

CITY OF SPOKANE ETHICS COMMISSION

Thomas Bassler,

Complainant,

EC-22-01

vs.

Breean Beggs,

**SECOND AMENDED PRE-HEARING
ORDER**

Respondent

The Spokane Ethics Commission met on June 15, 2022, and after finding the Ethics Commission has jurisdiction to consider the above-entitled matter, issued a Pre-Hearing Order on July 22, 2022. On August 7, 2022, Presiding Officer Sarah O'Hare received complainant's request for a continuance and thereafter respondent's response, and complainant's reply. On August 22, 2022, Presiding Officer Sarah O'Hare issued an Amended Pre-Hearing Order, continuing the hearing to September 14, 2022. Thereafter, complainant requested the rescheduled hearing to be continued to sometime in the month of October 2022; and after consultation with the parties; now, therefore, the under-signed Presiding Officer enters the following Second Amended Pre-Hearing order:

I. DATE, TIME AND LOCATION OF FULL HEARING.

The full hearing on this matter will be held on: October 26, 2022, at 4:00 p.m. at Spokane City Hall, Council Chambers, or as otherwise directed.

II. SUBPOENAS FOR WITNESSES TO ATTEND HEARING.

Proposed subpoenas must be provided to the Spokane Ethics Commission three weeks in advance of the hearing, no later than August 10, 2022. The Commission will meet in special session two weeks before the hearing to decide whether to issue the subpoenas presented. IT IS THE

1 RESPONSIBILITY OF EACH PARTY TO ASSURE THAT ANY WITNESS WHOSE TESTIMONY
2 IS SOUGHT WILL BE AVAILABLE AND WILL ATTEND THE FULL HEARING. The Ethics
3 Commission does not guarantee the attendance of witnesses; its subpoenas are not self-executing.

4 **III. PRELIMINARY ORDER.**

5 (i) This Order shall control the conduct of the full hearing of this matter.

6 (ii) Only parties of record may present argument or witnesses at the full hearing.

7 (iii) All witnesses shall testify under oath.

8 (iv) The Presiding Officer may cause the removal of any person who is being disruptive at the
9 full hearing.
10

11 (v) The parties should assume that members of the Commission have read the Complaint and
12 all documents submitted by the parties or have at least some familiarity with such submissions.
13 However, the Commission recognizes that the Complaint and submissions by the parties are not
14 evidence and advise the parties not to rely on the submissions when deciding whether to call witnesses
15 or offer exhibits.
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17 (vi) Entry of appropriate written findings and conclusions regarding Counts 1 and Count 2 (as
18 more fully described below) will take place following the full hearing of this matter, or otherwise at an
19 open meeting properly noticed pursuant to applicable law.
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21 (vii) All motions any party wishes to be heard must be made in writing to the Commission,
22 with copies served on all parties. No action will be taken on any motion unless the motion is served on
23 all parties and filed with the Commission on or before October 12, 2022. Electronic service via email
24 of all motions, exhibits and briefs on all parties as well as the Commission is authorized and preferred.
25

26 **IV. CONDUCT OF HEARING.**

27 **1. Allocation of time at full hearing:** Each side is allotted 90 minutes. Each side may use the
28 allotted time in any manner chosen. Staff will keep track of each party's time and will notify the
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1 Commission and parties when the allotted time is completed. Opening statement, direct and cross
2 examination of witnesses, argument over objections, and closing argument will all be allocated to the
3 party examination of the witness, making the argument, arguing the objection, or otherwise addressing
4 the Commission, as in opening or closing. Once the party's 90 minutes is completed, that party may
5 not present further evidence or argument.
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7 **2. Commission participation:** Members of the Commission will be allowed to ask questions.
8 Such questioning will not count against any party's allotted time. Parties are permitted to follow up on
9 questions asked by Commissioners and answers received, but the time used in any follow-up questions,
10 and answers, will be charged against the party asking following up.
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12 **3. Exhibits and Briefs:**

13 **A. Service and filing of exhibits:** Exhibits shall be served on all parties and filed with
14 the Commission two weeks in advance of the full hearing, or by October 12, 2022. Electronic
15 delivery by email is authorized and preferred, but hard/paper copies will be accepted.
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17 **B. Objections to exhibits:** Objections to exhibits must be served on all parties and
18 filed with the Commission one week prior to the full hearing, or by October 19, 2022.
19 Responses must be served on all parties and filed with the Commission 48 hours before the full
20 hearing, or by October 24, 2022.

21 **C. Admissibility of exhibits:** Any exhibit not objected to will be deemed admissible.
22 Objections to exhibits will be argued on the day of the full hearing, in advance of the
23 presentation of testimony. Exhibits shall be offered at the full hearing by number; no
24 objections will be permitted during the full hearing to the admissibility of the exhibit used,
25 except as set forth below (impeachment exhibits).
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27 **D. Numbering exhibits: exhibit lists:** Complainant will use numerical exhibits
28 designations (e.g., 1-50); Respondent will use alphabetical exhibit designations (e.g., A-Z).
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1 Each submitting party will pre-number and pre-mark exhibits and shall submit a list of all
2 exhibits simultaneously with the exhibits served.

3 **E. Impeachment exhibits:** Any party may impeach any witness by exhibits offered to
4 reflect on the credibility of the witness. Newspaper articles and other, similar documents may
5 not be used for impeachment purposes unless the document was submitted in advance of, and
6 opportunity was given for argument prior to, the full hearing. These are the only impeachment
7 documents which must be pre-disclosed, in advance of the full hearing.
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9 **F. Motions to Dismiss:** Motions to dismiss shall be heard on October 19, 2022 at 4:00
10 p.m. Motions to Dismiss shall be filed with the Commission and served upon all parties two
11 weeks before the scheduled Motion hearing, or by October 5, 2022. Response to the Motion
12 for Dismissal shall be filed with the Commission and served upon all parties one week before
13 the hearing, or by October 12, 2022. Any Reply to the Response to the Motion for Dismissal
14 shall be filed with the Commission and served upon all parties two days before the hearing, or
15 by October 17, 2022. Time spent in such argument will be limited by the Presiding Officer to
16 no more than thirty (30) minutes per side.
17

18 **G. Considerations of motions and argument over matters to include, but not**
19 **limited to, objections to exhibits and/or witnesses.** Time spent in such argument will be
20 limited by the Presiding Officer to no more than fifteen minutes per side, but this time will not
21 be counted toward the 90-minute allocation for each party. Time-counting will commence with
22 item 5(A)(2), below.
23

24 **H. Hearing Briefs:** Parties must serve and file any briefing (excluding briefing on
25 Motions to Dismiss) they wish the Commission to consider one week prior to the full hearing.
26 No later-filed brief shall be considered by the Commission, unless prior to the full hearing, the
27 Commission approves of such late filing.
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1 **4. Witnesses lists:**

2 A. Witness lists shall be served on each party and filed with the Commission on or
3 before October 12, 2022. Any objections must be served and filed on or before October 19,
4 2022.

5 B. Witnesses shall testify under oath.

6 **5. Conduct of hearing:**

7 A. **Presentation of testimony and argument** at the full hearing shall occur as
8 follows, subject to the time allocations and limitations set forth above:
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- 10 1. Introduction of hearing by Presiding Officer.
- 11 2. Opening Statement (non-argumentative summary of evidence to be presented)
- 12 by Complainant. Time shall be counted toward party's allotted 90 minutes.
- 13 3. Presentation of Complainant's Case (Presentation of Witness and Documentary
- 14 Evidence). Complainant calls witnesses.
- 15 4. Cross Examination of witnesses by Respondent.
- 16 5. Questions by Commission. (Time not counted against either party's allocation.)
- 17 6. Follow-up Questions by Complainant and Respondent.
- 18 7. Complainant rests.
- 19 8. Opening Statement (non-argumentative summary of evidence to be presented)
- 20 by Respondent. Time shall be counted toward party's allotted 90 minutes.
- 21 9. Presentation of Respondent's Case (Presentation of Witness and Documentary
- 22 Evidence). Respondent calls witnesses.
- 23 10. Cross Examination of witnesses by Complainant.
- 24 11. Questions by Commission. (Time not counted against either party's allocation.)
- 25 12. Follow-up Questions by Complainant and Respondent.
- 26 13. Respondent rests.
- 27 14. Final Arguments.

28 B. **Rules of Evidence:** It is the intention of the Ethics Commission to hear all relevant
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1 evidence. Lack of conformity to state or federal rules of evidence goes to the weight, not the
2 admissibility, of evidence. However, questions with the purpose or effect of harassing or
3 intimidating a witness will not be tolerated. Cumulative or argumentative testimony,
4 speculations of a witness, and testimony based solely upon hearsay are not helpful to the truth-
5 finding process and may therefore be excluded, in the discretion of the Presiding Officer.
6 Parties (and/or Counsel) are encouraged to point out to the Commission that the opposing
7 party's evidence, in whole or in part, consists of evidence that could be deemed inadmissible
8 under evidentiary rules applicable in other fora.
9

10 **6. Evidentiary objections at full hearing:** It is a part of the purpose of this Order to minimize
11 the objections made at hearing to preserve the flow of evidence and complete the full hearing in a
12 timely manner. However, parties retain the right to object when it is deemed advisable to do so.
13 Objections shall be directed to the Presiding Officer, who will alone determine the appropriate
14 response to the objection. The Presiding Officer may consult with Commission counsel before ruling
15 but need not do so.
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17 **V. ISSUES TO BE DECIDED FOLLOWING FULL HEARING.**

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19 **Count 1:** Whether Respondent, Breean Beggs, violated SMC 01.04A.030 I (i.e., made a
20 public disclosure of confidential information) when providing the remaining members of the Spokane
21 City Council and Spokane City Council staff copies of three proposals to contract for services (as well
22 as the scoring sheets completed by the Request for Proposal (RFP) committee of the Continuum of
23 Care Board used as part of an outside review process to assist the City of Spokane with its decision in
24 awarding the contract) which were scheduled for some future date to be considered for approval by the
25 Spokane City Council?
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- 27 a. When City Council is the decision maker on whether to award a municipal
28 contract for services over \$50,000.00 and to whom a municipal contract is
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1 awarded, is sharing documentation received as part of the City's RFP process (to
2 include scoring sheets conducted by an outside entity assigned to assist the City of
3 Spokane with its award decision) by the City Council President with remaining
4 members of the Spokane City Council and their staff a disclosure to the public as
5 contemplated by SMC 01.04A.030 I?
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7 **Count 2:** Whether Respondent, Breean Beggs, violated SMC 01.04A.030 K (1) (i.e., used his
8 office or position to secure personal benefit, gain or profit or to secure special privileges or exceptions
9 for himself or for the benefit, gain or profits of another) by sharing the three proposals to contract and
10 score sheets to the remaining members of the Spokane City Council and its staff?
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12 a. Did Spokane City Council President Breean Beggs secure a personal benefit, gain,
13 or profit by sharing information relating to an RFP process (to include scoring
14 sheets conducted by an outside entity assigned to assist the City of Spokane with
15 its award decision) with remaining City Council members and their staff?
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17 b. Did Spokane City Council President Breean Beggs secure special privileges or
18 exceptions for himself or for the benefit, gain or profits of any other persons by
19 sharing information relating to an RFP process (to include scoring sheets
20 conducted by an outside entity assigned to assist the City of Spokane with its
21 award decision) with the remaining City Council members and their staff?
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23

24 Approved on the 7th day of September, 2022.

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26 _____
27 Sarah O'Hare
28 Presiding Officer
29 Co-Chair, Spokane Ethics Commission
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