

August 13, 2022

TO: Public Disclosure Commission
FROM: Mayor Marianne Klaas
City of Clyde Hill
RE: Alleged Violation of RCW 42.17A.555 Case #111151

Thank you for alerting me to the fact that the Public Disclosure Commission (PDC) received a complaint from Scott Moore on July 22, 2022 and a complaint from Lisa Wissner Slivka on July 28, 2022, which have been assigned PDC Case Number 111151. The Complaints allege the violation of RCW 42.17A.555 by using public office or agency facilities to oppose a ballot proposition. I appreciate an opportunity to explain the situation for your objective review. I obviously disagree with their allegations.

Let me set forth some background so this all makes better sense.

On June 14, 2022, Lisa Slivka presented to the City and the King County Elections Office a petition with signatures to change the form of government from its current Mayor-Council form to that of Council-Manager. This was ratified by the KCEO on June 24, 2022. Additionally, the City of Clyde Hill City Council passed Resolution #678 (see attached) calling for an election on a proposition to change the form of Clyde Hill government from the Mayor-Council form to the Council-Manager form; setting the date for change, etc. Note: As Mayor, I did NOT sign the Resolution #698 to change the form of government because I did not want my signature on the line to be taken by the Pro Committee and used as a means to say that I supported the change in form of government. The Resolution is Council's expressed wishes, and my signature is not required for it to be expressed and filed. I remained neutral and the resolution was passed per form.

This change of form of government resolution has led to a lot of questions on behalf of our residents. Namely-what will be the cost of changing the form of government? If one were to conduct his/her own research, it becomes very difficult to discern. In order to provide a service to our city, which is **consistent** with other similar services to fulfill requests, I researched and pulled together information by which to formulate a position statement on the Finances of Changing Government. Information came from MRSC website, online search, contacting Mayors and City Managers who changed their form of government, attending a live webinar, and reading publications. I used by own time and own resources to craft the document. This was shared with our City Administrator. We used his city computer to place the document on a separate page on our City's website for residents to find and reference (see attached). There was no fanfare or communication of the document. It was crafted and posted to be referenced and used at will. I have received several comments that stated it was helpful to see the categories. To note, the Council was upset that they did not receive more notice of its posting. Unfortunately, Councilmember Moore lodged a complaint and Lisa Slivka also disapproved; she heads up the Pro (Vote Yes to Change the Form of Government) Committee.

The original Finance document made the statement:

Recent examples of cities who changed their form of government show some key financial areas, but rarely an actual dollar amount attached. Direct and indirect costs for changing the form of government are going to vary on individual city circumstances.

It then stated: You can theoretically add up the costs below, but it could easily be \$300,000 or more. I then gave an accounting of categories that would be expensed. The largest portion of the costs would come from terminating the existing contract with our city administrator and paying his severance and benefits. The legal costs are mounting. I made no correlation of cost to how to vote.

In anticipation of the Special Session on 7/26/22, the city administrator and myself met on 7/18/22 at City Hall with two councilmembers to sort out the Finance document. Both councilmembers expressed displeasure with the document and a desire to come to an agreement on a mutual financial document. The City Administrator and I agreed to compose a draft mutual document and that is how it ended up on our 7/28/22 City Council Special Session agenda. See also attached email communication on this topic.

Additionally, the City Administrator and I changed the wording on the posted document 7/19/22 to remove the \$300,000 and left it as "significant". This was our nod to listening to the two councilmembers concerns and modifying the document until a new mutual document could be created.

City Council asked for the topic Discussion re: Cost of Change in Form of Government to be added to the July 26, 2022 Special Meeting. Attached to it was the document I had posted as well as a document that two councilmembers crafted after the 7/19/22 meeting with our city administrator and myself on the topic. When Councilmember Scott Moore saw the agenda, he sent an email on 7/22/26 at 9:51am claiming this was "criminal" and subsequently filed a complaint with the PDC at 11:16am. Again, this was a topic that **the majority of council had requested be placed on the agenda**. It is **customary** to include reference material in the City Council packets to engage discussion.

The Council's Special Session meeting occurred on 7/26/22 -again the topic was requested by Council- Cost in Change of Form of Government. Note- Scott Moore left an email at the last minute to state he could not attend the Council Meeting. Meeting quorum was run with 4 councilmembers. I was able to share a few facts at the start of the agenda topic: This Finance Document was to meet the requested need of our residents, and this was a cumulation of the research gleaned to date. I also noted that I had facts to back up each of the itemized costs. I shared that the City Administrator/Mayor signature authority is \$25,000 so anything above that value would be significant enough to warrant council approval. I applied this principle in determining the significance of the potential costs. At that time, we have already expended over \$27,000. I was prepared to initiate discussion on creating a mutually agreed upon document (a draft which I had at the ready), when Council immediately motioned their "disappointment" in the mayor for creating and posting this document. After I facilitated all councilmembers to speak during the discussion period of the Motion, I attempted to speak and clarify (which would be important information for them to hear in order to make an informed vote). I had the facts to justify the costs as well as how I determined its "significance". One councilmember interrupted to state that I could not speak and quickly Called to Question. Council passed that motion 3-1 thus shutting off any further discussion, including mine. Then the vote of disappointment was passed 3-0 with 1 abstain. This motion came out of nowhere. Council did not amend the agenda at the beginning of the Special Session to add a motion for consideration. This is customary and per protocol and yet was not followed.

Significant to me is anything over \$25,000 as that is the signature authority over which we must seek prior council approval. Our city's budget is tight. We may be an affluent community, but we have

LIMITED revenue streams. We are presently hemorrhaging legal costs. Yes, we have a healthy reserve, but that won't sustain in the long run. So any expenditure is felt by the city. Again, we had already expended over \$27,000 of legal fees to arrange the measure on the ballot. Our City Administrator's contract pay-out will be about \$120,000.

At the same July 26, 2022 Council Special Session, the council passed a resolution regarding Continuity of City Services #679 (see attached). This was a last-minute addition to the agenda on the day of meeting. The PDC may find that this Resolution potentially violates the same trigger by using City Attorney and city staff time to compose/revise and process this resolution. Their Resolution was to supposedly voice a vote of confidence in the existing city staff and assuring a continuity of government if the measure passes to change the form of government. In essence, City Council is overtly signaling to our residents that there will be no change; all will be well; don't worry about services as they will be unchanged. They also went on to basically assure existing staff would have a job in the future, which I verbalized is not something they can guarantee. Their resolution, to me, is a unique message to the community in support of the change of government. This is not allowed by the same RCW. I ended up signing the passed resolution knowing I verbalized my concern that council could not speak for the guarantee of job security nor assure existing staff wish to remain in our employ, but that I valued the worth of city staff and also support a seamless change of government, if that were to occur.

I met with one of the councilmembers in attendance at the Special Session on 7/27/22. He was apologetic and stated he was confused on what he was voting for during the Finance Form of Gov't session. I told him he should seek clarification so he could vote appropriately. He said that is why he abstained in the final vote. He did not realize voting yes during the call to question meant discussion was shut down. He found the itemized categories helpful to know what costs would be triggered.

On 8/1, I met with the City Administrator and we took the posted Finance statement off the website and set up a task force meeting of two councilmembers and also invited a member of the Pro and Con committee to define a mutually agreed upon document.

I received the PDC notice of alleged violations on 8/2/22.

Important to note: On 8/3/22, the City Administrator and I met with two councilmembers and also invited a member of the Pro and Con committee to define a mutually agreed upon finance document on the cost of changing the form of government. The meeting was amicable, and we reached a conclusion within an hour of meeting. I took my last Finance document and stripped it of any concluding costs and evaluative statements of significance. We agreed upon the direct cost categories and agreed to list non-direct costs as those of redirected staff's time, but not ones that we would capture time and cost for. We agreed upon actual and estimated costs. We agreed to update the documents to final actual costs on 3/1/2023, when the change of form of government is implemented, if passed. These documents were drafted and placed for discussion on the City Council meeting packet on 8/8/2022 (see attached). The City Administrator verified the costs to date:

Cost to place on Ballot:

- May-July legal costs related to the ballot issue, \$10,800 thru July (previous version stated \$4,700).

- Attorney estimated that we would spend about \$2,000 per month for the rest of the fiscal year or \$10,000 on legal costs to support change of form of government.
 - Total estimated direct costs to place on ballot are \$25,800.
2. Cost of a yes vote:
- Legal costs were a \$5-10,000 range, we split the difference at \$7,500.
 - The rest of the costs were as discussed. However, estimated math during the meeting indicated \$170,000 which was understated. The math works out more likely to \$192,500 or **4.1%** of the 2022 General Fund expenditure budget. In running this number past the previous 19 year City Administrator, he validated that this was, indeed, significant, for the City of Clyde Hill.

I'll leave it up to you to deduce whether this is significant. I consider it to be.

Also to note, **we agreed upon a mutual document for the cost of placing the resolution on the ballot, regardless of the final vote.** In the overall analysis of costs, this needs to be included and hence was captured and posted on the website as reference.

As we were finalizing the document, the two councilmembers could not find time to review the materials and hence it is currently stalled from being finalized. At the July 12, 2022 City Council meeting, we took off the topic and any attachments until the task force came to agreement. We did not speak to it at all. However, Lisa Slivka was also present at this meeting and she commented during the Public Comment section seeking the whereabouts of the final cost documents. She has participated in their review and thanked us for the information. We did not respond to her comment.

Again, the information is factual. Scott Moore's claims that my Mayor's Memo is "improper" and "criminal" are not true.

Lisa Slivka claims that the city council asked me to produce the document. That is originally untrue. The residents of Clyde Hill asked for how much will a change in the form of government cost. It was not until 7/26/22 that the council agreed to meet and create a mutually agreed upon financial document. I did claim that the costs would be significant. Although significance can be a judgment call, I believe I have provided sufficient evidence to back this claim. After an exchange with Lisa Slivka on 8/8/22 via email explaining the costs further in the memos, Lisa stated: *I'm not trying to make any comparisons - I'm simply trying to understand the salary landscape. Your explanation is helpful, thank you.*

You will be referencing RCW 42.17A.555 to gage whether I have violated the law. My financial document did NOT make any claims to promote or oppose the ballot proposition. It simply states the elements of cost, what they are if known, and that they will be significant. **I was acting in the usual and expected capacity of my role as Mayor.** This is an **exception** to the RCW. In my opinion, if changing the form of government is important enough based on political reasons, then the cost in doing so should justify the outcome.

If you agree that the finance document does NOT make any claims to promote or oppose the ballot proposition, then the use of resources is a mute point and not in violation. **I was taking action customary and normal to communicating with my residents.**

RCW 42.17A.555: Use of public office or agency facilities in campaigns—Prohibition—Exceptions.

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office **or for the promotion of or opposition to any ballot proposition**. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does **not** apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

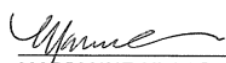
(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

Thank you for the opportunity to state my case and defend my actions as Mayor. I did not violate the RCW.

I am in good contact with our City Attorney and will utilize his services closely as I address future requests so as not to trigger any potential concerns and complaints.

I look forward to your conclusions.



MARIANNE KLAAS, MAYOR

City of Clyde Hill