

CITY OF SPOKANE ETHICS COMMISSION

Ethics Commission's Findings, Conclusions and Decision Regarding Complaint filed by Joe Shogan Against David Condon

FINDINGS

The Ethics Commission makes the following findings:

1. On or about December 2, 2015, Joe Shogan filed an ethics complaint against David Condon with an amended complaint being filed on December 14, 2015.
2. The amended complaint alleges that Mr. Condon violated SMC 1.04A.030 (N) of the Code of Ethics regarding prohibition against commissions of acts of moral turpitude or dishonesty. The complaint asserts two allegations that Mr. Condon violated SMC 1.04A.030 N. The first allegation, set forth in the first sentence of Paragraph C of the complaint, asserts that Mr. Condon committed an act of dishonesty "With regard to rumors of Misconduct by the then Spokane Police Chief Frank Straub, Respondent had heard of "these issues" in the "last several weeks." The second allegation, set forth in the second and third sentence of Paragraph C and in Paragraph D of the complaint, asserts that Mr. Condon failed to tell the truth regarding claims of sexual harassment made by city employees formerly working at the Police Department.
3. On December 29, 2015, Mr. Condon, through his attorney, submitted Motion for Dismissal of the ethics complaint pursuant to SMC 1.04A.110 (D) (1) (b) on the basis that the Complainant has failed to conduct any appropriate good faith inquiry or investigation, rendering the amended complaint subject to dismissal as being a complaint which is frivolous and/or brought for purposes of harassment.
4. On January 13, 2016, the Ethics Commission held a meeting to review the complaint to determine whether, pursuant to SMC 1.04A.110 (D) (1) and (2), the Commission had jurisdiction to conduct further proceedings and whether the complaint, on its face, alleges facts that, if true, would substantiate a violation.
5. At the January 13, 2016 Commission meeting, the Commission considered the December 14, 2015 amended complaint filed by Mr. Shogan, the December 29, 2015 Motion to Dismiss filed by Mr. Condon's attorney, the testimony submitted by the parties at the hearing and the deliberation of the Commission members.

CONCLUSION

The Ethics Commission makes the following conclusions:

The complaint met the requirements of SMC 1.04A.110 regarding the signed written complaint form, cites to a provision of the Code of Ethics and asserts an alleged violation against a City official who is subject to the Code of Ethics. As for the first allegation, the amended complaint fails to describe facts that constitute the violation of the Code of Ethics in sufficient detail so that the Commission and the Respondent can reasonably be expected to understand the nature of the offense being alleged as required pursuant to SMC 1.04A.110C and asserts facts, that even if true, would be a de minimus violation pursuant to SMC 1.04A.110 (D) (1) (c).

As for the second allegation, the Commission concludes that it has jurisdiction pursuant to SMC 1.04A.110 (D) (2) based on the amended complaint alleging facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics.

DECISION

Based upon the Findings and Conclusions set forth above and the deliberation of the Ethics Commission, the Ethics Commission concludes that the first allegation set forth in the amended complaint is dismissed pursuant to SMC 1.04A.110 (D) (1) (a) for lack of jurisdiction or in the alternative pursuant to SMC 1.04A.110 (D) (1) (c) that the alleged violation is a minor or de minimis violation. As for the second allegation, the Commission concludes that it has jurisdiction and that the complaint alleges facts, that if found to be true, would be sufficient to constitute a violation of the Code of Ethics. The Commission shall convene a hearing on February 24, 2016 or as otherwise agreed to by the parties and the Commission, to further consider the complaint.

This decision was approved by a vote of four to zero of the Ethics Commission members present for and participating in the hearing with Commissioner Cronin abstaining on the basis that the Commission needed a definition of the terms "moral turpitude" and "dishonesty," as set forth in SMC 1.04A.110 (N), in order to determine jurisdiction. Commissioner Cronin's motion to stay the proceedings pending a clarification of these terms or, in the alternative, to dismiss the complaints without prejudice failed for a lack of a second.

 1-27-16

Troy Bruner - Chairperson Date