

City of Spokane Ethics Commission

Opening Brief

Neil Muller (Complainant)

Vs

Karen Stratton, Council Member, District 3, City of Spokane. (Respondent)

Neil Muller, citizen of the City of Spokane, moves the Ethics Commission to find “merit” in the complaint filed on 9-13-19 regarding use of City resources.

On June 20, 2018, Councilmember Stratton authored a letter to the City of Pasco encouraging them to consider the retail sales of Marijuana within their city. This letter was put forth at a time when the City of Pasco was considering whether or not to allow retail sales of Cannabis/Marijuana products. She authored this letter as an elected official and did so using City Letterhead. At this time in the City of Spokane there was no resolution or ordinance that would encourage such activity and use of city resources to advocate that the City of Pasco allow for retail sales of Cannabis/Marijuana products.

Council Member Stratton responded to the Spokesman Review, post complaint, on 9/16/2019 that she did write the letter and to quote “I wrote it as a city councilperson, to me it was city council to city council thing,” Stratton said, adding that she did not believe her actions were violations of the City’s ethical code.

Council Member Stratton also responded that there could be no personal gain in the endeavor as their Cannabis farm is not allowed by law to sell directly to retailers. I argue that this letter was an attempt to broaden the marketplace through additional municipalities allowing additional retail sales of cannabis in municipalities not served at the time. This was clearly a lobbying effort to broaden the reach of the Marijuana industry. This was NOT city business justifying the use of city resources. The city of Spokane did not pass a resolution or ordinance that would instruct a Council Member to author such a letter of advocacy.

To summarize the code, there are 4 relevant sections of the current ordinance as follows:

SMC 1.04A.030 K.1, Fair and Equitable Treatment

This section states that No officer shall knowingly use her office or position to secure personal benefit, or use of position to secure gain or profits of any other persons.

SMC 1.04A.030 K.3, Fair and Equitable Treatment

This section states that No City officer shall use City-owned materials or property for personal or private convenience or profit.

SMC 1.04A.030 K.4, Fair and Equitable Treatment

This section states that No City officer shall use the power of authority of his/her office or position with the City in a manner intended to induce or coerce any other position to provide with any compensation or other thing of value directly or indirectly.

SMC 1.04A.030 K5, Fair and Equitable Treatment

This section states that City Officers are encourage to participate in the political process on their own time and outside of the workplace by working on campaigns for the promotion of or opposition to any ballot proposition, but shall not use or authorize the use of City resources for such purposes.

I contend that Council Member Stratton broke 4 of the 5 tenants of Section SMC1.04A.030 K in authoring the letter on City Letterhead. While Council Member Stratton was not successful in her endeavor, this section of the ethics code does not directly address whether the person is to be successful or not, but rather addresses the use of resources and position of authority, for advocacy of a potential indirect gain for her own business and potential gain for David & Shilo Morgan of Lucky Leaf.

To be more specific in the 4 of the 5 tenants of this Section of code, I will expand.

SMC1.04A.030 K...

1. Gain or profit for other persons – Council Member Stratton specifically advocated for gain in marketplace for David and Shilo Morgan. In so doing, she also advocated for gain in marketplace for a product that she indirectly sells her product by way of wholesale.
2. Does not apply
3. Use of city owned materials – Council Member Stratton clearly used the city letterhead and admitted such to the Spokesman Review. The original letter is contained in the Initial complaint.

4. Use of authority for indirect gain. – Council Member Stratton signed the letter “Council Member, District 3”. She further more addresses both Pasco City Council and Pasco City Hall with the opening sentence: “ I send you this letter as a fellow elected official in Spokane. “
5. Advocacy using city resources - Council Member Stratton’s full intent of the letter was to “induce and coerce” the City Council Members of the City of Pasco for indirect gain. More specifically that indirect gain is the broadened marketplace for her own Cannabis /Marijuana Business. The direct gain would be for Cannabis/Marijuana retailers, and more specifically: David & Shilo Morgan.

In conclusion: I believe the initial complaint stands on its own merits, however; I appreciate the opportunity to present the information in greater detail. I stand by my original comment in the complaint that I believe that there is an opportunity for a teachable moment, whereby future similar communication be compared. If we don’t enforce circumstances as we are presented today, then the precedent will be set to allow for this sort of activity in the future. To expand on that train of thought, we need to ask ourselves as a community should elected officials and city employees advocate outside our community for personal gain or for the personal gain of others? If so, are they allowed to do that on their own judgement or should it be run through the normal process of city ordinance and resolutions, whereby agreement from the City is determined as a body of government?

Thank you for your time and consideration in this matter.

Neil Muller

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