



**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@pdcc.wa.gov • Website: www.pdca.wa.gov

October 19, 2022

Delivered electronically to "lisa@slivka.com"

Subject: Complaint regarding Mayor Marianne Klaas, PDC Case 111151

Dear Lisa Wissner Slivka:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on July 28, 2022. Your complaint alleged Clyde Hill Mayor Marianne Klaas may have violated RCW 42.17A.555 by using City of Clyde Hill facilities to oppose a ballot proposition concerning a change in the form of government in Clyde Hill from Mayor-Council to Council-Manager.

PDC staff reviewed your allegations; the applicable statutes, rules, and reporting requirements, the response submitted by Mayor Klaas, and a reply from Councilmember Dean Hachamovitch to Ms. Klaas' response to your complaint to determine whether the record supports a finding of one or more violations.

Based on staff's review, we found the following:

- A petition in support of a ballot proposition to consider changing the form of government for the city of Clyde Hill was circulated by residents and approved by King County Elections.
- The Clyde Hill City Council voted to adopt a resolution placing the question on the November 8, 2022 ballot.
- On July 1, Tom Brubaker, City Attorney for Clyde Hill, sent an email to city council members and Mayor Marianne Klaas, reminding them that at the last council meeting he had briefly referenced the statute prohibiting the use of public facilities for the purpose of assisting a candidate's campaign or for the promotion of or opposition to any ballot proposition. Mr. Brubaker told council members and the Mayor that the upcoming election on the potential change in the form of city government is covered by this prohibition. Mr. Brubaker also reminded council members and Mayor Klaas that on their own, as residents of Clyde Hill, they could participate in supporting or opposing the ballot measure but could not use city facilities to do so.
- Local government agencies, such as the city of Clyde Hill, are allowed to prepare a fair and objective statement of facts concerning its ballot measures. Mayor Klaas stated she was attempting to address questions from city residents concerning the potential change in government by creating a memo dated June 28, 2022 and posting it on the city's website and by

creating a modified memo dated July 19, 2022 and attaching it to the council's July 26, 2022 Special Session Agenda.

- The July 26, 2022 Clyde Hill City Council Special Session Agenda included a 90-minute item entitled, "Discussion re: Cost of Change in Form of Government." The Agenda item included a link entitled, "Mayor's Memo re The Finances of Changing Government 07-19-22 Discussion re Cost of Changing the Form of Government - email CM DH 07-18-22."
- Mayor Klaas' July 19, 2022 memo was entitled, "The Finances of Changing Government." It was a two-page, 13-point document discussing potential costs associated with changing the form of government. The memo said one of the many questions that has arisen is, "How much would this change in form of government cost Clyde Hill?" The memo included a link to the website of Municipal Research and Services Center of Washington (MRSC), a nonprofit organization that provides legal and policy guidance to local governments in Washington state. Mayor Klaas' July 19 memo differed from her June 28 memo posted to the city's website in that she replaced the \$300,00 cost estimate with the statement, "The above content should give insight that this cost will be significant."
- Two complaints were filed with the PDC alleging Mayor Klaas' June 28 memo posted to the city's website and the Mayor's July 19 memo attached to the July 26 meeting agenda indirectly opposed the ballot measure by alleging, without specific evidence, the change in government, should it pass, will result in higher operating costs for the city.

Response from Mayor Marianne Klaas

- Mayor Klaas said Lisa Slivka, on June 16, 2022, presented signatures to the King County Elections Office (KCEO) to change the form of government from its current Mayor-Council form to that of Council-Manager. On June 24, 2022, KCEO ratified the signatures and on June 28, 2022, the Clyde Hill City Council passed a resolution calling for an election on November 8, 2022.
- Mayor Klaas stated the change of form of government resolution led to many questions from Clyde Hill residents, including questions about the cost of changing the form of government. Mayor Klaas said she researched information to facilitate formulating a position statement on the Finances of Changing Government. She said the information came from the MRSC website, online searches, contacting Mayors and City Managers who changed their form of government, attending a live webinar, and reading publications on the subject. Mayor Klaas said she then created a document summarizing her findings, shared it with the City Administrator, and posted it on a separate page of the city's website for residents to find and reference. She said the Council was upset they were not given more notice of its posting.
- Mayor Klaas said the document posted on the city's website explained direct and indirect costs for changing the form of government are going to vary based on individual city circumstances but could easily be \$300,000 or more. She said the document then gave an accounting of categories that would be expensed, with the largest portion coming from terminating the existing contract with the city administrator and paying his severance and benefits.
- Mayor Klaas said, in anticipation of the Council's July 26, 2022 Special Session, she met with the City Administrator and two councilmembers to sort out the Finance document. Mayor Klaas said both councilmembers expressed displeasure with the document she posted on the city's website and expressed a desire to come to an agreement on a mutual financial document. Mayor Klaas said she and the City Administrator agreed to compose a draft mutual document and that is how her July 19 memo ended up attached to the Council's July 26 Special Session Agenda. Mayor Klaas said she and the City Administrator changed the cost estimate for the Mayor's July 19 memo by removing the \$300,000 cost estimate and replacing it with the word "significant." Mayor Klaas said she modified the cost estimate after listening to the concerns of the two

councilmembers and felt it was an appropriate description until a new mutual document could be created. Mayor Klaas said this was a topic the majority of the council had requested be placed on the July 26 Special Session Agenda.

- Mayor Klaas said, after the July 26 Special Session Council Meeting, on August 1, she met with the City Administrator and removed the posted Finance statement from the city's website and set up a task force meeting with the two councilmembers to define a mutually agreed upon finance document concerning the cost of changing the form of government.
- Mayor Klaas stated, on August 3, 2022, she and the City Administrator met with the two councilmembers to define a mutually agreed upon finance document concerning the cost of changing the form of government. She said the meeting was amicable, and the parties reached a conclusion within an hour of the meeting. Mayor Klaas said she took her last Finance document and stripped it of any concluding costs and evaluative statements of significance. She said the group agreed on actual and estimated costs and agreed to update the documents to final actual costs on March 1, 2023, when the change in form of government is implemented, if passed. Mayor Klaas said these documents were drafted and placed for discussion on the City Council meeting packet on August 8, 2022.

Response from Two Councilmembers

- Councilmembers Friedman and Hachamovitch replied to Mayor Klaas' response to the complaints by acknowledging they worked with Mayor Klaas and the City Administrator to define a mutually agreed upon finance document concerning the cost of changing the form of government, but denied finalizing an agreement and said the Mayor and City Administrator posted the draft material publicly on August 9, 2022 as part of the Council Meeting packet before they could provide feedback. The Councilmembers said they objected to the public posting of the documents and the lack of a clear deadline for feedback. The Councilmembers said the Mayor then pulled the materials from the Council meeting packet. The Councilmembers said nothing further has been offered by the Mayor or staff to proceed on this topic.

It appears Mayor Klaas acted in good faith to come to an agreement on projected costs for changing the form of government and that in doing so she was essentially working to prepare a statement of facts on behalf of the city. It also appears Mayor Klaas responded appropriately when challenged on the accuracy of the information she was trying to provide.

Based on these findings, staff has determined that in this instance, Mayor Marianne Klaas' actions do not appear to be a violation warranting further investigation.

Based on this information, the PDC finds that no further action is warranted and has dismissed this matter in accordance with RCW 42.17A.755(1).

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

Sincerely,
Electronically Signed Philip E. Stutzman
Phil Stutzman
Compliance Officer

Endorsed by,

Electronically Signed Kim Bradford

Kim Bradford

Deputy Director

For Peter Frey Lavalley

Executive Director

cc: Mayor Marianne Klaas