

## **CITY OF SPOKANE ETHICS COMMISSION**

### **Ethics Commission's Findings, Conclusions and Decision Regarding Complaint filed by Mara Spitzer Against David Condon**

#### **FINDINGS**

The Ethics Commission makes the following findings:

1. On or about December 8, 2015, Mara Spitzer filed an ethics complaint against David Condon.
2. The complaint alleges that Mr. Condon violated SMC 1.04A.030 (A) of the Code of Ethics regarding prohibition against conflicts of interest whereby a City officer or employee has an interest that might be seen as adverse to the interest of the City. The complaint alleges that Mr. Condon knowingly withheld allegations of sexual harassment by former Police Chief Frank Straub against another city employee until after Mr. Condon won re-election and that this dishonesty by omission constitutes an action adverse to the interest of the City by withholding information pertinent to voters.  
  
The complaint further 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 alleges that Mr. Condon's denial of any complaint of sexual harassment being made was blatant dishonesty relevant to the Spokane voters in an election.
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 Ethics Commission lacks jurisdiction. The Motion asserts in part that complaint fails to state a claim under 1.04A.030 A and that allegations concerning a violation of SMC 1.04A.110 A are impermissible under both the Washington State and U.S. constitutions because of its chilling effect on fundamentally political public activity and free speech activity.
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 8, 2015 complaint filed by Ms. Spitzer, 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. The complaint, however, fails to describe the facts that constitute the violation of the Code of Ethics in sufficient detail to enable the Commission and the respondent to reasonably be expected to understand the nature of the office that is being alleged pursuant to SMC 1.04A.110 (C).

### **DECISION**

Based upon the Findings and Conclusions set forth above and the deliberation of the Ethics Commission, the Ethics Commission concludes that the complaint by Ms. Spitzer is dismissed pursuant to SMC 1.04A.110 (D) (1) (a) on the basis that the Commission lacks jurisdiction due to the Complainants failure to describe the facts that constitute the violation of the Code of Ethics in sufficient detail to enable the Commission and the respondent to reasonably be expected to understand the nature of the office that is being alleged, pursuant to SMC 1.04A.110 (C).

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.

  
Troy Bruner - Chairperson      Date