

**CITY OF SPOKANE ETHICS COMMISSION**  
**MEETING MINUTES**  
**APRIL 5, 2017@ 4:00 P.M.**

Dennis Cronin, Chair, commences the meeting at 4:04 p.m. and asks members to introduce themselves. Present are: Brian Steverson, Sarah O'Hare, Amina Fields and Alice Buckles. Dennis welcomes everyone present.

Regarding the Minutes from the last meeting, Dennis asks if members have had a chance to review them. Everyone states that they have. Brian moves to approve the Minutes and Amina seconds that Motion. All approve the minutes from meeting of February 15.

Brian, interjects that first however, they need to approve the night's agenda, Item A. Dennis moves that they rearrange the agenda items, however, to leave the Ethics Commission's housekeeping items to the end. Sarah seconds that motion and the Agenda is rearranged as such, for expedience.

There is a quorum tonight to review Mr. Shogan's complaint. Mr. Cronin states that he now has a conflict of interest in this complaint because an affidavit was filed in the matter by City Councilwoman Karen Stratton and he is friends with Karen Stratton. Karen has provided testimony by affidavit in support of Mr. Shogan's complaint. So, Mr. Cronin states he has decided to recuse himself from this complaint. Brian Steverson will chair in his absence.

Milt states that he has looked into a couple of issues: One was the set of ordinances under which the Commission is organized and also a transcript, an Exhibit, that had been attached to the Declaration filed by Mr. King last fall regarding the recall petition that had led to a hearing. Milt said he sent it around last week, to make people aware that it would be on the Commission's record for today's hearing, because, in his opinion, that it is relevant to Mr. Shogan's Complaint against the Mayor. The Superior Court had the same issue before it: whether or not the Mayor was dishonest during the Straub firing. Milt points out that they are looking at the same issue here again under different complainants. Milt noted that when serial complainants raise the same issues, it doesn't require the Respondent to answer the same complaint over and over, for each individual person making a complaint, but, rather, once an issue has been addressed/responded to - res judicata would prevent the Mayor from having to respond again and again to the same issued complaint. Theresa Sanders has already been subjected to a commission penalty, and those decisions are supposed to be final and people should not have to face a similar/related complaint again and again. So, the Superior Court found that the mayor was not dishonest as there are two ways to interpret a question/answer and so the judge held it was not dishonest in his view. Then there is a case, In re: Recall of Cathy Pearsall-Stipek, that holds that when serial complainants have exactly the same interests as one another – they aren't

going to make a public official defend himself over and over against the same complaint. Milt notes he was brought in because of the conflict of interest about the Mayor. The complaint was filed, even if it never went to hearing, it was filed. And, another complaint, filed against Theresa Sanders, had the same issues essentially. And so res judicata prevents that from happening because they could be at this for several years, as person after person could come forward to claim, "well, my own complaint has not been heard yet" again and again. Therefore, Milt advises it would be in this Commission's authority to recognize the mayor has already addressed these charges. Joe Shogan objects from the audience. Milt pointed out that there had been a previous complaint against Theresa Sanders and one of the stipulations in the settlement agreement for that Complaint that was presented to this body was a cease and desist order together with a financial penalty of \$75.00. As such, Ms. Sanders was already subjected to a finding and was punished in connection to this same complaint. And that finding was final. She should not have to come back again and again to answer these same allegations and, so, this recent second complaint against her by Shogan was dismissed because she had already responded/was punished. She doesn't have to keep getting sanctioned over and over again for the same act(s).

Following Milt's comments, Brian and Amina say they have several questions

Amina asks Milt, if he is recommending that they dismiss this complaint against Mayor Condon because the Superior Court has already heard this complaint and has dismissed it. From what she recalls of the decision by the judge, was that it was dismissed based on insufficient evidence without prejudice. The judge also had commented as to what she thought, but she didn't make an actual decision, because regardless, it was dismissed for insufficient evidence because what was submitted was insufficient, with prejudice. She didn't make an actual decision one way or the other. Milt states the judge did first say that the evidence was provided to the court incorrectly and contained hearsay and there were no declarations in support of it. She held the Mayor interpreted the question one way and answered with one answer.

Milt states that the Superior Court judge did say the report was handed out and it contained hearsay. There were no declarations authenticating these statements in the report. Milt thinks the court dismissed because the question to the mayor used the words, "were any complaints *lodged* against" and the words, "lodged against" and, "lodging" could connote a formal complaint and the judge made the comment and it was central to his holding, that if a person is asking you a question and you answer under one understanding of what the question means, that is not dishonest. So, if the mayor had been asked the question differently and he had had said, nope, then it might be a different matter. It was his interpretation of a question that could be read two ways and was answered one way correctly. That can't be dishonest. Milt then adds that the Commission is not bound by the Superior Court's decision, but he is saying it would be appropriate and within their authority to say they are bound by the Superior court Decision.

Amina states, though, that this most current complaint before them is not narrowly related to just that press hearing. She asks, are there not other issues in the complaint he is referring to? Milt says, "yes, absolutely". Brian states that that was one of his questions. This new complaint they are reviewing now is not that he (the Mayor) lied or was dishonest during a press, so he is not sure how the court's ruling entails that we they can't consider these new complaints and they are different complaints about different behavior. It was the same thing with the Sanders complaint by Shar Lichty. This complaint, as lodged against City Administrator Sanders has different allegations, so he doesn't see why they are bound by that prior decision. Milt asks if he can explain and adds that it is not that they are bound by anything - it is just a recommendation. He states it is like the concept of claim splitting which arise from the same accident/incident. You can't do that once a matter is settled.

Milt says that this Commission could say, it doesn't have to, but it could say that all the complaints related to Monique Cotton, Frank Straub, the Mayor and his staff, really those complaints contain the same common nucleus of operative fact and we won't hear, or we will, any new way of addressing this complaint or additional facts. Brian states that it seems Milt is saying that once a complaint is filed about an issue, and in this case, it is an issue, not a singular incident like running a stop sign, any further complaints related to that issue don't have standing or shouldn't be allowed because they all should have been dealt into the same complaint and he is not getting that. But using that analogy, this complaint references two new/different acts that had not been complained of previously. So he doesn't see how they are connected tightly enough. Milt doesn't feel they are bound by any precedent. He doesn't feel that and it is up to their discretion.

Sarah states she is not sure that she feels bound by the court's decision and it not something she is going to be bound by, as she is not sure they had the same evidence that they do. It sounds like a different encounter.

Milt says that it appears they are going to be going forward with this and he would just suggest that this body now deal with the materials filed by Mr. King the day before yesterday. He doesn't know if anyone has had a chance to read this stack, but also anticipates that Mr. Shogan would like an opportunity to respond to it. And whatever, else it does this body should not reach a conclusion today on this very recent filings and give everyone an opportunity to read it.

Brian states that under the list of criteria that they could reach a judgment of dismissal one reason is that the complaint is frivolous and that Mr. King's at least strikes at the groundlessness of the complaint. He would love to hear from fellow commissioners.

Alice states the recommendation is that we wait to review the order of dismissal until the next meeting. Brian states that they were considering the issues for jurisdiction and that there are other grounds under which they could consider a dismissal. They need more time to go through the documents and that even if they find jurisdiction, there are other things under which they could dismiss the complaint, but that this way they are breaking up the complaint.

Milt states that if the commission decides to go forward, the order of things would be to enter a pre hearing order at the next meeting. So, he would recommend tabling item C to the next meeting.

Brian states that it would matter how the commission members feel and if they all agree they would prefer to table it, except Amina who says she could go either way. Sarah states she would table it and Brian agrees he would want everyone to feel ready. Brian moves that they table Agenda Item C to provide more time for review. Sarah seconds. Amina asks if they want more input. Mr. Shogan states that the history of his other complaint, that all the issues of complaint from the press conference are gone. He said the commission had previously told him he didn't have enough, no actual quotations, so he has now provided quotations. He had not had the Seabold report then, but when he got the Seabold report, that was embodied in his 5<sup>th</sup> complaint. Amina states that she had just been asking if he had any thoughts only about continuing the hearing. Joe states this is distinct / different complaint and does not involve the news conference. He would like full consideration and he has made requests for subpoena be issued for Mayor, Sanders and Stratton. Joe Shogan would challenge Carly Cortright's affidavit.

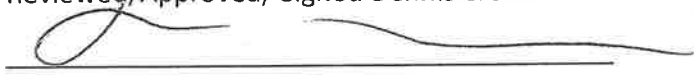
Mr. King is not present. Keller Allen presents on behalf of Theresa Sanders and she is here to dispute these charges. Mark Bouvier from Jim King's office is also present and states that he would echo Mr. Allen's remarks and would defer the issue to the next meeting.

Amina now seconds that motion and Agenda Item C is tabled to the next meeting.

The Chair, Mr. Cronin returns. He states they just need a motion to adjourn. Brian moves to dismiss. Amina seconds. Meeting adjourned.

Reviewed and approved this \_\_\_\_ day of May, 2017.

Reviewed/Approved/ Signed Dennis Cronin



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Ethics Commission, Chair