

CITY OF SPOKANE ETHICS COMMISSION

Neil Muller,

Complainant,

EC-23-02

vs.

Zack Zappone,

Respondent.

**FINDINGS, CONCLUSIONS AND
DECISION**

INTRODUCTION

The City of Spokane Ethics Commission held a hearing on December 14, 2023, pursuant to SMC 1.04A.110F. Before the Commission was the complaint filed by Neil Muller against Zack Zappone and Zack Zappone's motion to dismiss. Also before the Commission was Zack Zappone's objection to a potential conflict of interest between Commissioner McFarland and complainant Neil Muller. Neil Muller, complainant, and Zack Zappone, Respondent, were present.

The following documents were considered:

5/15/23	Complaint by Muller
7/12/23	Zappone Jurisdictional Response
10/25/23	Muller Opening Brief re Zappone
10/25/23	Zappone Objection to a Potential Conflict of Interest Between Commissioner McFarland and the Complainant Neil Muller
10/31/23	Zappone Request for Continuance
11/9/23	Second Amended Consolidated Prehearing Order
11/22/23	Muller Witness List re: Complaint re: Zappone
11/29/23	Zappone Response to Opening Brief and Motion to Dismiss

1 11/29/23 Muller Response to Objections by Ethics Violation Respondents
2 (Zappone, Carlos and Gunn) re: Potential Conflict of Interest
3 12/6/23 Muller Reply to Zappone Response to Opening Brief
4 12/14/23 Commissioner McFarland's Written Response to Potential Conflict of
5 Interest
6

7 After review of the documents; filings outlined above (along with attachments) and
8 consideration of the arguments presented by the Parties, this Commission makes the
9 following Findings, Conclusions, and Decision.
10

11 **FINDINGS**

12 On May 15, 2023, complainant Neil Muller filed his complaint with the City of
13 Spokane Ethics Commission.
14

15 The complaint alleges that Mr. Zappone violated provisions of the City of
16 Spokane's Code of Ethics contained in SMC 1.04A.030 through his conduct relating to
17 the adoption of the City's Redistricting Plan contained in Ordinance No. C-36298.
18 Specifically, the complaint alleges that Mr. Zappone violated SMC 1.04A.030 A,
19 General Prohibition Against Conflicts of Interest, SMC 1.04A.030 G, Personal Interest
20 in Legislation Prohibited, SMC 1.04A.030 K, Fair and Equitable Treatment, SMC
21 1.04A.030 M, Aiding Others Prohibited, and SMC 1.04A.030 N, Commissions of Acts of
22 Moral Turpitude or Dishonesty Prohibited. The alleged conducts of Mr. Zappone
23 attributed by Mr. Muller as having constituted prohibited conduct includes conducting
24 city business on private electronic devices, misuse of government resources and
25 maintaining a conflict of interest in the adoption of the redistricting ordinance.
26
27
28
29
30

1 Mr. Zappone responded in part by explaining the legislation required by state law
2 and the City Charter, which was followed by the City Council, resulted in the
3 development and adoption by ordinance of a redistricting plan. Mr. Zappone states that
4 he has no financial or other interest that conflicts with his ability to perform his official
5 duties by participating in the legislative act of adopting by ordinance a redistricting plan.
6 Mr. Zappone further states that he has no personal interest in the legislation adopting a
7 new redistricting plan and that his e-mail communications were of a personal nature.
8 Finally, Mr. Zappone states that Mr. Muller fails to provide any evidence of the alleged
9 ethics code violations.
10
11

12 **CONCLUSIONS**

13
14 Based upon the foregoing Findings of Fact, the Ethics Commission concludes as
15 follows:

- 16 1) The Motion to Dismiss is denied.
- 17
18 2) The communication of City business on personal electronic devices, while it
19 may be a violation of the City's administrative policies, is not a prohibited
20 conduct enumerated in SMC 1.04A.030.
- 21
22 3) Based on the evidence presented to the Commission, the Commission is
23 unable to determine by the required four affirmative votes that by
24 preponderance of the evidence standard, the alleged conduct constituted a
25 violation of the Code of Ethics; and
- 26
27 4) While the Commission does not determine by the required affirmative vote
28 that a violation of the Code of Ethics did or did not occur, it does note that all
29 City employees need to understand and follow the City's administrative
30

1 policies regarding the use of personal devices to when conducting City
2 business.

3 **DECISION**

4
5 Based upon the Findings and Conclusions set forth above and the deliberation of
6 the Ethics Commission, the Ethics Commission is unable to conclude by the required
7 four affirmative votes that a violation of Spokane Code of Ethics did or did not occur.
8
9 Co-Chair Sarah O'Hare recused herself.

10 DATED this 20 day of December, 2023.

11
12 
13 _____
14 Clayton McFarland
15 Co-Chair
16 City of Spokane Ethics Commission
17
18
19
20
21
22
23
24
25
26
27
28
29
30