



### III. PETITIONER'S COMPLAINT

Respondent is a City of Spokane City Council member and a member of the Board of Directors of the Spokane Transit Authority (STA).

Supporting citizen asserts Respondent used these two positions to engage a campaign that specifically benefitted his client, Thomas Hamilton, a principal in *Emerald/Sunset Outdoor Advertising* (Exhibits A and B), via amendment to the Spokane Municipal Code. During this campaign, Respondent was in the employ of Mr. Hamilton. *Airway Heights Site Plan* (Exhibit C). As Respondent has enabled his client to extend the time his client enjoys an income stream from bus bench advertising while himself enjoying a specific financial benefit from Mr. Hamilton's employment, Respondent is in violation of Spokane Municipal Code Title 1, Section 1.04.030 (A)(G)(I)(L).

It bears mention that Respondent's relationship with Mr. Hamilton is a long-standing one. In 2003, Mr. Hamilton donated a total of \$6,769.80 through three business entities to Respondent's campaign for City of Spokane Council President (Exhibit D). This donation was made through three businesses (Exhibits E, F and G) in which Mr. Hamilton was a principal. Interestingly, the donation was in the form of bus bench advertising.

In his undated "memorandum" (Exhibit H) to the Ethics Committee seeking an advisory opinion, Respondent identifies a "general benefit" arising from his legislative efforts as opposed to a "specific benefit," which is prohibited by Code. While the benefit of this legislation may be general to the community as a whole, it specifically benefitted his client because his client was a principal in a business that was positioned to profit from the legislation. The logical error in Respondent's reasoning is that general benefit and specific benefit are mutually exclusive when they are not. Furthermore, Respondent states in his memorandum that, "to my knowledge Mr. Hamilton has no ownership interest in either of the companies" (Emerald Advertising and Sunset Advertising) whereas Exhibits A and B clearly demonstrate Hamilton does have an interest in these companies.

On April 2, 2009, Respondent's legislative assistant circulated an invitation to a meeting titled "Bus Bench Meeting" for 1:00pm on April 6, 2009 in room 5A of Spokane City Hall. Attendees of this meeting included Respondent, Spokane Mayor Mary Verner, STA CEO Susan Meyer, City Administrator Thomas Danek, Councilman Richard Rush and Councilman Bob Apple, among others. This meeting revolved around a discussion of the

transition of bus bench ownership and maintenance in the City's right-of-way from private owners, including Respondent's client, Mr. Hamilton, who profited from advertising on the benches, to STA. Mr. Hamilton is a principal in Emerald Outdoor and Sunset Outdoor Advertising.

Off-premise advertising had been illegal in the City of Spokane since 2001, however no City Administration had enforced this ban on bus bench companies prior to Mayor Verner's Administration. When Mayor Verner mailed a notice of removal to private owners of bus benches on September 26, 2008, it became clear legislative action would be necessary if these owners' interests and profits were to continue.

The outcome of the April 6, 2009 meeting was implicit agreement among those in attendance to make the transition from privately owned bus benches to STA owned bus benches with minimal disruption to STA patrons *Verner to Meyer letter, April 7, 2009* (Exhibit I). STA was to place a contract for 100 bus benches on its April 15, 2009 Board meeting agenda for approval. Mayor Verner was to prepare a letter to private bus bench vendors announcing the City's intent to remove existing private bus benches at a date to coincide with the date STA could begin installing its bus benches.

However at the STA meeting of April 16, 2009, Respondent made a successful motion and argument to reject the proposed contract for bus benches. *STA Draft Minutes of April 16, 2009, Meeting* (Exhibit J). This is the first instance where Respondent successfully extended the period of time Emerald/Sunset Outdoor Advertising could continue to collect advertising revenue from illegal bus bench installations as he was well aware of Mayor Verner's reluctance to remove the existing, privately owned bus benches without replacement benches at the ready to install.

Respondent organized, advertised and facilitated three "town hall meetings" to gauge the public interest in amending City ordinances for the purpose of allowing advertising on bus benches in the City right-of-way. These meetings were held as follows:

April 14, 2009, 5:30 - 6:30 @ Northeast Community Center in Room 310

April 14, 2009, 7:00 – 8:00 @ West Central Community Center

April 15, 2009, 7:00 – 8:00 @ East Central Community Center

Subsequently, Respondent sponsored Ordinance C34420, an amendment to Chapter 12.02 of the Spokane Municipal Code, passed by the City Council on May 4, 2009. *Official Gazette, Vol. 99, No. 19, Page 323* (Exhibit K). This Ordinance states in part, “Bus bench signs at designated public transportation stops located in the public right-of-way shall be permitted. . . .” *Spokane Municipal Code Section 12.02.0755* (Exhibit L). While this ordinance did not guarantee Respondent’s client the anticipated bus bench contract to advertise in the City right-of-way, it did preserve this possibility. Additionally, since existing bus bench advertising would remain in place until an Request for Proposals for a new bus bench vendor could be created, vetted and a new contract entered, it again added time to the period Respondent’s client’s company could continue to enjoy bus bench advertising revenue. That revenue stream to Respondent’s client continues to this day.

### **III. ETHICS VIOLATIONS**

Respondent has violated SMC Title 1, Section 01.04.030 (A) by “becoming involved or implicated in a conflict of interest or impropriety, or an appearance of conflict of interest or impropriety” by having “an interest, financial or otherwise, direct or indirect” by engaging “in a business or transaction or professional activity . . . that might be seen as conflicting with the City officer or employee’s proper discharge of his official duties” or “the conduct of official City business.”

Respondent has violated SMC Title 1, Section 01.04.030 (G) by voting on an ordinance in which he profited by having a “Personal Interest in Legislation” where he has benefited “either directly or indirectly from any legislation” by maintaining his employment with a business client while sponsoring and voting on legislation that benefited that client.

Respondent has violated SMC Title 1, Section 01.04.030 (I) by “knowingly use(ing) his office or position to secure personal benefit, gain or profit, or use(ing) his position to secure special privileges or exceptions for himself or for the benefit, gain or profits of any other persons.”

Respondent has violated SMC Title 1, Section 01.04.030 (L) by “receive(ing), or agree(ing) to give or receive, any compensation, . . . for a matter connected with or related to the officer’s or employee’s services with the City of Spokane.”

## VI. CONCLUSION

Respondent, as a member of the City Council, voted on an ordinance that extended the time his client, from whom he has received a specific financial benefit, will profit from bus bench advertising in the City's right-of-way. The benefit to Respondent's client continues to this day.

This vote was not the least of Respondent's transgressions as he not only cast this vote, he also acted to create the circumstance in which that vote could occur. First by making, successfully arguing and voting on a motion to the STA Board of Directors to reject a bus bench contract, second by soliciting public opinion in support of legislation to allow bus bench advertising and finally by introducing, successfully arguing and voting on that legislation.

For these and all items documented in this Brief, Supporting Citizen seeks a thorough and complete investigation of these matters.

DATED this 1<sup>st</sup> day of December, 2009.

Respectfully submitted,



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Dan Simonson  
Supporting Citizen  
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Spokane, WA 99203

## **Index of exhibits**

**A** - Emerald Outdoor Business Licence

**B** - Sunset Outdoor Business Licence

**C** - Airway Heights Site Plan for Hamilton Mixed Use Complex by A. French Architect

**D** - Public Disclosure Commission Report for Contributions

**E** - Advance Property Management Co. Business Licence

**F** - Pilgrims Nutrician Business Licence

**G** - Premier Video Business Licence

**H** - Al French advisory question

**I** - Letter from Mayor Mary Verner to STA CEO Susan Meyer

**J** - STA Board Meeting Minutes of April 16, 2009

**K** - City of Spokane, Official Gazette;  
Final reading ordinance related to placement of bus benches in the public right of way.

**L** - Spokane Municipal Code Section 12.02.0755, Bus Bench Advertising

**M** - STA Board Meeting Minutes of March 19, 2009