

## CITY OF SPOKANE ETHICS COMMISSION

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### Ethics Commission's Advisory Opinion ECAP-24-01 Re: Dawn Kinder

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The City's Neighborhood, Housing, and Human Services Department (NHHS) awards grants to housing and human service organizations. In January of this year, Dawn Kinder was appointed by the Mayor to serve as the Director of NHHS. Just prior to her appointment, she was employed by Catholic Charities of Eastern Washington, one of several organizations that compete for grants awarded by NHHS. Ms. Kinder also has a partner who works for the Spokane Housing Authority, another organization that competes for grants awarded by NHHS. On June 13, 2024, Ms. Kinder requested an advisory opinion to address any concerns that may exist about apparent conflicts of interest arising from her connections to these organizations considering her current position as Director of NHHS. Ms. Kinder seeks to avoid the appearance that either organization would hold an advantage over other organizations should they apply for funding through the competitive bid process.

The Spokane Municipal Code authorizes City officers and employees to request advisory opinions from the Ethics Commission "concerning the applicability of the Code to hypothetical circumstances and/or situations solely related to the person making the request." On July 31, 2024, the Ethics Commission met to discuss Ms. Kinder's request for an advisory opinion. At this meeting, the Commission considered Ms. Kinder's June 13, 2024 email (Attachment A), additional information she provided on June 24, 2024 (Attachment B) and the testimony she gave at the July 31<sup>st</sup> meeting.

Relevant to Ms. Kinder's inquiry are provisions in the Ethics Code regarding conflicts of interest, personal interests in contracts and contract selection.

- SMC 01.04A.030 (A) prohibits City officers or employees from engaging in business transactions or professional activities that might be seen as conflicting with the City officer or employee's proper discharge of his or her official duties, the conduct of official City business or as adverse to the interests of the City.
- SMC 01.04A.030 (B) prohibits City officers or employees from participating in making a contract in which he or she has a "personal interest" or performing with regard to that contract some function requiring the exercise of discretion on behalf of the City. SMC 01.04A.020 defines "personal interest" as a "direct or indirect pecuniary or material benefit. A City officer or employee is deemed to have a personal interest in the affairs of any person who is a family or household member of the City officer or employee, which includes a spouse or domestic partner. This prohibition does not apply where the City officer or employee has only a "remote interest" in the contract and discloses it. SMC 01.04A.030 (C).
- SMC 01.04A.030 (D) prohibits City officers or employees from having influence on the City's selection of a person or firm having or proposing to do business with the City if the City officer or employee has a personal interest in the selected person or firm.

As NHHS director, Ms. Kinder leads a Division of the City of Spokane which oversees the City's Community Housing and Human Services (CHHS). Given the fact scenario she presents, she is not engaged in any manner of business transaction or professional activity that could be seen as

conflicting with the proper discharge of her official duties or as adverse to the interests of the City. She is therefore not likely to engage in prohibited conduct under SMC 01.04A.030 (A). She has no direct involvement with the boards that are managed by CHHS and no role in their decisions regarding grant funding. All such decisions are drafted up as contracts awarding such grants, and they ultimately proceed to the Spokane City Council for final contract approval. As division head, Ms. Kinder signs contracts, but with respect to the award of grants, these signatures do not reflect independent decision making on her part. They are an official sign-off for decisions made by boards. To address her current question about perceived conflict, she currently refrains from signing any contracts with Catholic Charities.

The Ethics Commission makes the following determination:

Ms. Kinder signing contracts that award funding to Catholic Charities would not violate SMC 01.04A.030 (B), as Ms. Kinder does not have a "personal interest" in such contracts, as the Spokane Municipal Code defines that term. Despite Ms. Kinder's recent employment with Catholic Charities, she does not receive direct or indirect pecuniary or material benefit from Catholic Charities being awarded a grant.

With reference to Ms. Kinder's partner, who works for Spokane Housing Authority, her signature on contracts that award funding to that organization would only violate SMC 01.04A.030 (B) if it were to give rise to a "personal interest" in such contracts – namely one that could impute a direct or indirect pecuniary or material benefit to Ms. Kinder. This is not the case, however, since her partner's compensation consists of fixed wages and is not contingent on any award of grant funds. As such, there is no "personal interest" that would be violative of the Ethics Code.

The Commission acknowledges, however, that Ms. Kinder's request for an advisory opinion is made because of an appearance that her connections with these two organizations could result in favoritism. To alleviate such concerns, and to ensure the public's trust, there are two important measures that NHHS should immediately take as a means of securing the public trust in the grant process. First, NHHS should seek a delegation of signature authority for someone other than Ms. Kinder to sign contracts that award grant funding to both Catholic Charities and Spokane Housing Authority. The Director of CHHS would be a logical choice. Second, NHHS should establish written policy setting forth which individuals may be involved in the scoring of applications and in any other aspect of the process that awards grant money through the competitive bidding process. Specifically, however, such policy should state that Ms. Kinder is to have no involvement in decisions related to such award of grants by the City, and that she is recused from this process as it relates to those organizations.

In conclusion, the Ethics Commission determines that Ms. Kinder's description of her duties satisfies any concerns about the potential for unethical conduct under SMC 01.04A.030 (D) and that no prohibited conduct arises from Ms. Kinder's role as Director of NHHS. Nonetheless, written clarification that explains her separation from the grant process is critical. Although her duties are performed at a higher level of leadership and she has no involvement with, or influence over, the City's selection of a person or firm having or proposing to do business with the City, Ms. Kinder and NHHS must take measures to ensure that signature authority is appropriately delegated, and she should draft written policy that makes her separation clear.

The Commission's advisory opinion is approved by a 5 to 0 vote of the full Commission.

  
Merle Iverson, Chairperson

  
Date