correct copy of
7 the Seabold Group Investigation Report regarding the resignation of Frank Straub.

8 15. Attached to this Declaration as Exhibit 14 is a true and correct copy of
9 the transcript of Councilman Stuckart's statement obtained by the Seabold Group.

10 16. Attached to this Declaration as Exhibit 15 is a true and correct copy of
11 the statement of Stratton obtained by the Seabold Group.

12 17. Attached to this Declaration s Exhibit 16 is a true and correct copy of the
13 CLARAFIED II Sworn Complaint Alleging Violation of Section 01.04A.030 City of
14 Spokane Code of Ethics filed with the Ethics Commission on March 3, 2017.

15 DATED at Spokane, Washington this 3 day of April, 2017.

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21 James B. King, WSBA #8723
22 Attorney for Respondent David Condon
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CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 3 day of April, 2017, the foregoing was delivered to the following persons in the manner indicated:

Alexander J. Shogan, Jr.
5726 N. Sutherlin Street
Spokane, WA 99205

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HAND DELIVERED

4-3-17 / Spokane, WA
(Date/Place)



CITY OF SPOKANE ETHICS COMMISSION

ALEXANDER J. SHOGAN, JR.,

Complainant,

vs.

DAVID CONDON, MAYOR OF THE
CITY OF SPOKANE; THERESA
SAUNDERS, SPOKANE CITY
ADMINISTRATOR,

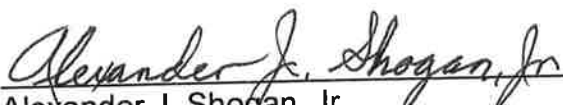
Respondents.

**COMPLAINANT'S REQUEST FOR
ORDER DISMISSING PORTIONS
OF COMPLAINT AGAINST CITY
ADMINISTRATOR THERESA
SANDERS**

Alexander J. Shogan, Jr., the Complainant in this matter, hereby requests that an order be entered by the City of Spokane Ethics Commission dismissing with prejudice that portion of his SWORN COMPLAINT ALLEGING VIOLATION OF SECTION 01.04A.030 CITY OF SPOKANE CODE OF ETHICS against City Administrator Theresa Sanders filed with the Spokane City Attorney's Office on March 3, 2017, as follows:

Dismissal for res judicata/collateral estoppel reasons any and all allegations and complaint against Ms. Sanders that she knowingly and intentionally withheld information from the public regarding sexual harassment allegations by former City employee Monique Cotton by former City police Chief Frank Straub.

Respectfully submitted.



Alexander J. Shogan, Jr.

April 10, 2017

Date

ETHICS COMMISSION MEETING OF JANUARY 13, 2016
MINUTES

This meeting was digitally recorded and an audio recording has been maintained.
Meeting was held in City Council Chambers.

Present: (There is a quorum.)

Alice Buckles, Member
Dennis Cronin, Member
Troy Bruner, Chair
Tyler Wasson, Member
Michael Piccolo, City Attorney's Office
Rebecca Riedinger, Staff Liaison

Media and Members of the community are present in the audience.

Prior Minutes are reviewed and approved by all.

FIRST MOTION

Troy: Motion to Approve Meeting Agenda

Levi- Seconds, All approve, Motion Carried

SECOND MOTION

Levi: Motion to Approve Minutes from prior meetings as there are no changes.

Tyler: Seconds, Dennis Abstains as he was not present, all others Approve, Motion Carried

THIRD MOTION

Dennis: Motion to Determine Definitions before proceeding any further – Wants to dismiss complaints w/. Prejudice to refile again.

Levi wants to go ahead despite Cronin's protests to determine jurisdiction.

Piccolo reminds him that the Commission has to deal with the first motion.

Dennis: Motion to Dismiss, or in the alternative, to carry over, the complaints in order to allow time to obtain definitions. No. Second. Motion dies.

FOURTH MOTION

PENDLETON COMPLAINT

In reviewing the Pendleton Complaint, Levi states the complaints appears proper in formatting/signature, etc.

Dennis states he has problems with the second and fourth factors. Dennis states that he does not understand how we can move forward without having defined all the terms that they are supposed to be reviewing, for example, "dishonest" and "moral turpitude" How do we know what they mean without determining what definitions there are.

Troy states that this a Commission of citizens and, consequently we have to use our best judgment. Not every word or term is defined for us, so seems prudent to use the common definitions.

Levi notes that the next question would be if the act was committed, would it be a violation of the code.

Dennis states that the potential for the Mayor's recall stemming from their decision and the possible severity of the outcome, he finds it concerning that we would not seek to define the terms. The matters should be stayed. We need to have our decision stand up to the community's scrutiny.

Jamie Pendleton stands to the podium and tells Mr. Cronin, You are new. You have just been appointed, noting everyone should know the definitions of dishonesty.

Troy agrees, stating that we are getting off the rails.

Jim King stands at the podium and states that they have submitted documents in response and agrees with Dennis Cronin's analysis that he would like to have terms defined & stay their review.

Levi notes we haven't even determined jurisdiction, necessary to go forward. Troy states, Dennis, do you want to make a motion?

Dennis makes a motion the commission should determine the definitions of terms alleging dishonesty, moral turpitude – pending classification of what these terms mean. Piccolo notes that the state did not define the terms either.

Troy asks how we can accomplish anything in a timely manner. Doesn't seem practical.

Dennis asks how can they not define the terms, just to move forward quickly. Troy states that is not what he is saying. He is looking at it for the common good, the concerned citizens with a common sense point of view. He feels obligated to not get bogged down- not all the terms are defined.

Joe Shogan from the crowd yells that Cronin does not speak for him and he is a citizen.

Levi states that he still thinks regarding the definition of dishonesty- they could use some guidance. For example, even if Pendleton's complaint were true, there was no dishonesty.

Levi- Motion to Dismiss Complaint. There is No Second. Troy states he almost agreed to Motion, but it was not worded right. Levi says any damage was minimal.

Troy states, so lets Move to dismiss the Complaint, on the basis, that if it was committed any affect was de minimus.

Dennis Cronin abstains. All other approve. Motion carries 4 to 1. PENDLETON COMPLAINT DISMISSED.

FIFTH MOTION

JOE SHOGAN

Joe Shogan's complaint is determined to be proper/signed.

Levi moves to dismiss for lack of evidence, and, even if allegations were true, any damage would be de minimus.

Troy Seconds that Motion. Dennis says he won't vote, because he has already said he is abstaining.

No other votes. Motion does not carry.

Alice states she would like a review of the complaint listed in second page, item C, and all of D and E, excluding A, B and 1st paragraph – to investigate it further, hold over to the next hearing. Troy seconds that Motion. Dennis abstains. Levi and Tyler agree. Motion carries. Matter carried over for hearing.

SIXTH MOTION

SPITZER

Levi motion to Dismiss. Seconded by Alice. Dennis abstains. All others in favor. Motion carries. Spritzer matter is dismissed.

MJP reminds there is King's Motion for Additional time.

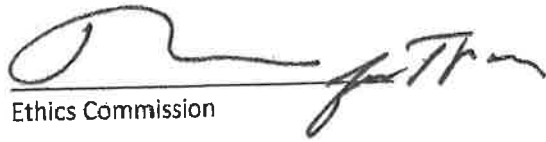
Dennis moves the commission accept that Motion and Levi Seconds. All in Favor. Motion for more time is approved.

SEVENTH MOTION

Teresa Simon- Matter No. 1 only

Troy moves to dismiss. Levi seconds. Dennis abstains All others agree Motion carries.

Minutes review and approved this 24th day of February, 2016.


Ethics Commission

City of Spokane
Ethics Commission Meeting
March 23, 2016

Present:

Alice Buckles, Member
Levi Liljenquist, Member
Tyler Wasson, Member
Troy Bruner, Chair
Mike Piccolo, Counsel
Milt Rowland, Independent Counsel
Becky Riedinger, Staff Liaison
Not present: Dennis Cronin and Brian Steverson

FIRST MOTION

Troy moves that the Commission approve the meeting's agenda. Levi seconds that motion and all approve.

SECOND MOTION

Troy moves that Commission approve the Minutes of the 1/27/16 meeting. Levi seconds. All approve.

The interviewee for the Commission is not yet present, so members discuss the upcoming NOW Complaint scheduling. Milt Rowland has been retained as independent counsel to represent the Commission in place of Mr. Piccolo for this particular matter regarding Mayor Condon.

The date appearing available to members is June 29th. We will confirm it later. Milt advised the Commission that we should not let that date go too far out but the Mayor' counsel seems to be trying to accommodate a hearing date so we will try to find a mutually agreeable date.

Troy asks if the report of the independent investigator into the Condon complaint will be made available to the Commission once completed. Mike notes it should be a public record and so he would imagine they will.

Troy states he has no objection to a continuance at this time, but would not like to continue it to any date past June 29th.

GEORGE McGRATH COMPLAINT

Mr. McGrath states that Council President Stuckart has singled him out in a personal vendetta to not allow him to speak at City Council meetings the way want he wants to, because he doesn't say what Mr. Stuckart wants to hear or in the way Mr. Stuckart wants to hear it. Mr. Stuckart has passed rules on speaking, declaring George is responsible for no one being allowed to speak anymore. There have been meetings where the forums aren't filled and there is plenty of time available to speak, but Mr. Stuckart will not allow it. Mr. McGrath states he has three concerns about which he likes to speak:

- 1) The Bridge to "Hookerville". Mr. McGrath says Stuckart and Councilwoman Karen Stratton didn't like that term, but that's too bad. He has the right to say it, but it didn't go over too well with Stuckart.
- 2) He is appalled by the murder of innocent babies at Planned Parenthood. They have aborted a lot of innocent babies. Murderers is what he calls them and they should be defunded. He doesn't believe in it and it's his right to be able to say so.
- 3) Stuckart is now only allowing people to speak one time a month regardless of how many people have signed up. Open forum is designed for 10 people, at three minutes each only, stating he is unfairly limiting my speech.

Mr. McGrath further states Mr. Stuckart should be grateful he is not suing him for infringing upon his rights. He states, "ask around, and they will tell you, Ben Stuckart did all this to deal with me because he has the power and ability to impede my free speech. He adds, free speech is what started our country, but it's hard to find it in Spokane, noting, Mike Fagan in probably the only member with good sense on the council. That is why he feels it is ludicrous that he only be allowed to speak one time a month for only three minutes. He says Ben Stuckart has been dissatisfied with his appearances for years and the bobble-headed dolls follow him along noting "they have a difficult time thinking for themselves it appears."

Troy opens that matter for review asking the members if they believe the Commission has jurisdiction over Mr. McGrath's complaint and all members agree they do. Troy asks if true, the action would be a violation, and the members all agree, if true, it would be a violation.

Levi states he doesn't see an act that violates the code.

George McGrath states that the idea a citizen is limited to three minutes curtails his free speech.

Mike Piccolo states there are rules of procedures implemented for everyone.

THIRD MOTION - Motion to Dismiss McGrath Complaint.

Troy states he is not inclined to proceed with this Complaint.

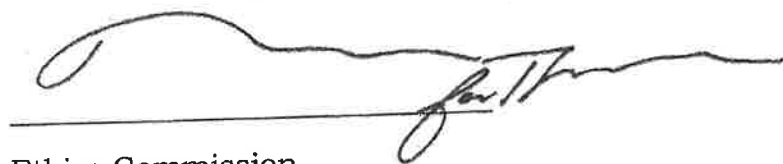
Levi agrees and moves to dismiss this complaint, noting the facts are not sufficient to substantiate Mr. McGrath's complaint.

All approve. McGrath Complaint Dismissed

Applicant Amenia Fields is now present. She states she wants to be involved and saw the opening on the Commission. She is an immigration attorney and a 10 year veteran. Troy advises her that the Commission will be in touch in the future regarding her application.

Meeting adjourned.

Reviewed and approved this 18th day of May, 2016.

A handwritten signature in black ink, appearing to be "John H. ...", written over a horizontal line.

Ethics Commission

**CITY OF SPOKANE - ETHICS COMMISSION
MEETING OF MAY 18, 2016
MINUTES**

THIS MEETING WAS AUDIO RECORDED

Present:

Levi Liljenquist, Vice Chair
Taylor Wasson, Member
Dennis Cronin, Member
Alice Buckles, Member
Mike Piccolo, Counsel to Commission
Theresa Sanders

Levi Liljenquist opens the meeting announcing Troy Bruner will be out ill and, so, he will chair the meeting in his absence. Members are introduced.

The first action is to approve the agenda. Dennis so moves. Alice seconds the motion. All approve. Motion passes.

Second action item is to approve the minutes from the March 23 meeting. Levi moves to approve. Alice Seconds. All agree. Motion approved.

There is a request by Theresa Sanders for review of the contracting with a company where former city attorney employee Erin Jacobson has taken a job. Theresa states Erin has six years of experience and has played a significant role in negotiations. She states she believes the potential for a contract approval would be better with Erin's input and assistance. Cronin asks if Erin would be a principle in the business and Theresa answered that the contract would be with the company, but the work would be performed by Erin. Theresa said if they could not use Erin, they would hire someone similar. The company she is working for provides small legal support services focused in contract law jurisdiction. Alice states she sees no conflict and moves the Commission approve. Dennis states he would like to know what position Erin would hold. Ms. Sanders states that she would stipulate if there were any change in the situation she would bring the issue up again. Levi moves to approve. Tyler seconds the Motion. All approve. Contract with former CA Jacobson company employer approved.

The next item is the complaint against Adam McDaniel by Cannon. All members have read the complaint.

Dennis Cronin asks McDaniel if his business is a sole proprietor, as it appears, and therefore not an entity unto itself, so he wonders how it can be a problem with F and G. Dennis notes there is no definition provided for "benefit" but "personal interest" is defined. Dennis has Adam come forward. Adam states he is a sole proprietor- a consultant, as opposed to a lobbyist. He would like this matter dismissed. He works on targeting voters. They are not the same

Dennis states there are no facts supporting how McDaniel would be benefitting by his role at the city with his business. Alice agrees. She sees no benefit. Tyler states he agrees. He sees no meat to item "F" and so, believes it would all have to hinge on "G" - but which is also nothing.

Dennis moves to dismiss based on the fact the criteria has not been met. Tyler seconds the motion. All approve. Complaint against Adam McDaniel is dismissed and the Findings will be entered at the next meeting.

The next meeting regarding the NOW complaint against Mayor Condon will be held June 29th in the City Council Chambers.

Meeting adjourned.

Reviewed and Approved:



City of Spokane Ethics Commission

City of Spokane
Ethics Commission Meeting
June 29, 2016

THIS MEETING WAS AUDIO RECORDED AND IS AVAILABLE FOR REVIEW AT THE OFFICE OF THE CITY ATTORNEY

Present:

Troy Bruner, Chair
Levi Liljenquist, Member
Dennis Cronin, Member
Milt Rowland, Outside Counsel
Mike Piccolo, Commission Counsel

Introduction of members. Rick Eichstaedt and James King are present as counsel regarding today's agenda. There are absent members today, but there is a quorum.

Troy moves the Commission approve the agenda for the meeting and Levi seconds that motion. All approve the agenda for the meeting.

The Commission reviewed and approved the meeting Minutes from 5/18/2016.

The Findings from the prior meeting's complaint regarding Adam McDaniel by Michael Cannon are approved and will be entered.

The next matter is Theresa Sanders' request for approval of a contract. Levi moves to approve the contract. Tyler seconds the motion. Motion carries.

Regarding the upcoming Condon matter, Milt outlines the process of how to approach the issues. Dennis questions if they have to reach a decision tonight or is there a way to carry over the matter.

Rick Eichstaedt, attorney for NOW is called forward. To clarify, the purpose of this hearing was to focus on the motions. He disagrees with Milt's characterization of the point of today's meeting. Rick adds that he would think we need to see the report that was done by the Seabold Group that is to be completed by 7/15.

Mr. King states that the Mayor does not object to the Motion.

Levi moves to grant the motion to clarify because it is agreed, and easier just to approve, but all motions would not be handled this way. Dennis seconds the motion.

All motions to amend or clarify is approved and entered. Regarding the second issue, Milt Rowland states there could be a finding without more evidence.

Mr. King states that is not true. The Mayor would be denied the opportunity to defend himself. As such, the EC can grant either motion or deny the motion due to factual issues.

They could not find Condon committed a violation without going through a hearing. So, King states he would like to argue his two motions.

Troy states, that to clarify, there can be no finding today because today would be for the review. They cannot determine if the Mayor committed a violation without testimony and Milt agreed.

Troy asked Mr. King to discuss his motion. Mr. King's states his second motion is easier and he would like to review it first.

Mr. King states that NOW wants to expand on its complaint.

Rich Eichstaedt states this is a three step process:

- 1) Whether we allege specific facts
- 2) If so, so stipulate or,
- 3) Have a hearing

Regarding the Second Motion to Dismiss a reporter asked if there were sexual harassments claims against Straub and the Mayor said, "no".

Troy states they are the point to decide what direction the Commission should take.

Dennis states he feels a need for additional information for some context.

Levi states he was looking at the two statements made by the Mayor to the press and, looking at the second statement, agrees it would be good to hear directly from the mayor and ask him directly which question he was intending to answer during the reporter's questioning, wondering if it is a continuation of the questioning.

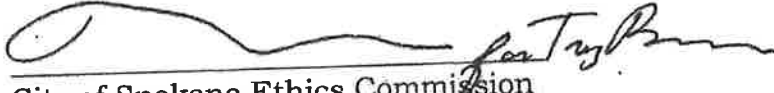
Tyler Wasson agrees. He also feels that they should review the Seabold report as it should cover a lot of information. He agrees more information would be helpful.

Ms. Cotton, Mr. Eadie and the Mayor have not filed an ethics complaints.

Milt reminds the members they may meet in executive session if need be.

Dennis moves to adjourn to Executive Session. Commission returns and states the next meeting will be scheduled and noted. Meeting Adjourned.

Reviewed and approved this 13 day of July, 2016.


City of Spokane Ethics Commission

City of Spokane
Ethics Commission Meeting
July 21, 2016

THIS MEETING WAS AUDIO RECORDED AND IS AVAILABLE FOR REVIEW AT THE OFFICE OF THE CITY ATTORNEY

Present:

Troy Bruner, Chair
Levi Liljenquist, Member
Tyler Wasson, Member
Brian Steverson, Member
Dennis Cronin, Member
Amina Fields, Member
Milt Rowland, Outside Counsel
Mike Piccolo, Commission Counsel
Absent: Alice Buckles, Member

Troy opens by noting that we have received six new ethics Complaints regarding eleven City Employees.

Troy moves tonight's agenda order be changed, to be called in reverse order, beginning with item "D" for the sake of timing. Brian Seconds that Motion. All approve - Motion carries.

Troy states that last week the Commission had met in executive session. Troy calls Mr. Jim King to make a statement for the record, in consideration of their motion. Mr. King states that the Commission is considering a motion without providing Mayor Condon due process.

Mr. Eichstaedt states that it was not intended to be a motion, and indicates Item D may be stricken. Brian moves to dismiss item D and Levi seconds that motion. Motion carries unanimously. (@12:20)

Item C on the Agenda- Milt recommends to the Commission that they table Matter C, stating they can deal with all the motions at the next hearing. (@15:00)

Levi moves we table Items C. Tyler Wasson seconds that motion. All approve. Item C is tabled until next meeting.

Dennis Cronin suggests that Item B be stricken, as improper and because it was, technically, also tabled at the same time Item C was. Levi moves the Commission table Item C. Wasson seconds that Motion. All approve. Motion carries, Item B is tabled until next week along with item C.

Item B - The Mayor's Motion to Dismiss. Levi moves the matter be dismissed, for lack of evidence. Tyler seconds the Motion. Motion carried unanimously.

Regarding, **Agenda Item A**- The Mayor's Motion to Dismiss the NOW complaint on item Nos. 4 & 5:

Troy states the first one they are looking at is regarding a statement(s) made by the Mayor in response to questions by the press. Milt states the first item is the occurrence at the press conference and asks what evidence has been presented supporting this allegation.

Brian states that he has reviewed these motions and the materials and finds no reason to vote for dismissal of the complaint. Dennis states he agrees- he believes it would be beneficial, for the sake of full transparency and due diligence that the Commission hear what the Mayor has to say about the complaint. As such, Dennis states they should deny the motion to dismiss.

Amina states that although she has not been present at the prior hearings, she has prepared and she agrees that they should not dismiss - because there is sufficient evidence to move forward to a hearing for full review.

Troy states he disagrees. He feels there is no evidence of fabrication or deceit. He doesn't believe the Mayor thought he was being deceptive. Troy wants to grant the Mayor's Motion to Dismiss.

Levi states that they have had similar complaints (with these two), and the timing of the statements was confusing, noting even the complaints link the Mayor's later response to the first comment. The attorney from NOW has not yet been able to clarify or address that issue. Levi says he has struggled with these issues and would like to hear from the Mayor directly. As such he would deny the Mayor's Motion to Dismiss the Complaint regarding the Press Conference statements. Brian Steverson moves the Commission carry this matter over for review. Tyler Wasson seconds that Motion. All approve, Except Chair Bruner, who states he still feels they should dismiss this Complaint. Motion carried: The first Complaint will be carried over for a full hearing.

Regarding the Second Motion, Levi states that, after reading Leroy's affidavit regarding his opening in Parks, he feels there really had been a true need in Parks Dept. that could be filled by Ms. Cotton. Brian agrees there was apparently a need for Ms. Cotton in the department.

Tyler Wasson states, however, that the administration had been looking at both Fire and only then to Parks when they wouldn't take her at the Fire Dept. "Why did they do that? I wonder why the Mayor did that."

Amina states that she finds it difficult to determine a violation of the code without a working definition of "dishonesty". She would also like a hearing. It relates to the other compliant too. It's the same statement alleged and she think the matter warrants more investigation/information and would like to vote to also deny the motion to dismiss. "The letter is misleading".

Troy states his focus is different, partly because "we have declaration of Leroy Eadie and there was no mention of a direction from the Mayor to hire Ms. Cotton.

Troy states again he would support a motion to dismiss.

Tyler states he agrees with Amina - that it could be misleading, even if Leroy's Declaration is true regarding whether there had been an existing need or not.

Troy asks, why do you question the timing of the transfer?

Levi moves they carry the matter over for full hearing for full review of the issues. Brian Seconds. Dennis and Amina agree. Motion to Carry the NOW matter to full review carries. Milt states we will set a hearing and prepare for hearing, including subpoena of witnesses.

The Commission is losing a member in August, and so will need to look for applicants to fill the vacancy.

Meeting Adjourned.

Minutes Reviewed and Approved: Dated this ___ day of August, 2016.

City of Spokane Ethics Commission

City of Spokane
Ethics Commission Meeting
August 10, 2016

THIS MEETING WAS AUDIO RECORDED AND IS AVAILABLE FOR REVIEW AT THE
OFFICE OF THE CITY ATTORNEY

Present:

Members:

Troy Bruner, Chair
Levi Liljenquist, Member
Brian Steverson, Member
Dennis Cronin, Member

Absent: Alice Buckles, Member
Amelia Fields, Member

Milt Rowland, Outside Counsel
Mike Piccolo, Commission Counsel

Troy notes that Taylor Wasson is gone now, and, so, we need to repost an opening in the Commission for another member.

Action Items:

Approval of Agenda for this meeting: Levi moves to approve the Agenda. Brian Seconds, all approve. Agenda approved.

Changes to the Minutes from July 21, 2016 meeting must be made regarding the Complaint regarding Mayor Condon. Milt notes the Order began with a three way call and Levi made the motion to dismiss which carried. They will be corrected and resubmitted for approval.

Milt states that they should discuss scheduling issues in order to prepare the Order, noting all counsel/parties have been provided a copy of this draft.

Milt presents the pre hearing order and requests the members consider approving it. However, modifications must be made: We need to add a week to Item II and provide additional time for service. September 14th is a good possible date for the next meeting.

Dennis Cronin asks, regarding item No. 3, if we could tighten up the motion. Milt states the Motions could be set for the same time. Dennis states his last thought is regarding Page 4, changing one week to two weeks to allow enough time.

The time of the next hearing will be held earlier at 1:00 p.m. to accommodate the expected length of the meeting.

Levi moves we approve the Prehearing Final Order with the amendments. The hearing will be on September 28th @ 1:00 p.m. Dennis seconds the motion and it carries unanimously.

**

Mike Piccolo comes back in to the meeting to handle the rest of the hearing for matters unrelated to Condon/NOW complaint.

Troy notes there are two agenda items left off and asks if Mike could explain. Mike tells the commission that the employees represented by their unions must be dismissed from the Ethics Commission's review because these particular employees are union represented and have their own ethics oversight.

Brian notes that Lisa Jones is not included and so these complaints are not to be reviewed? Mike informs that these complaints, such as Lisa's matter, should be dismissed as she retired over a year ago and is no longer a city employee.

Brian moves to dismiss the Jones complaint, Levi seconds. Motion unanimously carries.

In the Katie Schaffer matter, Levi moves to dismiss the complaint for lack of jurisdiction and Brian seconds that motion. All approve. Complaint against Katie Schaffer is dismissed.

Item 3- The complaint against the three city police officers is also not properly before this Commission as police officers have their own Ethics Code/union. Levi moves to dismiss the complaints against the three officers. Brian seconds the motion. All approve. Motion to dismiss carries, the complaints are dismissed.

The next meeting will be scheduled and noted.

Meeting adjourned.

Minutes Reviewed and Approved:

Dated this 14 day of September, 2016.


City of Spokane Ethics Commission

City of Spokane
Ethics Commission Meeting
September 14, 2016

THIS MEETING WAS AUDIO RECORDED AND IS AVAILABLE FOR REVIEW AT THE
OFFICE OF THE CITY ATTORNEY

Present:

Members:

Troy Bruner, Chair
Levi Liljenquist, Member
Brian Steverson, Member
Dennis Cronin, Member
Alice Buckles, Member
Amina Fields, Member

Milt Rowland, Outside Counsel
Mike Piccolo, Commission Counsel

This meeting is held at the City of Spokane Downtown Public Library and was so posted
in the Public Meeting Notice.

Levi moves to approve the agenda. Brian seconds the Motion. All approve. Motion
carried unanimously. Meeting agenda approved.

The Commission reviews the minutes from the last meeting and Troy moves to approve
those minutes. Levi seconds that motion. All approve, with Amina abstaining as she had
not been present at the last meeting.

The next matter is the advisory opinion by Nancy Isserlis. Dennis Cronin asked Mike
Piccolo if she will be a principal in Winston Cashatt the firm and Mike says that, no, Nancy
would be of counsel. After some discussion, Brian moves the Commission approve the
application by Isserlis. Levi seconds that motion and all approve. Motion carries.

Regarding the Complaints from Jamie Pendleton:

Mike states that M&P employees are not subject to the Ethics Code. Mulkey, however,
is under the jurisdiction of the Ethics Code.

Troy states the Commission should consider dismissing all the complaints that they do
not have jurisdiction over, which would be all of them, except for the one regarding Mr.
Mulkey. Dennis Cronin so moves and Levi Seconds. All are in favor, motion carries – all
matters outside their jurisdiction are dismissed. Mike, anticipating this outcome presents
the Findings of Facts for the parties being dismissed and they are so entered.

The matter regarding Nathan Mulkey is the last complaint remaining. He is present and comes forward to testify. Troy notes that there are issues by the City over The Daiquiri Factory's occupancy load. Their measurements were off in the area of couches vs. tables and chairs.

The most number of people allowed per his calculations, Mr. Mulkey says is 190 people.

The code restricted his space, not the officials/officers.

Dennis asked how he carried out his duties. Mr. Mulkey said the remeasured because Mr. Pendleton was not present at the first inspection, although Sabrina had been there. They had inspected and measured the space for 45 minutes and they had made every effort to maximize the number of people allowed –even moving things around a little. Mulkey stated that Pendleton never followed up with him about having the inspection reviewed or reconsidered.

Troy asked Mr. Mulkey if he feels harassed by this complaint and Mr. Mulkey says "yes". Mr. Mulkey states he felt he had been kind and courteous and he was shocked to hear he was the subject of an ethics complaint, especially since he had tried to assist Mr. Pendleton with getting a permit.

Brian notes that although there were two ethics codes that were cited to be violated he notes that Mr. Pendleton did not appear to support his allegations as promised.

Troy adds that he is concerned about the point about Mr. Mulkey being harassed.

Brian moves to dismiss the first Complaint. Amina seconds that motion. All in favor. Motion carries. Matter dismissed.

Brian states that like the first, Mr. Pendleton has provided no support for his complaint and moves to dismiss it as well. Levi seconds that Motion. All in favor. Motion carries. Second matter dismissed.

Troy moves to dismiss the Dean Giles complaint. Levi seconds that Motion. All in favor - Motion carries.

Mike states that he will bring the Findings and Conclusions regarding this matter to the next meeting on 9/28.

Regarding Action Item F: In re: The NOW complaint in re: Condon. The Hearing is on the 28th. Milt states that he had perhaps expected a contest to a subpoena, but no one wants to subpoena anyone, so there is nothing for them to do today regarding that NOW complaint.

Dennis notes he will be in Yakima and asks when the Exhibits will be available. Milt says we will provide them as soon as possible.

Dennis notes the Mayor is the only witness, we believe, but the Commission had not received any filings for witness lists or briefs prior to the meeting, but they had until 5:00

p.m today, and while they are not at the hearing, they may have served them in our absence from the office. We will check when we return.

Troy states that ends the agenda. We will meet on the 28th. Dennis moves to adjourn. Levi Seconds that motion and all approve.

Troy reminds the next meeting will be September 28th at 1:00 p.m. an unusual time for the Commission.

Meeting adjourned.

Minutes Reviewed and Approved:

Dated this 16 day of November, 2016.



City of Spokane Ethics Commission

**City of Spokane
Ethics Commission Meeting
November 16, 2016**

MINUTES

THIS MEETING WAS AUDIO RECORDED AND IS AVAILABLE FOR REVIEW AT THE OFFICE OF THE CITY ATTORNEY

Present:

Commission Members:

Troy Bruner, Chair
Levi Liljenquist, Member
Brian Steverson, Member
Dennis Cronin, Member

Counsel:

Mike Piccolo, Commission Counsel /City Attorney

Milt Rowland, Outside Counsel – (late arrival @4:30)

Courtney Conklin, (From James King's office/Attorney for Mayor Condon- but states she is not representing anyone there today, just present to observe events. Ms. Conklin advised that Mr. King will not be present at this meeting today.)

Elizabeth Schoedel from Legal Dept. present to answer questions regarding request to hire Rick Romero, a former city employee.

Applicant for Interview:

Sarah O'Hare

Joe Shogan, Complainant vs. Mayor Condon – Arrives after meeting has begun but prior to his matter.

Meeting

The first action item is to sign the minutes from the September 14, 2016 meeting which were approved at the prior meeting, but not actually signed. Minutes signed.

The second action item is to approve and sign the Minutes from the September 28, 2016 meeting. Levi moves to approve the minutes as is, and Brian seconds that motion. All approve. Minutes from 9/28 are approved and signed.

The third matter is the application for membership by Sarah O'Hare who would like to serve on the Ethics Commission. Troy notes the Commission does not have a list of formal questions, but the Commission would like to review her application with her, if she does'nt mind. Sarah briefly described her education and background. She has a Master's Degree in Ethics and finds very interesting the aspects and differences of business and governmental ethics. She states she is available to serve immediately and her appointment was approved unanimously.

The fourth agenda item is the matter of Theresa Sanders' November 9, 2016 written request seeking approval to contract to hire former City of Spokane employee, Rick Romero, who retired from the City on April 30, 2016. Elizabeth Schoedel explains that Mr. Romero is uniquely qualified to perform the services needed for the City's strategic planning and he has been volunteering for the City since his retirement. She states he has the energy and background to accomplish the work needed to be completed.

Dennis Cronin inquires why Mr. Romero is now deciding to stop volunteering for the City and is seeking reemployment with the City instead, since he had retired. Ms. Schoedel says obviously it is partly his business venture, but adds Rick Romero has a unique skill set and has relationships within the City and outside the City that would be helpful in this project. The project involves a clean water plan and he was the director of Utilities at one time.

Dennis states he is wondering about the process. The code states that a person cannot be rehired as a contract employee within one year of terminating their employment, asking, "Doesn't this look a little "in-house" to you? He is concerned about the appearance of it.

Brian states that, while Ms. Schoedel had referenced that Mr. Romero has a specific skill set to do this work, he had been the utility director which is "totally different", so he shares Dennis' concerns".

Mike Piccolo states the City Council has not approved – and the Commission is not required to determine the skill set of the job.

Brian states he has ethical concerns. Troy states Rick would be rehired for his professional services, and would have a business license to perform the work. He would not be a city employee, but contracted for the work. Ms. Schoedel states there is no conflict of interest with his city activities.

Troy states there is a lot of merit to Dennis and Brian's questions and concerns.

Dennis moves to deny the approval. Brian seconds that motion.

Troy asks Levi, what are your thoughts about it Levi?

Levi questions if it would be like the work Romero had been doing before he quit. Ms. Schoedel states the strategic plan looks at the entire city as a whole, rather than specifically the public works arena. Levi asks Dennis if he could explain more his position. Dennis responded that we have a former city employee who, as a presumption, should not be contracted by the City for one year. There has been no advertising for the position to offer it to any others. Look at it from the outside, why do they have the one year rule, if it is not to be followed. Another layer to it is that it's not even his same skill set of work.

Brian adds that with the other request they had like this before, the person had a very specific skill set. This is not the same. Dennis states he would ask for a vote.

The vote resulted in 3-1 opposed to the approval for the contracting with Mr. Romero. Brian Steverson - Dennis Cronin - Troy Bruner -all opposing. Levi Liljenquist voted to approve. Request for approval to contract with Mr. Romero is denied.

The next matter is the Joe Shogan complaint against Mayor Condon. Mr. Shogan has now appeared. Milt suggests we continue the jurisdictional hearing to address the additional pleadings. Troy points out Mr. Shogan alleges jurisdiction was already decided and accepted by the Commission prior to his withdrawing his complaint without prejudice, allowing him to refile the complaint - with jurisdiction previously determined and approved.

Milt agrees the complaint seems to have jurisdiction before the Commission, but many months have passed. They may decide differently now. Brian states he would suggest they delay the jurisdiction issue and so moves. Dennis seconds that motion. He would like to know more / remember better how the matter was withdrawn. Dennis states he would like to look at jurisdiction and Troy states he would like to as well. Brian states, he would like to review the matter and not just in terms of jurisdiction. Dennis seconds motion to delay jurisdictional hearing. Milt states there is nothing to be lost by determining jurisdiction and then seeing where they should go next.


Brian states he has no note that there was a specific vote where jurisdiction was established. That meeting had been recorded and he would like a transcript of the proceedings. Troy and Dennis agree it would be nice to review what happened at the meeting where Shogan withdrew his complaint, without prejudice.

Dennis moves to continue and would like to look at least at the prior minutes. He would move we table the discussion of jurisdiction. Brian seconds that motion. All approve. Motion for Continuance approved.

The next meeting will be held December 21, 2016. Regarding Sarah's appointment, it would be filling Tyler's position. Mike states he believes it would be okay to appoint her now. Meeting adjourned.

Reviewed and approved:

Dated this 21st day of December, 2016.


Troy Bruner, Chair
City of Spokane Ethics Commission

**CITY OF SPOKANE - ETHICS COMMISSION
MEETING OF DECEMBER 21, 2016
MINUTES**

THIS MEETING WAS AUDIO RECORDED AND IS AVAILABLE FOR REVIEW AT THE OFFICE OF THE CITY ATTORNEY Present:

Troy Bruner, Chair
Levi Liljenquist, Vice Chair
Brian Steverson, Member
Sarah O'Hare, Member
Dennis Cronin, Member
Amina Fields, Member
Milt Rowland, Special Counsel to Commission
Mike Piccolo, Counsel to Commission

Troy opens the meeting and introduces himself and members. Troy moves to approve the meeting's agenda. Levi seconds that motion, and it carries unanimously. Agenda is approved.

Levi moves to approve the Minutes from the November 16, 2016 meeting. All approve, except Amina, who abstains as she was absent from that meeting. All else approve and motion carries.

Applicant for interview, Jill, is present and the commission reviews her application. Troy thanks her for coming and opens the forum to members for their questions to Jill. Troy first asks what inspired Jill's interest in joining the Ethics Commission. She stated that she feels remorse after the last election. She stated that she awoke the day after and thought she wants to get involved and this membership seemed like a good idea for a first step. Amina states that the Ethics Commission prohibits campaigning or endorsement of any candidate, and asked Jill if that would be an acceptable aspect to her. Jill states that she is a freelance writer for Channel 7 and is very used to keeping her views private. Brian asks Jill what skill set she may bring to the Commission. Jill states she is a reporter and works in a newsroom. She is skilled at taking in information, facts, and coming to a conclusion, despite there being no black or white. Jill has no question for the Commission and she leaves the room at Troy's request and he promises to notify her of the Commission's decision. Once left to their review, Troy asks members what their thoughts are regarding the appointment of Jill. Sarah states she is concerned that Jill had stated she was dismayed about the election, adding that ethics is neither good nor bad, so she is concerned that Jill would have some biases. Troy and Amina both state that the idea that Jill's motivation to be on the Commission had stemmed from her dissatisfaction over the election does not concern them. Amina says she therefore moves to approve Jill for membership to the Commission. Sarah votes against appointment, with all others approving, 5 to 1. Motion to approve Jill for membership passes.

Troy moves to the next Agenda item, which is the written Findings drafted from the prior meeting regarding Theresa Sander's request for approval to hire Rick Romero - which had been denied. Levi moves we approve the Findings and Brian seconds that motion. All approve. Findings regarding Romero will be entered. Mike Piccolo explains briefly the exceptions where a city employee may return to work for the City, not as an employee.

The next item is the 2017 roster of members. Some members are leaving, including himself as chair and Troy asks if anyone on the Commission would like to serve as chair going forward. Amina stated she would like to nominate Dennis Cronin to be chair. Dennis states he is willing, but there is no second. Brian states he is willing. Mike states that he thinks a Motion and a second would be appropriate. Troy and Amina move to nominate Dennis and Sara seconds that motion. Brian abstains. Four approve and by majority Dennis is appointed as chair. Dennis moves that Brian be vice chair. Amina seconds that motion and all approve. Brian will serve as vice chair.

Shogan Matter: Milt presents to address the Shogan complaint. Milt states the original Shogan complaint was filed before Milt came aboard and by that time Shogan's initial complaint had been withdrawn / dismissed without prejudice. Milt's point being that Shogan had withdrawn the matter, with the option to refile, if he so wished. However, Complaints are supposed to be filed and heard within a certain amount of time. The Commission never reviewed the matter nor ever reached any certain determination. Now, the question will be if the Commission has jurisdiction. Mr. Shogan states that the Commission had already determined jurisdiction previously. The second issue is that, based on the briefing, more information would assist the Commission in making its determination. This is not a procedure written into the code. Milt states he strongly feels they should hear from the parties.

Troy states that he wants to point out that the agreed dismissal was also signed by Attorney Jim King and that paragraph No. 3 states the Commission accepts jurisdiction and that the complaint could be refiled. That is what the parties had decided between them. Brian reviews the Minutes from the January 13, 2016 meeting and states, here is what happened:

- 1) Shogan filed a complaint on 12/2/15;
- 2) The amended complaint was filed 12/14/2015;
- 3) At the January 16, 2016 meeting, there was a hearing on Mr. King's Motion to Dismiss
- 4) Then there had been a stipulation with Shogan for voluntary withdrawal, without prejudice, which King had signed. They had not acted on it, because they had not been requested to do so.

Alice notes that at the Pendleton complaint hearing and during Spitzer matter there was a record of the dismissal. Here there is no proving the matter was dismissed. Dennis asks if jurisdiction had ever been determined.

Joe stated he had been waiting for the Cappel report to be released. He added that if you check the dates he refiled an amended complaint, stating that it is either an amended complaint or a whole new complaint, but regardless they should decide.

James King states the Commission determined jurisdiction. He states the Stipulation was between the parties. Troy states Joe could file a whole new complaint.

Joe states the Amended Complaint adds the Cappel Report to his supporting documentation. In filing an amended complaint, it is essential to open / review just as they would a new complaint, and revisit the jurisdiction issue again just as with a new complaint. Brian states he is willing to accept the amended complaint as a new complaint.

Milt states that essentially, the *are* being invited to consider the matter as a new complaint. Troy states this is a judgment call and he would agree with Bria. Brian moves to acknowledge the filing of this amended complaint as a new complaint.

Mr. King states he would like to know what document Shogan is relying upon that would make it an amended complaint. Joe states it is the 11/26 headline and un-redacted Cappel report that has been added and he believes the commission at least ought to review it. He is willing to withdraw any reference to Carly Cortright.

Brian states 10/6/16 would be the date of the refiling and Troy states that it was rewritten, resubmitted and revised documents and asks what if they took out any reference to anything filed before October 6? Joe states yes, for the record. Brian repeats his motion to accept the Shogan 10-6 Amended Complaint as a new complaint/matter.

King states the initial issue he would raise is the 10/6 complaint incorporates old issues – like in reference to Carly Cortright.

Dennis states the situation has all changed since Mr. Shogan first came before the Commission.

Levi states that it why he feels the complaint should be dismissed. Amina states that because Mr. Shogan refiled and amended, she feels both should be dismissed for lack of jurisdiction. He could refile his complaint, with clarity.

Brian responds he thinks they have to treat it as it is – and the determination was made that they had jurisdiction- and, anyway, Mr. Shogan could just file a new complaint.

Troy asks is there is any consensus. Joe states that he did allege facts about specific actions, so if they were dismiss it for lack of jurisdiction Levi notes there were two issues: 1) the press conference and 2) a statement regarding Parks. No. 1 was discussed and the second one was allowed by amended complaint.

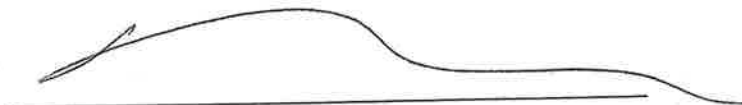
Levis moves to dismiss based on lack of facts.

Amina asks if he could make it for lack of clarity. There is no second.

Amina makes a motion to dismiss for lack of jurisdiction – this complaint should be considered as a new matter. Dennis seconds that Motion and only Brian opposes. Motion to Dismiss carries.

Meeting adjourned.

Reviewed and Approved:

A handwritten signature in black ink, consisting of a series of connected loops and curves, positioned above a horizontal line.

City of Spokane Ethics Commission

**CITY OF SPOKANE ETHICS COMMISSION
MEETING MINUTES
FEBRUARY 15, 2017@ 4:00 P.M.**

Dennis Cronin, Chair, commences the meeting at 4:04 p.m., and asks members to introduce themselves. Present are: Brian Steverson, Sarah O'Hare, & Amina Fields. Dennis introduces Milt Rowland who states he has joined them today as special counsel to the Ethics Commission:

The meeting's agenda is reviewed. Brian moves to approve the minutes, as is, and Amina seconds. Agenda approved unanimously.

Dennis states the next thing to approve are the Minutes from the meeting of December 21, 2016. Everyone has a copy, it is reviewed, and then, on motion by Sarah with a second by Brian, the Minutes are approved as is unanimously.

Dennis states the next action item listed would be the interview of applicants, should there be any present, but there are none today, so the Commissions unanimously approves to skip that item today. Brian so moves, Sara seconds, all approve.

The next item is the approval of the Findings, Conclusions, and Decision regarding the Complaint filed by Joe Shogan, against David Condon, Case No. 2016-11. Everyone has a copy of the Findings and Dennis provides five minutes for review. Brian moves to adopt the findings. Sarah Seconds. All in favor, the Findings are adopted.

The next matter is the Complaint filed by Shogan against Mayor David Condon – Ethics Commission matter No. 2016-12. The Commission takes five minutes to review the Complaint materials. Mr. Shogan is not present yet – it is 4:12 p.m. Mr. King is present. Milt states, for the record, Mr. Shogan had called him prior to the meeting at about twenty to four to advise he was running late. Milt states he did not get the impression he would be more than 15 minutes late, but he had not excused his tardiness and had simply said he would so advise the Commission. The chair asks the Commission as to their thoughts of Mr. Shogan's tardiness or, perhaps it might turn out to be an absence. Brian states the Commission should wait ten minutes. Sarah agrees they should wait ten minutes and Amina also agrees. Dennis notes the weather is bad and snowy and he recesses the meeting until 4:25. There is quiet discussion among members while reviewing the materials and reading news article.

BACK IN SESSION AT 4:25 p.m.

Mr. Shogan is still not present. Mr. Cronin calls out again for Mr. Shogan and he is still not present. Mr. Cronin asks if there is a motion to dismiss this matter for lack of prosecution. Or another motion? If it should be continued? Or..? Amina states she would make a motion to dismiss for lack of jurisdiction based on the lack of stated facts presented for their consideration without any sufficient detail- enough to be able to understand the nature of the complaint. She adds Shogan failed to state which acts were a violation, or any detail, or any dates, and he (Shogan) refers to a news article, wherein he indicates there are a couple of statements that can be attributed to the Mayor, but she feels we need to clarify what the statement he is actually asserting was said and how it was dishonest, specifically, so that they may evaluate each conduct on its own. Dennis asks if there is a second to the motion and there is no second. Dennis asks if there would be any discussion about the Motion. There is no response.

Milt asks if he may be heard. He states it is not really an academic, or merely an academic exercise, to say that it's not clear at all what is really being alleged here. That what is being alleged is that a newspaper article says the Mayor lied, but nobody says in the complaint that they saw or understood or were affected by some act of dishonesty. So it would be a little bit like charging someone with a crime based on, say on a newspaper article, nobody admits to actually having seen or heard anything or observed the defendant doing anything, so there really is no allegation here. The Complaint is saying that someone said the Mayor lied. But that is not the same thing as saying the Mayor lied. At any rate, he states he doesn't presume to tell anyone what to do, but while he was reading the complaint, that just kept hitting him.

Brian states this complaint is a little different than the one received in the past, because Mr. Shogan is asserting the Mayor lied to Council Pres. Stuckart. He twice indicates that that is the act of dishonesty to which he is referring, which is different than previous complaints that they have reviewed wherein he had referred to another act. And he agrees with Milt the only evidence to support this is the article in the Spokesman in which Stuckart is quoted as saying he had been lied to. So Milt is correct when saying there is no evidence of the act or when it occurred.

Mr. Shogan now presents, apologizing he is late and immediately approaches the podium. He begins to state that: "the first allegation, you already granted jurisdiction to, you never heard it....." Mr. Cronin then interrupts and says, Mr. Shogan, we have a motion on the floor... and Mr. Shogan says I am fine, just tell me where you all are at. Milt states, "well, actually, Mr. Shogan, when it is appropriate for you or any other member to approach we will let you know". Mr. Shogan apologizes stating he misunderstood where they were at and takes a seat. Dennis asked Brian what he was saying before and Brian states he is done. Sarah states she agrees with Brian that those statements are different from the ones Shogan alleged before. She feels she wants to second Amina's motion, but now that Mr. Shogan has come she doesn't know if they would want to reassess now that Mr. Shogan has arrived. Amina says she would agree and shelve her motion while asking for some time to question Mr. Shogan. And Brian states he would agree. Sarah seconds that Motion. All approve.

Dennis states now therefore they are now again addressing the clarified complaint. Mr. Shogan is invited forward and he states, "the first allegation you granted jurisdiction to already was approved, so, by res judicata, you have already said that you have jurisdiction to hear this. It's never been heard. My Complaint was dismissed in the past because, it was basically stale, per Mr. Rowland's instructions, because it had not been heard within 90 days. But, this complaint is not stale. It is called clarified because I was asked to clarify what exactly I was doing. So the first allegation should go on to a hearing. You can't withdraw jurisdiction once you have granted it. The second one has never been brought before you. It's a statement by Council President Stuckart that the mayor lied to him. So you have two people with divergent stories and you would need to subpoena them both and have them come down here and question them. There is nothing more clear than an allegation where one city official says another city official lied to him and I don't know how you are going to get around that without a jurisdictional hearing.

Milt asks Mr. Shogan, "what are you talking about? They already granted you jurisdiction? Are you talking over a year ago? Mr. Shogan says, "Yeah, you granted jurisdiction to hear that allegation, but they never heard it, Milt." "You just dismissed it as tardy". "You never heard the complaint at a hearing - you just dismissed the complaint because it was tardy". Milt states, "well, the matter was removed from the docket on the parties motion, so what you are saying is kind of similar, there really isn't res judicata. "You are actually saying if the same allegation was found sufficient a year ago, you see no reason why it wouldn't be sufficient now? Joe states, "well, yes, okay, but what I really meant was that first allegation already survived jurisdiction and it's never been heard by you. The Complaint that it was contained in was dismissed as being tardy, late, whatever. Milt, asks what is the first allegation, Joes says well, it's the first allegation, that is Mr. Straub's problem in April or a few weeks ago. And he has a copy of the original finding signed by Mr. Bruner where this Commission found there was grounds for jurisdiction to hear that allegation.

Milt states he is sorry, but he is looking at the sworn complaint, the one filed December 22, 2016, what is the first allegation in *that*? Shogan, states the first allegation is that the Mayor was dishonest in saying when he first learned about the allegations against Chief Straub. And the Chair, Mr. Bruner, found the second allegation, which is the same word for word in this allegation, the commission had jurisdiction over that the conduct, if found to be true, the conduct is sufficient to be a violation of the Ethics Code.

Mr. Shogan states the first complaint he filed way back, before Noah was born. Mr. Steverson says that they are only interested in the complaint filed before them right now the one filed December 22nd. Joe states, exactly and "you already found jurisdiction". Looking at Clarified Complaint of December 22nd, Paragraph D – is word for word the same allegation the Commission already determined jurisdiction. Item E is brand new. He has a copy signed by Mr. Bruner that there is jurisdiction for Item D.

The Commission reviews the Complaint. Mr. Cronin states that Shogan has two complaints, the first allegation was dismissed. The second allegation asserts that Mayor Condon failed to tell the truth regarding claims of sexual harassment made by City employees formerly working at the SPD. And that one the argument was found to have jurisdiction. In Shogan's clarified complaint the allegation is that the Mayor failed to tell the truth regarding several claims made by Monique Cotton against then-Chief Frank Straub. That is where it ends. And, from his argument Cronin gathers Shogan is trying to say that although they are worded differently they mean the same thing. Mr. Shogan confirms that is right.

Mr. Cronin said perhaps they should hear from Mr. King. Mr. King comes forward and states that the interpretation of Bruner's order by Cronin is correct. January 16th one of the allegations was dismissed for lack of jurisdiction. The second one, the commission found that jurisdiction existed and survived at that time. That accusation was regarding a press conference wherein the Mayor responded to a question dishonestly to questions about claims of sexual harassment, that no formal claims had been filed. Following the Commission deciding that it had jurisdiction on that claim, filed by Mr. Shogan, the parties dismissed the litigation. And, this Commission, not twenty-five minutes ago, just entered Findings and Conclusions saying that it had no obligation and it was not bound by the Stipulation of the Parties and was not going to exert jurisdiction over anything that Mr. Shogan had filed up to his Clarified Amended Complaint. That was the action the Commission just took, with notice to Mr. Shogan who was in possession of the Findings and who didn't deem to be here when the commission took that up twenty five minutes ago as part of its agenda. So this Commission has already determined it's not going anywhere. Then they gave him the opportunity to file a new complaint because what he had up to that point simply didn't pass muster and what he has done is only recycle his prior old complaint that has been dealt with under the Spitzer and Pendleton Complaints. And King says he is not even counting the NOW Complaint which was dismissed, where the same allegation was made, this is now at least the fifth separate time that the remarks of Mayor Condon at the press conference have come before this Commission in the form of a complaint, twice dismissed. King states now they are back again for Mr. Shogan's third bite of the apple on the exact same claim. The judge ruled in the Condon recall litigation as well. We believe they Commission has already ruled on this issue repeatedly. A judge dismissed the matter in the Superior Court recall case under these facts. And we believe, under res judicata, this claim must also be dismissed. Because this Commission and its predecessors have already dealt with it - ad nauseam. There is nothing new in the Clarified Complaint. It is a repurposing of the same allegation.

Dennis asks, "first off, for the record, you represent, who?" Mr. King states, "I represents Mayor Condon the respondent." So you were sitting here when I inquired of Mr. Shogan, you heard what I asked, correct? I am just trying to shorten this a bit. Mr. Shogan filed an amended complaint which is then subsequently by some agreement that we were not party to, withdrawn, subject to being brought back. And the second allegation in the amended complaint was that Mayor Condon failed to tell the truth regarding sexual harassment claims made by city employees working at the police dept. And his clarified amendment identifies that party as Monique Cotton.

We earlier dismissed such a complaint. Are you asserting that it has already been dismissed? This evening we adopted some findings and dismissed the amendment complaint. So it is not live anymore. Would you agree with that? And, so, Mr. Shogan was not here when that happened for whatever reasons, but that was just confirming what we had already determined.

Mr. King states there is nothing new to this complaint, and it is just recycled version of these same complaints. Brian states that the Findings they approved earlier did not carry over jurisdiction over to the amended complaint. So we are now being asked to re-find jurisdiction is that correct? Mr. King states that is exactly correct. The allegations are the very same and of the same fact pattern. Brian states this is different, however, in that it contains new allegations regarding Mr. Stuckart's statements. So, in that way, it is not entirely recycled. Mr. King has provided the complete article from the Spokesman. That article makes it clear the statement at issue here is the same one that has been addressed in Spitzer, and other complaints already.

Brian states he disagrees on two points, but it still might support Mr. King's case. He reads the article as to what Stuckart had said. He simply says he has been lied to, but not, specifically, by the mayor. Brian reads where Sanders was asked by Stuckart about complaints, and thinks the only reference was to Theresa Sanders. Amina asks Mr. King about the Pendleton case was dismissed on the basis if the violation were true, it was a minor violation. The Commission had found that there was a possible circumstance where what the Mayor had said could be viewed as correct, and so that was what the Superior Court agreed with as well.

Shogan states they Commission has never subpoenaed the mayor or anyone else, to thoroughly review the matter or question him as to the fact. The Commission never heard the matter. If they have questions as to whether the Council President was lied to then that is an issue of fact you cannot dismiss that at a jurisdictional hearing. You have to hear the matter.

Dennis reviews the circumstances where the Commission may dismiss a complaint. Joe said that was fine and good, but in order to dismiss it you have to hear it. The commission has never heard it. The second allegation has never been reviewed and, unless you bring Mr. Stuckart in to review that, you don't have an answer. He would say you have to have a hearing to do that. Shogan states the second allegation is brand new. There you have a public official, the council president, saying the Mayor lied. Now if you want to tell him they don't find jurisdiction without a hearing, well then he doesn't know what this Commission does.

Mr. Shogan then states that Mr. King has threatened to sue him for attorney's fees. Mr. Cronin states that is not before them.

Amina asks about his allegation that the Mayor made about Paragraph D, where the Mayor made on several occasions, but it did not refer to specific conduct. She confirms that he has not identified a specific instance or any words the Mayor had said. She asked Mr. Shogan if he could identify any statement that the Mayor said. Joe said they need to ask Council President Stuckart all of that, stating, if they are looking for facts... specifics, you need to bring him in. He requests the Commission subpoena Mayor Condon. He would like to question him under oath. If they

don't, he cannot clarify what for them what he had meant. He thinks it's one sided to ask for evidence that they can produce, but he cannot, and then they don't produce it. Shogan doesn't have the power to bring Stuckart in for questioning but the Commission does have that power.

Amina is withdrawing her motion tabled earlier. Now she makes a motion to dismiss because it was already decided in the Pendleton case that, that even if the facts were true, the violation was minimal. Her other motion is to dismiss both paragraph D and E complaints. Shogan failed to provide sufficient detail.

Mr. Shogan states he will be back again and leaves.

Sarah seconds the Motion on Section E for cause of insufficient detail. Motion passes, three to one with Brian opposing.

As to the Motion on Section D, is there any motion to dismiss? Brian asks if there are any notes as to Paragraph D, Dennis states that it was technically an issue re dismissed earlier that evening. Brian and Amina disagree that it was that same issue exactly.

Mr. Cronin asks if there is anything further for discussion as to Paragraph D

Milt asks if what is left before the Commission is only paragraph D which is basically the same allegation that was dismissed in the Pendleton complaint. Pendleton had provided the Spitzer complaint, wherein the complaint was addressing the Mayor's comment at the news conference. It is the same issue. Brian seconds the Motion to Dismiss listed in Paragraph D. All approve, motion passes unanimously. Amina notes it was based on other grounds other than jurisdiction.

Meeting adjourned at 5:16 p.m.

Reviewed and Approved:



Ethics Commission Chair

CITY OF SPOKANE ETHICS COMMISSION
MEETING MINUTES
APRIL 5, 2017@ 4:00 P.M.

Dennis Cronin, Chair, commences the meeting at 4:04 p.m. and asks members to introduce themselves. Present are: Brian Steverson, Sarah O'Hare, Amina Fields and Alice Buckles. Dennis welcomes everyone present.

Regarding the Minutes from the last meeting, Dennis asks if members have had a chance to review them. Everyone states that they have. Brian moves to approve the Minutes and Amina seconds that Motion. All approve the minutes from meeting of February 15.

Brian, interjects that first however, they need to approve the night's agenda, Item A. Dennis moves that they rearrange the agenda items, however, to leave the Ethics Commission's housekeeping items to the end. Sarah seconds that motion and the Agenda is rearranged as such, for expedience.

There is a quorum tonight to review Mr. Shogan's complaint. Mr. Cronin states that he now has a conflict of interest in this complaint because an affidavit was filed in the matter by City Councilwoman Karen Stratton and he is friends with Karen Stratton. Karen has provided testimony by affidavit in support of Mr. Shogan's complaint. So, Mr. Cronin states he has decided to recuse himself from this complaint. Brian Steverson will chair in his absence.

Milt states that he has looked into a couple of issues: One was the set of ordinances under which the Commission is organized and also a transcript, an Exhibit, that had been attached to the Declaration filed by Mr. King last fall regarding the recall petition that had led to a hearing. Milt said he sent it around last week, to make people aware that it would be on the Commission's record for today's hearing, because, in his opinion, that it is relevant to Mr. Shogan's Complaint against the Mayor. The Superior Court had the same issue before it: whether or not the Mayor was dishonest during the Straub firing. Milt points out that they are looking at the same issue here again under different complainants. Milt noted that when serial complainants raise the same issues, it doesn't require the Respondent to answer the same complaint over and over, for each individual person making a complaint, but, rather, once an issue has been addressed/responded to - res judicata would prevent the Mayor from having to respond again and again to the same issued complaint. Theresa Sanders has already been subjected to a commission penalty, and those decisions are supposed to be final and people should not have to face a similar/related complaint again and again. So, the Superior Court found that the mayor was not dishonest as there are two ways to interpret a question/answer and so the judge held it was not dishonest in his view. Then there is a case, In re: Recall of Cathy Pearsall-Stipek, that holds that when serial complainants have exactly the same interests as one another – they aren't

going to make a public official defend himself over and over against the same complaint. Milt notes he was brought in because of the conflict of interest about the Mayor. The complaint was filed, even if it never went to hearing, it was filed. And, another complaint, filed against Theresa Sanders, had the same issues essentially. And so res judicata prevents that from happening because they could be at this for several years, as person after person could come forward to claim, "well, my own complaint has not been heard yet" again and again. Therefore, Milt advises it would be in this Commission's authority to recognize the mayor has already addressed these charges. Joe Shogan objects from the audience. Milt pointed out that there had been a previous complaint against Theresa Sanders and one of the stipulations in the settlement agreement for that Complaint that was presented to this body was a cease and desist order together with a financial penalty of \$75.00. As such, Ms. Sanders was already subjected to a finding and was punished in connection to this same complaint. And that finding was final. She should not have to come back again and again to answer these same allegations and, so, this recent second complaint against her by Shogan was dismissed because she had already responded/was punished. She doesn't have to keep getting sanctioned over and over again for the same act(s).

Following Milt's comments, Brian and Amina say they have several questions

Amina asks Milt, if he is recommending that they dismiss this complaint against Mayor Condon because the Superior Court has already heard this complaint and has dismissed it. From what she recalls of the decision by the judge, was that it was dismissed based on insufficient evidence without prejudice. The judge also had commented as to what she thought, but she didn't make an actual decision, because regardless, it was dismissed for insufficient evidence because what was submitted was insufficient, with prejudice. She didn't make an actual decision one way or the other. Milt states the judge did first say that the evidence was provided to the court incorrectly and contained hearsay and there were no declarations in support of it. She held the Mayor interpreted the question one way and answered with one answer.

Milt states that the Superior Court judge did say the report was handed out and it contained hearsay. There were no declarations authenticating these statements in the report. Milt thinks the court dismissed because the question to the mayor used the words, "were any complaints lodged against" and the words, "lodged against" and, "lodging" could connote a formal complaint and the judge made the comment and it was central to his holding, that if a person is asking you a question and you answer under one understanding of what the question means, that is not dishonest. So, if the mayor had been asked the question differently and he had had said, nope, then it might be a different matter. It was his interpretation of a question that could be read two ways and was answered one way correctly. That can't be dishonest. Milt then adds that the Commission is not bound by the Superior Court's decision, but he is saying it would be appropriate and within their authority to say they are bound by the Superior court Decision.

Amina states, though, that this most current complaint before them is not narrowly related to just that press hearing. She asks, are there not other issues in the complaint he is referring to? Milt says, "yes, absolutely". Brian states that that was one of his questions. This new complaint they are reviewing now is not that he (the Mayor) lied or was dishonest during a press, so he is not sure how the court's ruling entails that we they can't consider these new complaints and they are different complaints about different behavior. It was the same thing with the Sanders complaint by Shar Lichty. This complaint, as lodged against City Administrator Sanders has different allegations, so he doesn't see why they are bound by that prior decision. Milt asks if he can explain and adds that it is not that they are bound by anything - it is just a recommendation. He states it is like the concept of claim splitting which arise from the same accident/incident. You can't do that once a matter is settled.

Milt says that this Commission could say, it doesn't have to, but it could say that all the complaints related to Monique Cotton, Frank Straub, the Mayor and his staff, really those complaints contain the same common nucleus of operative fact and we won't hear, or we will, any new way of addressing this complaint or additional facts. Brian states that it seems Milt is saying that once a complaint is filed about an issue, and in this case, it is an issue, not a singular incident like running a stop sign, any further complaints related to that issue don't have standing or shouldn't be allowed because they all should have been dealt into the same complaint and he is not getting that. But using that analogy, this complaint references two new/different acts that had not been complained of previously. So he doesn't see how they are connected tightly enough. Milt doesn't feel they are bound by any precedent. He doesn't feel that and it is up to their discretion.

Sarah states she is not sure that she feels bound by the court's decision and it not something she is going to be bound by, as she is not sure they had the same evidence that they do. It sounds like a different encounter.

Milt says that it appears they are going to be going forward with this and he would just suggest that this body now deal with the materials filed by Mr. King the day before yesterday. He doesn't know if anyone has had a chance to read this stack, but also anticipates that Mr. Shogan would like an opportunity to respond to it. And whatever, else it does this body should not reach a conclusion today on this very recent filings and give everyone an opportunity to read it.

Brian states that under the list of criteria that they could reach a judgment of dismissal one reason is that the complaint is frivolous and that Mr. King's at least strikes at the groundlessness of the complaint. He would love to hear from fellow commissioners.

Alice states the recommendation is that we wait to review the order of dismissal until the next meeting. Brian states that they were considering the issues for jurisdiction and that there are other grounds under which they could consider a dismissal. They need more time to go through the documents and that even if they find jurisdiction, there are other things under which they could dismiss the complaint, but that this way they are breaking up the complaint.

Milt states that if the commission decides to go forward, the order of things would be to enter a pre hearing order at the next meeting. So, he would recommend tabling item C to the next meeting.

Brian states that it would matter how the commission members feel and if they all agree they would prefer to table it, except Amina who says she could go either way. Sarah states she would table it and Brian agrees he would want everyone to feel ready. Brian moves that they table Agenda Item C to provide more time for review. Sarah seconds. Amina asks if they want more input. Mr. Shogan states that the history of his other complaint, that all the issues of complaint from the press conference are gone. He said the commission had previously told him he didn't have enough, no actual quotations, so he has now provided quotations. He had not had the Seabold report then, but when he got the Seabold report, that was embodied in his 5th complaint. Amina states that she had just been asking if he had any thoughts only about continuing the hearing. Joe states this is distinct / different complaint and does not involve the news conference. He would like full consideration and he has made requests for subpoena be issued for Mayor, Sanders and Stratton. Joe Shogan would challenge Carly Cortright's affidavit.

Mr. King is not present. Keller Allen presents on behalf of Theresa Sanders and she is here to dispute these charges. Mark Bouvier from Jim King's office is also present and states that he would echo Mr. Allen's remarks and would defer the issue to the next meeting.

Amina now seconds that motion and Agenda Item C is tabled to the next meeting.

The Chair, Mr. Cronin returns. He states they just need a motion to adjourn. Brian moves to dismiss. Amina seconds. Meeting adjourned.

Reviewed and approved this ___ day of May, 2017.

Reviewed/Approved/ Signed Dennis Cronin


Ethics Commission, Chair

**CITY OF SPOKANE ETHICS COMMISSION
MEETING MINUTES
May 3, 2017@ 4:00 P.M.**

Dennis Cronin, Chair, commences the meeting at 4:10 p.m. Also, present are Brian Steverson, and Sarah O'Hare. Amina Fields is not present.

Dennis asks legal counsel to the Commission, Michael Piccolo, if they do not a quorum on this day. Piccolo states that they do not have a quorum, given Mr. Cronin's own recusal of himself from hearing Mr. Shogan's complaint.

Dennis states that given that circumstance, he would follow Roberts Rules of Order and there would remain only three small matters that they could address today and then continue the hearing matter to another date when the Commission would have a quorum.

The first matter would be the review and approval of the prior Minutes from the meeting of May 3, 2017. Dennis asks if members have had a chance to review them. Everyone states that they have and without a motion, under unanimous consent, all indicate their approval and the minutes are approved.

Dennis states again that regarding Agenda Items C and D, he has recused himself from that matter and Mr. Piccolo has informed them they do not have a quorum to hear this matter today. So, they will skip those items.

Matters E and F is a review for approval of the changes to the code, which have been circulated among the members, and Dennis proposes, without the quorum, they would take this additional time to review the code and changes and they will revisit this item when there is a quorum. Mikes states too that they were not really meant to be approved, but that they were offered for review only today. There will be a process prior to being approved.

Joe Shogan from the audience, states that he has some suggestions for changes to the code and Mr. Cronin asks him to submit those in writing. Mr. Cronin states they will visit this again at the next meeting.

That would conclude the business for the day. The next meeting will be scheduled. Mr. Piccolo advises that the Mayor has been advised they are low in members and there will be an effort to ensure the Commission has a quorum going forward.

Joe Shogan expresses concern about there not being enough members to review his complaint and states that he thinks "that it's just great that the mayor is in control and gets to decide whether he gets to have a hearing or not" and then leaves.

Meeting adjourned.

Reviewed and approved this 14th day of June, 2017.

Approved:

Dennis Cronin
Ethics Commission, Chair