

November 29, 2009

From: Suzanne Markham
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To: City of Spokane Ethics Committee

Attn. Rebecca Riedinger, Ethics Committee, Staff Support
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Re: Ethics complaint against Al French, Spokane City Councilman

Please accept this correspondence as a formal request for your board to conduct an investigation into my complaints regarding ethics violations committed by Councilman Al French.

The complaints against Mr. French involve specific violations of Spokane City Ordinance C-33785, Section 01.04.030, Chapter 1.04 of Title 1 of the Spokane Municipal Code, and the Washington County and City Boards of Ethics and Elections Commissions Overview.

Ordinance C-33785, Section 01.04.030, Chapter 1.04 of Title 1 of the Spokane Municipal Code reads:

Title 01 General Provisions

Chapter 01.04 Code of Ethics

Section 01.04.030 Prohibited Conduct

The following shall constitute violations of this code of ethics:

- A. General Prohibition Against Conflicts of Interest.** In order to avoid becoming involved or implicated in a conflict of interest or impropriety, or an appearance of conflict of interest or impropriety, no current City officer or employee shall have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that might be seen as conflicting with the City officer or employee's proper discharge of his official duties, the conduct of official City business or as adverse to the interests of the City. Performance of a legally required duty by a City officer or employee shall not be considered a violation of the code of ethics.
- I. Improper Use of Position Prohibited.** No City officer or employee shall knowingly use his office or position to secure personal benefit, gain or profit, or use his position to secure special privileges or exceptions for himself or for the benefit, gain or profits of any other persons.

The Washington County and City Boards of Ethics and Elections Commissions Overview, section titled: **Avoiding Conflicts of Interest reads:**

A conflict of interest occurs when a person has personal or financial interests in any matter in which he or she has professional responsibilities. Such interests could influence, or appear to influence, professional judgments and official decision-making.

The issue with Mr. French's conduct lies in his relationship with close friend, business associate and sometimes employer, Thomas Hamilton, who was in a position to profit from Mr. French's efforts on a recent city of Spokane sign ordinance change. Thomas Hamilton co-owns local billboard company Sunset Outdoor and Emerald Outdoor which operates bus bench advertising.

I feel it is important to cite for the record documented incidents that show the depth of business dealings between Al French and Thomas Hamilton. These incidents are excellent examples of the lengths in which the pair will go to circumvent legal processes.

During the Mr. French's first term as Spokane city councilman (2001-2005), he was also working as an architect and representative of Thomas Hamilton, a wealthy local businessman who owned a \$4 million, 7,200-square-foot home along the Spokane River in Post Falls, Idaho. Mr. French by his own admission (recorded during the city council meeting dated May 4, 2009^A) provided design work for Mr. Hamilton's house.

On Mothers' Day weekend in 2004, Councilman French is documented as playing a part in the illegal removal of 400 cubic yards of soil to create a private boat inlet to Hamilton's home, which caused considerable ecological damage to the river. Because of the inherent risks to the environment, permits that French had applied for with three different government agencies had been denied. Mr. French was also personally warned not to proceed by Rand Wichman, Kootenai County's planning director, just two days before the work was performed. Consequently, this act was knowingly and illegally committed with full knowledge, by both men, that they were violating a number of government mandates^{1,2}.

Taryn Brodwater of the Spokesman Review interviewed Mr. French about the incident and in her article of January 14, 2005 reported "French, a Spokane city councilman, said Hamilton is handling all interaction with the Department of Lands regarding the matter." Subsequently Al French was named as a defendant in the court complaint filed by the state of Idaho^{1,2}.

Although that action took place in nearby Idaho, Mr. French held the office of Spokane city councilman with a duty to follow and abide by the city's code of ethics.

(^{1,2}The Hamilton-French illegal dredging associations are fully documented by multiple newspaper articles starting in 2005 by the Inlander, the Coeur d'Alene Press and the Spokesman Review included with this submittal on DVD.)

Amendments passed in 2001 to the Spokane city sign ordinance, the result of years of hearings before the Spokane City Plan Commission, the public and the City Council, were to curtail and reduce off-premises advertising including bus benches with ads. These amendments successfully rendered advertising bus benches non-compliant. These changes forbid any new off-premises advertising and also made bus benches with advertising illegal in the public right of way, with serious consequences in store for Mr. Hamilton's bus bench ad business which was "raking in about \$85,000 a year selling the ads" according to company manager Tom Townsend¹.

As early as 2007, at the instruction of Mayor Mary Verner, the city of Spokane and Spokane Transit Authority (STA) had finally started working on a plan to replace Spokane's illegal bus benches with legal, advertisement-free benches. They had agreed to put benches in about 100 locations based on a study to determine where benches were needed most by riders³.

(³See the two letters from Mayor Verner, in particular one to Susan Meyer, CEO of STA, dated April 7, 2009.)

Al French in his capacity as city councilman was also on the STA board and was party to those conversations and plans. In 2008 the STA board supported setting aside money to research styles and to then purchase non-advertising bus benches. French was involved in that decision and proposals and bids were received from thirteen vendors³.

(See the Mayor's letters³, STA Operations and Customer Service Committee minutes of March 4, 2008⁴, the STA Board meeting minutes of April 16, 2009⁵.)

Then suddenly in 2009 Mr. French changed his position and started lobbying instead to overturn part of the 2001 sign ordinance to allow advertising in the public right of way. The minutes from the STA Board of Directors meeting of March 19, 2009 state: “As Chairman of the Public Works committee, Mr. French said he has taken on the task of revising the sign ordinance...”^{3,5,6}

(³See Mayor’s letters, ⁵STA Board of Directors draft minutes* of March 19, 2009 meeting. Please also view the ^ACity Council meeting video clip dated May 4, 2009 where the bus bench discussion and vote takes place and ^BCouncilman Richard Rush, also a member of the STA board, clearly explains the actions of Mr. French in his capacity as an STA board member to sway the board’s vote to further his agenda to allow the bench advertisements under the guise of seating concerns on the accompanying DVD.)

*Note, the “three recent town hall meetings” referred to by Mr. French on page 2 of the minutes were called by him and announced to the Community Assembly on April 3, 2009. I attended that Community Assembly meeting when Mr. French asked “what can we do to enhance the public right-of-way?” He suggested that neighborhoods might want to use bus benches as markers for announcing the entrance to their areas, or that schools might want to decorate them with their slogans or logos. His concern seemed to be about keeping commercial messages on benches rather than about riders needing seating. (⁹See Community Assembly April 3 2009 minutes.)

The town hall meetings held by Mr. French consisted mainly of bus bench industry associates, their families and advertisers. Very few “citizens” attended these spontaneously called meetings.

On May 4, 2009 City Council held a hearing on a proposed amendment, authored by Councilman French, to change the city ordinance to make advertising in the public right of way legal, thus clearing the way for continuing bus bench advertising. During this meeting Mr. French’s violation of the city’s ethics code was brought to the attention of the public by Margaret Simonson.

The following statements recorded by Inlander reporter Nicholas Deshais were reported in the July 16, 2009, issue of that publication under the title “The French Connection”¹. Reporter Deshais captured City Councilman French’s misleading and unethical statements made during the public city council meeting of May 4, 2009 and reported as follows:

Directly before the vote, however, when the public had its chance to speak, French was confronted by a woman at the lectern. “It is my understanding that [French] has been hired directly as a contractor by one of the clearest beneficiaries of the amendment, which would be Sunset Outdoor Advertising,” said Margaret Simonson.

During that meeting Mr. French used a technicality in the title attributed to him by Ms. Simonson of “contractor” versus “architect” to sidestep the issue and depth of his associations with Tom Hamilton, he is quoted as follows:

“I have used bus benches once, in 2003, that was a contribution to a campaign that I ran then. That’s the only time in any race that I have ever had where I used bus benches. So, you know, this is a distraction from the real issue about, how do we provide a service to the ridership of STA,” French said. “It’s disappointing that this is the direction that you chose to go in. **But I am not a contractor to anybody affiliated with any of the...whether it’s Lamar, Emerald Advertising or anybody else...**”

During this meeting Mr. French admitted that he had provided design work for Mr. Hamilton’s river home^A but seemed to imply by his statement quoted above that he was not working for Mr. Hamilton, although it is documented in Kootenai County, Idaho that Mr. French was acting as Hamilton’s agent when he applied for dredging permits to three different state agencies for the boat inlet^{1,2}. By failing to acknowledge the full truth about his associations with Mr. Hamilton, Mr. French is also in violation of the city’s ethics code.

(^{1,2}See related newspaper articles starting in 2005 from the Coeur d’Alene Press, the Inlander and the Spokesman Review.^{A,B} Also see the two video clips of the City Council meeting of May 4, 2009)

The result of the May 4th, 2009 City Council meeting was the passing of the amendment to the Spokane city sign code crafted by Al French, Title 12, Chapter 12.02 Section 12.02.0755, which made bus bench advertising legal in the public right of way .

(⁷ See Title 12, Chapter 12.02 Section 12.02.0755 of the Spokane City Sign Code)

The latest French-Hamilton association is documented by a site plan submitted to the City of Airway Heights by Al French Architect for an extensive mixed-use development under the project name of "Hamilton Mixed Use Complex. Located at 12911-12929 13th Avenue in Airway Heights, WA" The site plan was received on July 22, 2009 by the Airway Heights Building Department .

Tom Hamilton is quoted in the Inlander on July 16, 2009 as saying that Al was currently working on designs for an apartment complex in Airway Heights. He is quoted as saying "Al's a friend, yes. Our relationship is primarily professional. He works for me." ¹

(⁸ See copy of Hamilton Mixed Use Site plan submitted and .pdf of it on the DVD. Also the Inlander article, titled ¹ The French Connection of July 16, 2009)

Mr. Hamilton has also been a supporter of Mr. French through political donations. In 2003 Mr. French received in-kind donations in the form of outdoor advertising contributions totaling approximately \$6,800 from three businesses owned by Tom Hamilton, during his unsuccessful bid for city council president ¹ .

Clearly, given the ongoing business, personal, and political relationship between Al French and Thomas Hamilton, any benefit to Mr. Hamilton also benefits Mr. French. For Mr. French to bring forth or vote on any matters that would protect, enhance, or improve Mr. Hamilton's situation in any way protects, enhances, and supports Mr. French's self-interest, and therefore constitutes a conflict of interest in violation of the city's code of ethics and the Washington County and City Boards of Ethics and Elections Commissions overview. Mr. French should be censured for using his city council position and influence to benefit his personal and business associate, Thomas Hamilton and it should be recommended that the amendment to the city sign code allowing advertising in the public right of way be reversed.

Sincerely,



Suzanne Markham

cc:

The Spokesman-Review

The Inlander

City of Spokane - to be filed as an open public record

Attachments included on accompanying DVD:

- 1- The Inlander article titled: The French Connection.pdf
- 2 - Coeur d' Alene Press and Spokes-Review articles from March 2005 Hamilton/French guilty in illegal dredging articles.pdf
- 3 - Two Letters from Mayor Verner, dated April 7, 2009 and April 9, 2009.pdf
- 4 - STA Operations and Customer Service Committee minutes, dated March 4, 2009.pdf
- 5 - STA Board of Directors minutes, dated March 19 and April 16, 2009.pdf
- 6 - Spokesman Review article titled: STA votes today on benches, April 16, 2009.pdf
- 7 - Title 12, Chapter 12.02 Section 12.02.0755 of the Spokane City Sign Code.pdf
- 8 - City of Airway Heights Site Plan for Hamilton Mixed Use Complex.pdf
- 9 - Community Assembly Minutes of April 3, 2009.pdf
- Washington County and City Boards of Ethics and Elections Commissions Overview.pdf
- WA County & City Board of Ethics & Elections Commissions.pdf
- ^{A,B} Two video clips from Spokane City Council meeting of May 4, 2009.