

CITY OF SPOKANE ETHICS COMMISSION MEETING MINUTES

September 2, 2015

Present:

Mike Fagan, Spokane City Council
Jon Snyder, Spokane City Council
Troy Bruner, Chair
Brian Steverson, Member
Monica Holland, Member
Levi Liljenquist, Member
Mike Piccolo, Commission Counsel
Pat Dalton, City Attorney's Office
Rebecca Riedinger, Staff Liaison

Troy Bruner called the meeting to order at 4:08 p.m.

All members are present and there is an introduction of members and guests. Troy notes that Alice Buckles and Steve Sennett are not present today, but there is quorum.

Troy states the first item on the agenda is the approval of the minutes from the last meeting on August 12th. Mr. Fagan noted he had a couple of issues and two changes were made to the minutes: 1) On P.3, 2nd paragraph there is change from the Word Memorandum to Opinion; 2) To Add the words Written Opinion before contends ___ is /was. 3) And Page 4, 4th Paragraph, the addition of "for various reasons" and Page 4, Corrected name in last paragraph from Snyder to Stuckart. All approve requested changes and they will be made to document and reviewed again and approved at the next meeting.

The second item on the Agenda is Mr. Fagan's request for a continuance in his matter before the Commission. Mr. Fagan states he would like to meet with any attorney. He has provided a written request with attachments.

Mr. Snyder states that there are two ways that the Memo at issue could be released:

1) City Legal, with Council, could agree to release the entire memo; or, 2) Draft a redacted memo without the conclusions/ options available to the Council. Mr. Snyder adds he feels the options listed in the memo are the most important to the Council, strategy-wise-if the Commission feels that could be appropriate. Mr. Snyder adds that the content of the title of the memo is enough to perceive what he could reveal.

Mr. Fagan stated that, while he respects Mr. Snyder's opinions, he felt, from the start, that there was an implied waiver (of the confidentiality) since the memorandum had been discussed

openly at the meeting. Mr. Fagan said the Memo should be produced stating, "If you don't have a copy of the Memo, you don't have a case and, as such, the matter should be dismissed."

Mr. Bruner asked if there is any motion to dismiss the matter and there is none.

Mr. Fagan stated he is requesting a continuance but would move for a dismissal if he could do so. Mr. Bruner stated the Commission could consider a motion to dismiss, and, so, Mr. Fagan moved for a dismissal for lack of evidence. Troy Bruner asked if there were any thoughts on the matter. Brian Steverson asked how they could dismiss for lack of evidence when we haven't asked for it. Troy asked if the Commission thought they would be able to somehow obtain it. And Brian said "that is the open question, isn't it?" Pat Dalton stated that the City Attorney's Office could not provide it because they are ethically obligated to not release it, but the Council, itself, could release it.

Troy asked Jon Snyder if he has asked the Council to release it and Mr. Snyder answered that, no, he had not, but he had mentioned it. It would require four votes of the council to get the Memorandum either in full or redacted, but that the matter is still relevant – the issue is still alive.

Troy states that there has been zero progress toward obtaining City Council approval for the Commission to review the Memo. Mr. Snyder asked if the Commission would consider reviewing a redacted memorandum and Troy states he has some concerns about how they can determine if there is a violation if they can't match the items with a violation if they can't see the Memorandum. Mr. Snyder states, if that is the case, there would never be any violations in confidential matters because they can't review confidential writings.

Levi Liljenquist stated that the Commission needs to make a formal request for the Memorandum and adds that some people in the room are potential witnesses.

Mr. Sennett stated that we aren't at the stage yet to see the Memorandum and Troy responds that he is disappointed that there has been no progress toward receiving the Memo and there is no reason to believe at this point that they can review it. Mr. Snyder states he would caution him from saying that, agreeing with Mr. Liljenquist that the Council hasn't even received a formal request for the Memorandum. Troy states he thinks the burden to do so is on Mr. Snyder.

Monica Holland states that there may be other avenues to obtain the Memo. Troy asked how and Monica responded that they maybe should not discuss the specifics at that time. Troy asked if there is an avenue to obtain the memo, when would be a better time to get it, after all they should review it by the next meeting, shouldn't they?

Levi responds that witnesses could be called, such as Mr. Piccolo in particular.

Troy states he would find it very important to have access to the Memorandum at issue- and notes they could possibly obtain it one of two ways: 1) From the City Attorney or 2) Have Mr. Synder obtain approval from the City Council to allow the Commission to review that, but, unfortunately, he has not done so.

Mr. Snyder states that the Council could approve release of it, but it would have to occur at a public meeting and they need a formal request.

Fagan states the Council had already made references to the Memo. The Initiative was qualified for 2017 and we are two years out so he feels the Memo should be released in whole .

Jon states we need a formal request because we can't know that yet.

Troy states that he feels that burden should lie with Mr. Snyder to provide the evidence.

Jon stated that he provided the tapes of the meeting and he believe it clearly shows the violation of privilege while discussing the Memo at issue. He added that if the Commission is considering a continuance, if you need the see the memo, he will go to the City Council and request it.

Troy asks, who is in favor of dismissing the Complaint? No one so moves or agrees.

Pat Dalton states that there is a 3rd option. The City Council could allow the memoranda to be review in camera. Mr. Fagan asked if they would have to sign a disclosure agreement and Pat answered they we could dp tjat/

Troy states he would like to reiterate his concern, because these allegations are serious, that we want evidence. If there is a lack of it, I could move to dismiss the matter for lack of evidence. Levi agrees that the Commission must formally review the document and Steve Sennett states he thinks it a reasonable request to continue the matter to allow for more time to obtain or resolve the memo issue.

Troy Bruner moves to Continue the matter and adds again that he feels the burden here is on Jon Snyder to provide the material to them, not the other way around. There is a motion to continue, all approve, except Troy. Motion to Continue passes 3 to 1.

Monica states that she also thought about the issue of an in-camera review. She asks if that even would happen before the meeting. How would the commission set that up? Pat Dalton states that Mr. Fagan, has stated he has counsel, but will not provide the attorney's name, so they don't know who to contact to arrange that request and Mr. Fagan responds to "just give the material to me." It is agreed the Commission will provide any materials to him directly.

Mr. Piccolo states that he has prepared the decision regarding Ms. Zapotocky complaint and asks if the Commission approves so that we may post the decision. Levi moves the decision be

approve and all approve. The decision will be signed and posted on the website and with the clerk.

Mr. Fagan leaves and the Commission commences interviews of candidates: Tom Palachuk and Tom Linzey. Mr. Palachuk states that he had no idea this was to be an interview, as he filled out the application over a year ago, but he is excited to be here. Brian Steverson asks if he is still employed at Paine-Hamblen and he says he is. Monica asks what he area of practice is and Mr. Palachuk states he is a general practice attorney focused on intellectual properties. Intellectual property is a passion of his but he also likes employment work and helping the community.

Mike states that there are six members appointed to the Commission, but that the 7th member is selected directly by the members. Troy states that they should review all the candidates before selecting how they will recommend. Mike states there are three openings needing to be filled.

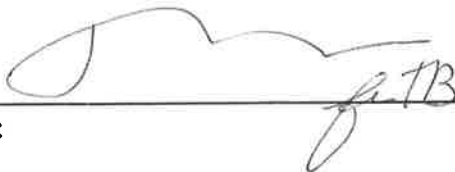
The next candidate is Thomas Linzey. Mr. Linzey states he lived in Spokane 4 years ago, and just moved back 4 months ago. He is an attorney, but not in Washington. He would like to volunteer in order to be productive. He works at an environmental law practice that he manages. Tom states he thinks the Ethics Commission should be expanded. He states he would like to see it advocate for changes and recommendations, noting there is always room to tighten ethical issues and improve. He thinks the EC plays an important role, but could do more. Tom states he thinks Ethics Commission are more responsive and feels like "they" don't like heavy oversight but feels it is crucial. There are no other questions for Mr. Linzey.

The next candidate is Jeff Rungan. Jeff says he was born and raised in Spokane. He is inspired by leadership in Spokane – for his son and wife. He wants to set the example for his son and be a role model, like all parents, and always looks to ethical issues to help do so. He works for Express Employment. Jeff stated he could and would become familiar with the Code, as he recognizes that the Commission has to make decision by the code and not by their own feelings. There are no more questions and Mr. Rungan left.

There is discussion regarding re-opening the pool to more candidates to review.

Meeting adjourned.

Reviewed and approved:

By: 

11/5/15
Date