

City of Spokane Ethics Commission

Complainant Rebuttal

Neil Muller (Complainant)

Vs

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

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

Council member Stratton has put forth in her Reply brief, concedes “that the June 20 letter constituted a use of my city position and city resources (letterhead).”

This was in effect the basis for the bulk of my complaint. Use of City resources and position for personal gain for one’s self or any other person. I don’t think the reasonable person would or should use the letterhead and position to advocate in another community for a business using a Council Member’s official position and resources. This implies to another community an official action by the City of Spokane and represents far more than the official duty of any city employee or elected official. This is the teachable moment that we were after.

The Council Members Reply Brief also suggests that I intend to abandon previous claims by not directly addressing them in my opening brief. These sections were included in the original complaint to illustrate that the Ethics policy does not directly address advocating or lobbying in another community. Most of the Ethics policy is specific to inside the boundaries of the City. However; SMC 1.04A.030.K. is the one specific piece of the policy that does address the matter at hand, which is where I wanted to focus my energy and why I highlighted those items over the others.

Council Member Stratton puts forth 14 exhibits that are mostly not worth addressing and appear to be a distraction from the matter at hand in that she conceded to writing the letter and using letterhead. But I do want to address one item that provides additional confusion to the conversation. Exhibit 8. Council Member Stratton shows her voting history as Abstentions within the City of Spokane’s ordinances relating to Marijuana zoning. I only point out that this exhibit confuses the issue in a contradiction of how to preside as a council member in our own Municipality of The City of Spokane, but with conceding to write a letter of advocacy for the expansion of zoning and authority in a neighboring Municipality of the City of Pasco. What is the justification of abstention in our City vs the advocacy to another City?

This part is the most confusing to me. Why is one a potential conflict of interest and not the other when both issues at hand involve the zoning of Cannabis operations.

Council Member Stratton also responded that there could be no personal gain in the letter writing endeavor as their Cannabis farm is not allowed by law to sell directly to retailers. The council Member continues to support that claim by providing Sales History in her Exhibit 9. I continue to 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. If the Council Member was allowed to sell to processors within the state and those said processors are allowed to retailers, then any additional retail markets available would be potential indirect marketplace gain. The letter 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 as a community don’t enforce the ethics code based on the facts that have been presented in this process, then the precedent will be set to allow for this sort of activity by city employees and elected officials 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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