

# 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  
5<sup>th</sup> 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: Ben Stuckart

Position/Title: Council President

**Nature of Code of Ethics violation:**

What specific provision of SMC 1.04A.030 do you believe has been violated? <sup>①</sup> Section K(5): Fair & Equitable Treatment  
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.

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.

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② Section 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 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.

An article in the Spokesman-Review (Attachment A: "City Council President Ben Stuckart calls email about removing campaign signs 'a joke'" - November 28, 2018) reported that Council President Ben Stuckart had an email exchange on City email regarding his former Republican Congressional opponent's campaign signs with what he described "an old friend", in which he suggested he would "see about getting it removed," and suggesting ~~that~~ a "Midnight Mission" to remove the sign if that failed.  
**Names and positions of the persons who may have witnessed the event:** (See back)

Gary Kaesermeier, City Streets Director

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#### **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.

See attached

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Stuckart insists in the article that he "followed proper protocol" and "followed the law". This complaint inquires whether Mr. Stuckart's exchange, with an "old friend," constitutes prohibited political or personal use of official City resources (Code of Ethics, Section K(5)), and whether his suggestion of a "midnight mission" constitutes an act of moral turpitude (Code of Ethics, Section N). Removing or defacing political advertising is a misdemeanor under state law (RCW 29A.84.040). Whether the sign was lawfully placed or not has no bearing on the question of whether the suggestion of a "midnight mission" was inappropriate. Mr. Stuckart's email seems to suggest if he couldn't accomplish the sign removal using City resources, he would take the matter into his own hands.

In addition, the Commissioners may also consider whether Mr. Stuckart committed an act of "official misconduct," by depriving the individual who placed the sign of a lawful right or privilege (Free Speech clause, First Amendment, U.S. Constitution), while committing an unauthorized act under color of law (RCW 9A.80.010). Such an act is also a gross misdemeanor. Further, we ask the Commissioners to review the article's claim that Mr. Stuckart reportedly sent an email to the City Streets Department, directing them to conduct a "sweep" of the City for the Republican candidate's political signs. This action is also called into question in this complaint — as it is unclear under what authority this order was given by the Council President to the City Administration. Moreover, did Mr. Stuckart give a similar order for a "sweep" of the Democrat candidate for Congress' signs — or all campaign signage — in the City? If not, his actions could be construed to be unconstitutional, as they discriminated against only certain signs — ostensibly for their viewpoint (Republican) and content (political advertising).

It is my understanding the city recently updated its ordinances in light of recent Supreme Court cases (Reed vs. Town of Gilbert (2015)) to avoid such regulatory conundrums — changing its regulation of "political signs" in favor of "temporary signs". Mr. Stuckart appears either ignorant of these changes, or willfully disregarded them in trampling on the constitutional rights of a citizen. Had Mr. Stuckart only responded to the subject of the initial query about "political sign guidelines" by outlining the City's policies, he might have been on firmer footing.

Finally, I would submit that the U.S. Constitution is not a "joke", and neither is state law, or the City's Code of Ethics. Mr. Stuckart's initial conduct over email, and subsequent comments to the press, seem to make a mockery of the City and the office which he holds. This is a very serious matter, and should be treated as such.

## 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.

Jane Doe\*  
Complainant's Signature

December 19, 2018  
Date

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

Spokane, WA

Name (please print): Jane Doe

Address: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

E-Mail Address: janedoespokane@gmail.com

\* I wish to remain anonymous out of fear of retaliation because of my job.

In particular, Mr. Stuckart should be reminded that: "It is the policy of the City of Spokane to uphold, promote and demand the highest standard 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<sup>3</sup> their City position, authority or resources for personal gain." (SMC, Section 01.04A.010, emphasis added.)



## ATTACHMENT A

[spokesman.com](http://spokesman.com)

### City Council President Ben Stuckart calls email about removing campaign signs 'a joke'

By Kip Hill [kiph@spokesman.com](mailto:kiph@spokesman.com) (509) 459-5429

3-4 minutes

Spokane City Council President said Tuesday he was joking when he suggested in an email this summer that a "midnight mission" might be needed to remove an illegally placed campaign sign on the South Hill.

"I made a joke with an old friend, but I followed proper protocol and I followed the law," Stuckart said.

The exchange using his city email account in June with a South Hill resident, who Stuckart identified as a high school friend, was posted to the Facebook page of the Spokane County GOP earlier this month, apparently released as part of a public records request from the city.

In the initial email, a constituent asks Stuckart about a "stadium-sized" sign for U.S. Rep. Cathy McMorris Rodgers that had been placed on city-owned property at 25th Avenue and Garfield Road, and who they should contact about removing it.

The city's laws regarding signs prevent the posting of any sign by a noncity employee on city property. State law makes the removal or vandalism of a political campaign sign a misdemeanor, but only if the sign was "lawfully placed" to begin with.

Robin Ball, chairwoman of the Spokane County Republican Party, pumped the brakes on some in the party who called for discipline for Stuckart based on the email exchange. Still, she called the exchange "slimy" and suggested the Spokane City Council should look into the matter.

"It shows a level of integrity that we should not have in city management, at any level," Ball said. "I think they need to be held to a much higher standard."

Records show Stuckart emailed Spokane Streets Director Gary Kaesemeyer about the sign before his response suggesting a "midnight mission" to the constituent. The sign was removed before the end of the day.

Spokane City Councilwoman Lori Kinnear said she also received a complaint about the sign and directed it to the parks department. She said Stuckart's email had been taken out of context.

Both the McMorris Rodgers and Lisa Brown campaigns reported a higher-than-usual amount of sign theft and vandalism during this fall's race for Eastern Washington's seat in Congress. Stuckart was a candidate for the seat before dropping out and later inserting himself into next year's race for mayor.

Ball said she didn't have enough information to comment on whether Stuckart's statement was a joke, but noted that sign theft had been a big deal for both campaigns this fall.

"I think that it also is very telling about what social media and that kind of electronic communication can do," Ball said. "I just don't think that people think through what they say online."

Stuckart said the calls for discipline were politically motivated ahead of the mayoral contest.

"I think they're going to call for my head for everything they possibly can over the next year," Stuckart said.