



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdc.wa.gov • Website: www.pdc.wa.gov

December 7, 2018

Delivered electronically to "lisa.beaton@ci.kennewick.wa.us"

Subject: PDC Case 40728

Dear Don Britain and Marie Mosley:

Below is a copy of an electronic letter sent to Roger Lenk concerning a complaint filed with the Public Disclosure Commission (PDC).

As noted in the letter to Roger Lenk, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1) and will not be conducting a more formal investigation into these allegations or taking enforcement action in this matter.

If you have questions, you may contact Phil Stutzman at 1-360-664-8853 toll-free at 1-877-601-2828, or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,

/s_____
Phil Stutzman
Sr. Compliance Officer

Endorsed by,

/s_____
Barbara Sandahl
Deputy Director
For Peter Lavalley
Executive Director



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December 7, 2018

Delivered electronically to "lenk.roger@gmail.com"

Subject: Complaint regarding Kennewick Mayor Don Britain; and Kennewick City Manager Marie Mosley, PDC Case 40728

Dear Roger E. Lenk:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on September 10, 2018. Your complaint alleged that Kennewick Mayor Don Britain and Kennewick City Manager Marie Mosley may have violated RCW 42.17A.555 by using the facilities of the City of Kennewick during a City Council meeting to oppose a petition to recall City Council Member Steve Young. You alleged that during the discussion of a motion to pay for Mr. Young's legal services related to the recall effort, Respondents Britain and Mosley discussed what they called the illegitimacy of the charge that was approved as sufficient for a recall petition by Benton County Superior Court Judge Bruce Spanner. You also alleged that Respondents Britain and Mosley incorrectly characterized the recall petition campaign process in a way that served to confuse the public.

PDC staff reviewed your allegations, and as a result of staff's review, we found the following:

- On August 1, 2018, a recall petition was filed with the Benton County Auditor against Council Member Steve Young. On August 31, 2018, a hearing was held by Benton County Superior Court Judge Bruce Spanner to determine the sufficiency of the recall petition. Of the seven charges in the recall petition, Judge Spanner ruled that six were not sufficient to proceed, but one was sufficient to proceed. A judgment was entered on or around October 18, 2018. Mr. Young retained legal counsel to defend himself during the recall petition process, and has appealed Judge Spanner's decision to the Washington State Supreme Court.
- At the September 4, 2018 council meeting, members considered a motion to approve payment for Mr. Young's legal expenses incurred in defending himself against the recall petition. City Manager Mosley provided the staff report on this matter, explaining the legal authority of the council, the status of the recall petition, the court's oral ruling on the sufficiency of the recall charges, and the total legal expenses incurred to date by Council Member Young, which total approximately \$8,525.

- City Manager Mosley explained to council members that the matter ruled by Judge Spanner as being sufficient to allow the recall petition to proceed involved her personally, because it involved a pending PDC complaint alleging that in 2014 Council Member Young solicited a campaign contribution from Ms. Mosley in violation of PDC law when he forwarded an email to her city email address concerning a luncheon for U.S. Representative Dan Newhouse. Ms. Mosley told council members that the PDC complaint was based on a misunderstanding of the facts, and reminded them that they too could be subjected to a recall petition based on allegations, even if the facts did not support the allegations in the recall petition. Ms. Mosley then recommended that the City of Kennewick pay Council Member Young's legal fees to defend what she described as "this unsubstantiated recall petition."
- A motion was made to pay the legal expenses of Council Member Young. During the discussion of the motion, Council Member Trumbo raised several concerns, including a concern about whether council members had read the testimony of Mr. Young given during a trial that involved him, that was related to one of the recall petition allegations that Judge Spanner ruled to not be sufficient for the recall petition to proceed.
- Finally, Mayor Britain commented by encouraging council members to support the motion to pay Council Member Young's legal expenses, stating, in part, that "any elected official could be subject to frivolous accusations, and that we must defend ourselves or find ourselves in a situation where we have to."

It appears that the comments made by City Manager Marie Mosley, Mayor Don Britain, and Council Member John Trumbo were made in support of their positions to support or oppose the motion to pay the legal expenses of Council Member Young and were not made to persuade voters to vote against a possible future ballot proposition.

Based on these findings, staff has determined that in this instance, the comments made by Mayor Don Britain and City Manager Marie Mosley during the September 4, 2018 Kennewick City Council meeting, concerning a motion to pay the legal expenses of Council Member Steve Young related to a recall petition, does not appear to be an actual material violation warranting further investigation.

Based on this information, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1), and will not be conducting a more formal investigation into your complaint or pursuing enforcement action in this case.

If you have questions, you may contact Phil Stutzman at 1-360-664-8853, toll-free at 1-877-601-2828, or by e-mail at phil.stutzman@pdc.wa.gov.

Sincerely,
/s _____
Phil Stutzman
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