

December 27, 2018

Spokane Ethics Commission
808 W. Spokane Falls Blvd.
Spokane, WA 99201

RE: Jackie Murray Ethics Complaint

Dear Members of the Ethics Commission:

This letter is provided in response to Jackie Murray's December 19th Ethics Complaint filed against me. For the reasons set forth below, this complaint must be dismissed.

To begin, while I freely admit to partaking in a protest outside of City Hall on December 8th, I do not agree that this violates the Ethics Code in any way. Not only is it my right as a citizen to protest, but it is my duty as an elected official to partake in the political process to benefit my constituents. This complaint is improper and must be dismissed for the reasons set forth below.

1. Jackie Murray Fails to Allege a Violation that the Ethics Commissions can Review.

Section 1.04A.110 D.1 B of the Spokane Municipal Code clearly states that a complaint before this Commission must be dismissed if, "the alleged violation, if true, would not constitute a violation of this article." The sections listed in the Murray complaint are not in the ethics provisions Spokane Municipal Code at all, and would therefore not violate the code. Instead, the sections listed are from the City Council Rules of Procedure, a completely separate document. None of the provisions of 104A.110, the basis for an ethics complaint, were violated and Murray did not even allege they were. There were no contracts, financial gains, personal interest, or even "remote interest" compelling my action that day. My interest and involvement in the protest was in line with my responsibility to act in what I believe is the best interest of my constituents.

2. The Spokane Council Rules of Procedure are not Independently Enforceable.

Rule 1.1 of the Spokane Council Rules of Procedure specifically state that it creates no right of action by any other party - "It is the purpose of the City Council of the City of Spokane in adopting these rules to provide a method for the conduct of its affairs. It is not intended that these rules confer upon any person who is not a member of the Council any right to a particular procedure or affect the validity or legality of any Council action." In other words, Jackie Murray has no right to enforce these procedures even if this Commission found that it was within their jurisdiction to review this complaint.

3. Conduct Alleged was a Valid Exercise of First Amendment Rights and No Unlawful Actions Occurred.

Although the Spokane Council Rules of Procedure are not a valid basis for an ethics complaint, I do wish to state my opposition to these allegations as well on the record. Rule 1.31 states that, "Every council

member must uphold the constitution, laws, and regulations of the State of Washington and the Charter and ordinances of the City.” By protesting for a cause I believe is in the best interest of my citizens, I am exercising my rights to free speech and assembly protected by these laws. Simply disagreeing with what I am protesting for is not a valid basis to accuse me of breaking the very laws that protect my right to protest. As a Nation that values freedom, we can find solace in the fact that even elected officials are afforded these protections of the constitution of the United States.

In section 1.34 of the Council Rules and Procedures it states that a council member may not use the facilities of the City to assist a campaign or promote an opposition to a ballot. The protesters and I chained ourselves together outside of City Hall. I did not use any public resources that I had special access to in order to carry out this protest. The only public resource I used was standing on public property, an action completely legal to do as a citizen.

The complaint alleges that I violated section 6.3, 6.4, and 6.5 of the City Council Rules of Procedure, which in part states, “a council member shall disqualify him(her)self from participating in a hearing whenever bias, interest or other influences will prevent or appear to prevent him or her from exercising fair-minded, independent judgement on the facts and established policy.” I would like to point out that having an opinion and acting upon that opinion does not disqualify me from my duties, in fact we expect our lawmakers to come to informed decisions. I have no personal interest in my support and act upon what I believe is my due diligence to my constituents. As a council member, the citizens of Spokane depend upon me to use my researched and fact-based judgement in deciding matters, and that is exactly what I have done here. The basis for which I came to support certain legislation is solely for the benefit of my constituents and was not decided upon through personal gain or financial interest.

I chose to protest on December 8th because I believe a law to be unjust. As a lawmaker, and a citizen, it is my responsibility to oppose legislation that would not be in the best interest of my constituents. While Jackie Murray may personally disagree with my opinion on this matter, that is not a valid basis for an ethics complaint. Therefore, I ask that you dismiss this complaint that is irrelevant to the Ethics Code.

Sincerely,

Kate Burke
Spokane City Council