

**CITY OF SPOKANE ETHICS COMMISSION
MEETING MINUTES
March 21, 2018 @ 4:00 P.M.**

Dennis Cronin opens the meeting and asks everyone to introduce themselves.

All members are present today:

Brian Steverson, Commission Member; Dennis Cronin, Commission Chair; Michelle Bleek, Commission Member; Ken Hall, Commission Member; Clayton McFarland, Commission Member; Sarah O'Hare, Commission Member; and, Amina Fields, Commission Member. Also present are the Commission's City Attorney Michael Piccolo and Milt Rowland, outside special counsel for the Commission. (Present, arriving later, is Joe Shogan, the Complainant (in re: Shogan v. Condon) Otherwise, there is no one present in the audience.

Dennis Cronin, Chair, commences the meeting at 4:10 p.m., and asks members to introduce themselves. He also notes that, due to a conflict of interest in the Condon matter, Dennis plans to recuse himself from hearing the complaint, but that before doing so they have two other matters before them from the Salary Review Commission the Ethics Commission must address first.

The meeting's agenda is reviewed for approval. Ken moves we approve the agenda and Brian Seconds. The vote is unanimous for approval of the agenda.

Dennis states the next thing to approve are the Minutes from the meeting from the prior meeting of December 20, 2017. Everyone has a copy, it is reviewed, and then, on motion by Clayton with a second by Sarah, the Minutes are approved unanimously and signed.

Dennis then notes that there are two matters /applicants before them for the Salary Review Commission. Mike Piccolo explains that they Commission should meet and interview the candidates to ensure there is no conflict of interest in their appointments. Mike suggests the Commission meet with the candidates and bring them forward at the April 11th meeting coming up. They would ask some basic questions and confirm them for review and appointment by the Mayor. Mike will arrange for the candidates to attend the next meeting if possible to review their appointments.

Dennis moves for the approval of the Meeting's Agenda. No objections and all agree to approve the Agenda.. Agenda is approved. Everyone has reviewed the Minutes and there are no changes so they are approved and signed.

Chair Dennis Cronin advises/reminds the Commission that he has recused himself from this particular complaint because he is friends with Karen Stratton, and, as such, he will hand the meeting over to Brian Steverson in order to avoid any conflict.

Brian states that he hopes the Commission members have had the opportunity to review the proposed Order Dismissing the complaint regarding Theresa Sanders. It is pretty straightforward and he asks if there is a Motion to approve. Sarah O'Hare moves to approve and it is seconded by Clayton. All approve – Mr. Shogan's Complaint against Theresa Sanders is dismissed and the Order is signed.

Brian states the last remaining item is the approval of the Pre-Hearing Order for the Hearing regarding Joe Shogan's Complaint against Mayor Condon. Brian asked Milt to explain the pre hearing order and its purpose. Milt explains this Order supersedes any other filings in the case, presents them with an issue that is the only one to be decided as has been vetted by the attorneys. Milt wanted to point out that this is actually the product of a fairly lengthy process involving all the attorneys involved. There can really only be one thing that would require additional action by this Commission and that is if anyone comes forward with a subpoena for a witness. If so, Milt would contact them in that case to see how they would want to handle it procedurally. The subpoena has to be provided to the commission by April 4th. This body does have subpoena power, but its subpoenas are not self- executing. Milt states we don't want to have it where one party or the other says I absolutely need this witness and this witness is not available or not in the range of their subpoena power. So there may be some discussions about that on April 4th. So, Milt adds the PreHearing order sets forth everything they need in an orderly fashion.

Milt can represent to the Commission that he has sat down multiple times to work on this Preheairng order and changes were requested by the parties and he made those changes- and afterward provided them for final review and no one has contested anything since that time. He doesn't think it or expect that –the order -should be the subject of any dispute.

Brian asks if a list of witnesses is provided by April 4th of who they want to have subpoenaed and Milt says they must be provided by April 4th and its his job to get them served. There could be a problem with a subpoena request. The Commission would decide whether they should issue the subpoena or not. If Milt is wrong about that, he says they may have to use emergency procedure to convene them.

It is opened up to the Commission. Michelle asks for clarification of admissibility of exhibits and impeachment of exhibits. Milt says there is classically a difference between the kinds of exhibits you have to disclose in advance and exhibits that may become relevant for the first time when you hear it for the first time while they are testifying. Exculpatory evidence may be used. Impeachment usually goes towards a witness credibility.

Clayton asks, regarding subpoenas, if the Commission were to hear from a specific person regarding this complaint, does the commission have the power to subpoena them. If the Commission decides they feel they can't decide the case without hearing from a certain person, then they can subpoena a witness if they want to. This body, is sort of making this up as they go along because it's a relatively new commission. Milt reminds them that their subpoenas are not self-executing and Milt would have to go to Superior Court and request an order to enforce the subpoena by obtaining one that is enforceable. Some witnesses may have issues, for example, if they were to summon Frank Straub and his being out of state- something like that.

Amina asks, noting that Mr. Shogan had submitted just parts of the whole Cappel Report, just certain portions, so her question is, can she read the entire report if the parties have not submitted the entire record themselves or can she herself admit it into the record. Milt states that if any member has read the entire report they should make that clear on the record. They are to decide only on the facts admitted into the record. Which is so important it is a Constitutional issue. Parties should have the chance to explain something is not in the record, any evidence they consider should be disclosed. So, in the end, Milt would say if they have not read the report, they probably shouldn't now. But, if they have, they need to disclose that. Brian asks Amina if she does want to admit the report, acknowledging he has read the report as well. Milt interjects there were actually two Cappel Reports so we need to be specific as to which one.

Joe states he is only submitting a couple pages. Amina states that her point is that if Mr. Shogan wants them to consider the whole report, he would have to submit the whole report. Otherwise, they can only consider the two pages of the report that he did submit.

Joe Shogan stated that if they have not read the whole report, there is really nothing preventing them from reading the whole report. Joe adds that unless they have read the full report, he thinks they are going to be lacking in their understanding of the matter but he is not going to reintroduce it. He says it is in your background material. Amina states there are new Commission members not familiar with the report who were not present. Joe states that then they should read the report. What is to prevent them from considering the entire report? He notes they can consider anything really.

Brian states that they are making sure that if any commission member is meaning to make use of the entire report they should enter the entire report.

Clayton moves to approve the final pre-hearing order. Michelle seconds that Motion. Motion to approve is unanimous and the Pre-Hearing Order is approved.

Dennis Cronin adjourned the meeting at 4:48 p.m.

APPROVED:

Dennis Cronin, Chair
City of Spokane Ethics Commission