

December 29th, 2022

Mike Piccolo
Director of Human Resources
City of Spokane
808 W Spokane Falls Blvd.
Spokane, WA, 99203

Dear Mr. Piccolo,

I am submitting this letter to address my concerns over the accusations made by a volunteer member of the Sustainability Action Subcommittee (SAS). The accusations included a mix of true and innocent facts combined with falsely implied villainy and flat-out factual errors. Nevertheless, the volunteer's accusations triggered an Ethics Commission hearing which, for reasons institutional or otherwise, could not reach a reasoned decision. As a result, I am out the fees I had to pay an attorney for representing me before the Commission and my reputation has been attacked publicly. Here are the facts leading to my character assassination, the truth about my departure from my position at the City, and some suggestions, including a plea that employees who prevail at Ethics Commission hearings be compensated in the future for their legal fees.

Background & Context

City of Spokane's commitment to sustainability:

I have worked with the Spokane City Council on policy issues surrounding climate and the environment for nearly four years. In 2019, the City Council hired me to facilitate the creation of an updated Sustainability Action Plan and to make recommendations on how the City would meet our 100% renewable energy goals. I was initially hired to work for City Council as a part-time project employee before being hired as a full-time exempt employee in May of 2020.

According to scientific consensus, society must reach net-neutral greenhouse gas emissions by 2050 to avoid the most catastrophic impacts of climate change. And both the City of Spokane and the State of Washington have codified goals to reach net-neutral emissions using a step approach over the next three decades. Unfortunately, in today's political landscape, special interest groups and some individuals have made it their priority to delay, obstruct, and discredit individuals and organizations working toward these goals.

In 2021, after nearly three years of research, deliberation and broad community engagement, the Spokane City Council adopted an updated Sustainability Action Plan (SAP), following the recommendations of more than fifty volunteer experts working with the SAS. The final plan is over 80 pages long, contains more than 200 Spokane-specific actions, and spans across seven

sectors all while ensuring this work prioritizes people and communities most at-risk to the impacts of climate change.

Opposition to the SAS:

No one was surprised that during the six-month public engagement period, a few voices of opposition emerged. The SAS considered approximately 1,000 pieces of feedback received via email and surveys to make updates and edits to the plan before it was sent to Council for adoption. During the six-month engagement period, those organizations voicing opposition were invited to participate in the second phase of the work starting in January 2022.

Among the new members of the SAS was an owner of a local HVAC installation service who made it known to the subcommittee that he does not believe in human-caused climate change. He was verbally combative and obstructive, and his behavior made other participants uncomfortable and frustrated. He seemed determined not to work on the subcommittee's assigned goals but to frustrate them. Some of his positions were antithetical to decisions previously made in accordance with the adopted plan; for example, he frequently challenged the use of heat pumps and solar panels in Spokane, though both are proven technologies for our climate. Not satisfied to merely bring up his objections, he would raise and re-raise them time and again.

Opposition turned personal:

This new member also attacked the subcommittee's process, declaring, wrongly, that we were in violation of the Open Public Meetings Act (OPMA). After his attempts to find the workgroup in violation of OPMA laws failed, he decided to make his obstruction personal and filed a formal ethics complaint against me for failing to disclose my background and other false beliefs about my leadership. The complaints were baseless. Any inquiry into the facts would have shown this. Instead, he filed a complaint focusing on what he claimed was a conflict of interest arising from my previous work as an owner of a sustainability consulting business.

A Broken Process

Baseless accusations:

Though the accusations were personally painful, the bigger issue is the City's process for resolving such complaints. At no point in the process was my defense against the four specific allegations taken seriously. Two of the allegations were preposterous. For example, the claim that I engaged in "Acts of Moral Turpitude" -- for using all caps for a single sentence within an email -- is laughable. The claim that I violated the Open Public Meetings Act is legally false as determined by the City's own legal department.

The other two were accusations by inference that could have easily been dispelled had there been an opportunity for establishing the facts. For example, he suggests that I had not disclosed my "conflict" to the City when I was hired. Prior to being hired I had submitted my resume which included my ownership of a sustainability consulting firm. The City knew this fact. The City likely relied on this fact in judging me capable of leading the City's sustainability policy

work. My past work, which did not involve a contract with the City or any opportunity to commingle my business operations with the City's SAS program, was in no way in conflict with the City's goals. And in any event, it was disclosed.

Having disclosed my past work and ongoing ownership, I was in compliance with the City's Ethics Code. It then fell upon the City to decide if there were any issue that needed further inquiry, or if the City was obligated to obtain an ethics ruling (an "advisory" opinion as permitted under the Spokane Municipal Code (SMC)). If new hires are expected to request ethics advisory opinions, then the City would do well to warn them. Otherwise, it is the City, not the new employee, who should accept the legal risk. The portion of the SMC that examines whether the "respondent has previously requested advice from the Legal Counsel of the Ethics Commission" appears misplaced in this context. Any previous request should have been required by my supervisors who were aware of my work history. The language in the Code of Ethics puts me in the wrong for not previously asking for a review when no review was required of me.

Instead of looking at the City's decision not to ask for an advisory opinion, the Commission seemed to believe that I had some burden to defend myself even though my disclosure was on the record. In effect, the Ethics Commission viewed me as an ethics violator despite my following the rules. Under the Ethics Commission process, I was subject to investigation regarding disclosure even though I had fully complied. The Commission's view there was an appearance of a conflict based on my work with a private company makes no sense considering the facts. The claim should have been dismissed by the Ethics Commission.

Instead, the Ethics Commission voted unanimously, accepting every claim against me regardless of the lack of any foundation in fact. Allegations were taken as true, even when false, and even when irrelevant to the issues before the Commission.

Ethics Commission is unclear of the process:

The City's Ethics Commission allowed the complainant to have a private attorney present his allegations, a privilege not granted under the SMC and one which had been explicitly denied by the Ethics Commission to others in the past. The Commission further suggested that the complainant "be involved" with determining the outcome of the hearing's stipulation process, again, a grant of authority not allowed by the City's code. My attorney immediately objected, on the record, and stated that the complainant had no legal authority to be involved in the outcome. No rulings were made on the suggestion nor our objection.

How can the process be fair if the person making the complaint is involved in determining the extent of a violation and is given a voice in determining the consequences?

More than three months passed with no final findings or resolution from the Commission. The City provided my attorney with a draft stipulation, my attorney responded with another draft. Both drafts recognized that I had not engaged in any dishonest or conflicted conduct nor would a reasonable person with knowledge of the pertinent facts find otherwise.

Beyond fairness, there is no basis to give the complainant in an ethics hearing a say in the outcome: the complainant is not a victim or civil litigant, the complainant is a witness. Empowering a witness to a complaint to determine protocols as the outcome of a baseless ethics complaint is worse than the tail wagging the dog: it would capitulate to a single voice's contrary and personal views on a matter already determined to be formal City policy.

The City's process of resolving ethics complaints is broken, and this broken process hurts City employees both emotionally and financially.

My departure from City employment

My work with the SAS was coming to an end. Charged in 2021 with assisting City Council in the adoption of an updated plan, the subcommittee performed on time. We were then asked to provide a short list of prioritized actions which took up most of 2022. We finished late in the fall of 2022. My work had come to an end. But then I learned that if I left the City, the ethics charge would be dismissed without an outcome.

Instead of acknowledgement of a successful completion of both assignments, I was treated to the choice of staying employed for the sole purpose of having the Ethics Committee's jurisdiction extended long enough to appeal its unfathomable vote or go on with my life.

I was told, to my dismay, that if I left the program as intended before the Ethics Committee reached either a stipulation or issued its final order, the matter would be "moot" and closed without any ruling whatsoever. Over 5 weeks after the hearing, the City Attorney provided me a draft stipulation that perpetuated misstated facts. My attorney and I submitted an edited response. But then, time had run out, and my employment with the City concluded. Shortly following my last day of work, I was humiliated by a public story in the Spokesman Review conflating the complaint and the fact of my resignation — as if the two were linked and that I had something to hide.

Gratitude and hard lessons:

I am forever grateful for the opportunity to have worked for the City of Spokane as Manager of Sustainability Initiatives and leader of the SAS program. I am proud of the Sustainability Action Plan that our team adopted and am honored to have worked alongside my colleagues —those in City Council Office and the volunteer members of the subcommittee. Dozens of local experts contributed to this climate plan because they care deeply for the future of our environment and our city. With their help, Spokane has one of the most comprehensive and thoughtful Sustainability Action Plans in the country.

Enduring harassment and intimidation by members of the public who disagree with the City's policy work was an unfortunate part of working for the City Council office in 2022. In fact, I am not alone in this experience. However, I am disappointed that my employer, who knows I met my disclosure requirements, chose to allow this complaint to continue unresolved.

Going forward:

I strongly suggest that the City of Spokane takes the following steps to avoid repeated attacks on other employees:

1. Educate the Commission on basic requirements of jurisdiction (such as OPMA being outside its role) and rules pertaining to the authority of complaining witnesses.
2. Ensure the Commission communicates to the employee well in advance of the hearing what issues the Commission is considering. The issues must be within the Commission's jurisdiction and made clear in advance of the hearing rather than relying on a complainant's broad suppositions.
3. Pay for legal counsel for those employees who are found not to have violated the ethics code. An employee faced with a complaint is unequipped to defend without help. I have to emphasize, no one at the City helped me through this. Once accused, I was left on my own to respond and then left to wait and wait while the City ran out the clock.
4. Either new employees need to know that disclosure is not enough, or the City should be accountable for failing to get an advisory opinion placing the risk on the employee is unacceptable.
5. Require a quick resolution – it should not take 3 months for findings. My case was dismissed as moot following over three months of delay and wasted effort while I was still employed and expecting to be cleared by my employer.

Sincerely,

A handwritten signature in black ink that reads "Kara Odegard". The signature is fluid and cursive, with the first name "Kara" and last name "Odegard" clearly distinguishable.

Kara Odegard

cc Sam Faggiano