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February 25, 2025

Phil Stutzman, Compliance Officer
Public Disclosure Commission

By Email Transmission Only to pdcc@pdcc.wa.gov

Re: PDC Case Number 166825

Dear Mr. Stutzman:

The City of Sequim is in receipt of your email dated February 11, 2025, in which you notified us that the Public Disclosure Commission has received two complaints alleging the improper use of City facilities for the promotion of two Sequim School District ballot propositions.

Please consider this letter the City's response.

City's Statement of Facts

1. The Sequim School District had two propositions on the February 11, 2025 ballot: Proposition 1 (Educational Programs and Operations Levy) and Proposition 2 (Bonds to Replace and Upgrade Deteriorating Schools and Improve Safety).
2. The Sequim City Council adopted its current Rules of Procedure in Resolution R2024-018 in May of 2024. Rule 3.9 sets forth Council's guidelines related to compliance with RCW 42.17A.555, the statute prohibiting use of public facilities to support or oppose ballot measures except in limited circumstances. This rule has been included in Council's Rules of Procedure since 2018.
3. Rule 3.9(a) (in accordance with RCW 42.17A.555) describes the process that must occur before Council can express a collective decision or actually vote to support or oppose a ballot proposition. However, through promulgation of Rules 3.9(b) and 3.9(d), Council made the choice to avoid potential violations of RCW 42.17A.555 by (1) prohibiting consideration of requests from outside agencies related to ballot measures during meetings, and (2) prohibiting Council action to support or oppose

ballot measures through use of City facilities at meetings. This prohibition was extended to public comment occurring at meetings.

4. At its regular meeting held on January 13, 2025, a Councilor requested that Council discuss suspending Council Rule 3.9 to support the school levy. Council discussed RCW 42.17A.555 with the understanding they would need to suspend the rules to even begin addressing the ballot measures as an agenda item. I explained to the Council there is a provision in RCW 42.17A.555 that because of Rule 3.9, such action may not be considered “part of the normal and regular conduct of the office or agency”. The Council voted unanimously to hold a special meeting on January 22, 2025, at which time they would consider waiving Council Rules to begin discussing the Sequim School District’s two ballot measures. They would cancel the special meeting depending on what information they received from the Public Disclosure Commission.

5. On Friday, January 17, 2025, the City Clerk emailed a notice to the City’s newspaper of record, the *Peninsula Daily News*. The requested publication date was Saturday, January 18, 2025. The *Peninsula Daily News* emailed a proof of the notice that would run in the Classified Ads to the City Clerk for review. The Clerk reviewed and approved the proof.

Also on this day, Councilor Anderson contacted the PDC; based upon her conversation, she thought the Council could “go ahead” with their special meeting scheduled for January 22, 2025. Her understanding was that if Council did choose to waive their rules, it would be better if the rules were changed permanently. *See Exhibit 1.*

6. The publicized notice stated that the Sequim City Council would take limited public comment regarding the Sequim School District’s ballot measures. The full names of the ballot propositions were listed, and described where the meeting would be held, how to attend in person and remotely, and how to provide public comment. The agenda posted through the City’s website listed the letter of support that would be considered.

7. At the special meeting held on January 22, 2025, Council voted 3 to 2 to suspend Rules 3.9(b) and 3.9(d). This allowed them to proceed with the action allowed under Rule 3.9(a) and RCW 42.17A.555. In following the provisions of RCW 42.17A.555(1)(a), the Council wanted to make sure the public could be “...afforded an approximately equal opportunity for the expression of an opposing view” by allowing time for limited public comment of both support and opposition. This also had been discussed at the January 13, 2025 regular meeting. After public comment, in a second vote, Council unanimously approved a letter of support for the School District’s ballot propositions.

8. RCW 42.17A.555 does not prohibit a city’s elected officials from supporting or opposing a ballot measure, provided that legally sufficient advance notice occurs and there is equal opportunity for opposing views to be heard. The legislative intent of RCW 42.17A.555 is to “affirm and clarify the State’s long-standing policy of promoting informed public discussion and understanding of ballot propositions by allowing elected boards, councils, and commissions of special purpose districts to adopt resolutions supporting or opposing ballot propositions.”

9. The PDC does not appear to have guidelines as to what constitutes “legally sufficient notice” to members of the public who may wish to speak on the topic. Therefore, the City resorted to compliance with the agenda posting notice requirements set forth in RCW 42.30, the Open Public Meetings Act.

10. On February 11, 2025, the City received notice of the two complaints filed with the Public Disclosure Commission.

11. One of the complainants noted that the City Council engaged in two business transactions without any notice. While the PDC does not enforce OPMA violations, it is important to clear up the facts regarding this matter. Governing bodies may only take action on items identified in the special meeting notice. The exhibits provided in one complainant’s exhibits demonstrate that the Council was considering action on the School District levies, and part of this discussion necessarily involved discussion of waiving Council Rules. The Council discussed at length at the January 13, 2025 regular meeting potentially waiving the Council Rules. This was one of the purposes of scheduling the January 22, 2025 meeting.

12. One of the complaints centered around the fact that the Sequim City Council improperly influenced the Sequim School District bond and levy measures that were open to voting in the February 11, 2025 Special Election. The certification date for the final numbers is February 21, 2025. According to the final, certified ballot count, the SSD 323 Replacement Educational Programs and Operations Levy has 9,630 “yes” votes and 4,450 “no” votes, which is 68.39% to 31.61%. The SSD 323 Bonds to Replace and Upgrade Deteriorating Schools and Improve Safety has 9,156 votes approving, and 4,777 votes rejecting, which is 65.71% to 34.29%.

The February 11, 2025 Special Election is a multi-county race, so it includes portions of Jefferson County. The final “yes” votes were approximately the same margins as in Clallam County. For the SSD 323 Replacement Educational Programs and Operations Levy, the “yes” votes were 108, and “no” votes were 63, which is 63.16% to 36.84%. The SSD 323 Bonds to Replace and Upgrade Deteriorating Schools and Improve Safety has 100 votes in approval, and 72 votes rejecting, which is 58.14% to 41.86%.

The numbers indicate that it is unlikely that the actions of the City Council swayed or improperly influenced the votes regarding these ballot measures. *See below links for results.*

[Clallam County February 11, 2025 Special Election](#) – Replacement Educational Programs

[Clallam County February 11, 2025 Special Election](#) – Bond to Replace Deteriorating Schools

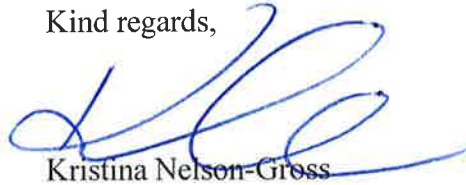
City’s Proposed Resolution of Complaints

At its regular meeting held on February 10, 2025, the Sequim City council voted unanimously to amend Council Rules to include allowing junior taxing districts to request letters of support for ballot measures in compliance with RCW 42.17A.555. Council will follow any recommendations that the PDC may

have regarding clear definitions of junior taxing districts and what language may be considered for amending Council's rules in the future.

When Council decides whether to support or oppose a ballot measure, the City will ensure that the notice of the meeting at which this consideration will occur meets the criteria in RCW 42.17A.555, i.e., (1) the notice will include the title and number of the ballot proposition, and (2) councilors and members of the public will be afforded an approximately equal opportunity to express an opposing view. Verbiage will be added to the website under the meeting date and on the notices: "Final action will/will not be taken at this meeting."

Kind regards,



Kristina Nelson-Gross
City Attorney

KNG:rw/elh

Enclosure:

Exhibit 1 – January 17, 2025 Email from PDC

Erika Hamerquist

From: Heather Robley
Sent: Friday, January 17, 2025 9:37 AM
To: DG_All_CityCouncil
Cc: City Clerks
Subject: FW: Information Only - In Regards to My Questions to the PDC

Council,

Please see the email below.

Thank you,

Heather Robley, CPRO
City Clerk
360-681-3428
hrobley@sequimwa.gov



NOTICE: This communication, including attachments and any reply, is subject to the Public Records Act, RCW 42.56.

From: Rachel Anderson <randerson@sequimwa.gov>
Sent: Friday, January 17, 2025 9:31 AM
To: Heather Robley <hrobley@sequimwa.gov>; City Clerks <clerk@sequimwa.gov>; Matthew Huish <mhuish@sequimwa.gov>
Subject: Information Only - In Regards to My Questions to the PDC

Heather, please send this to council as information only.

I finally got a hold of someone at the PDC during a phone call I made around 8am Friday Jan 17th.

It looks like we can go ahead with the special meeting on Wednesday. I appreciate everyone's patience and understanding. I feel that in seeking this information, we have done our due diligence.

Please see the questions I asked and the answers I received beneath each question.

The person I spoke to said that they will have a written response, but I am not sure when that will come in.

1. It is my understanding that we would be able to have this as an agenda item as long as both viewpoints are given opportunity to state their reasoning under RCW 42.17A.555. Is my understanding correct?

Yes, council can make statement as in a resolution or letter of support, so long as following .555. PDC also has Guidelines for Local Government Agencies in Election Campaigns document.

2. Does amending our council rules to allow junior taxing districts to request a resolution or letter of support for a ballot measure comply with RCW 42.17A.555? This is a related question, however is a separate issue from the special meeting we will have on Wednesday.

Violating council rules can be a public complaint to PDC. Making a change that is more permanent going forward is likely okay. Changing rules just to change them back would not look okay. I was told to send an email with the following question so he could send it to supervisors to make sure. I am not sure when this response will come in.

I have sent this as a new email with context as of 9am Fri Jan 17: Can we suspend rules then amend them to reflect changes (allowing junior taxing district to request letters of support).

3. If so, what safeguards would need to be in place to ensure compliance with state law? ie. ensuring both sides of the issue are given equal time to speak and ensuring council members make it clear they are expressing personal opinions, not directing voters.

Making sure the title and number of ballot measure is posted in the notice and making sure support and opposition are given equal opportunity.

4. Can council members express personal support or opposition to ballot measures during a public meeting, provided it's part of the discussion around a resolution or letter of support?

Do not discuss ballot measure at a regular council meeting unless it's regarding the request for letter of support directly (like during the agenda item to support ballot measure). Otherwise, do not discuss active ballot measures at city council meeting.

5. Is there any language elected officials should avoid to ensure compliance with state law?

Do not speak for or against a ballot measure at a regular council meeting. They can speak as themselves outside of a meeting and they need to say it's their own opinion and not on behalf of council. Do not give your opinion, that is not fact. For example, saying "kids won't have heat without these bonds/levies" is not a fact.

6. Is there any other way to clearly distinguish between the city's position and a council member's personal opinion to avoid legal issues, besides simply stating along the lines "this is my opinion as an individual"?

This is the clearest way: "This is my opinion as an individual, not on behalf of council". Do not discuss your support or opposition of ballot measures at a regular council meeting. You can discuss/verbalize that outside of a meeting.

7. Am I correct in understanding that an elected official voicing support or opposition for a political campaign including a ballot measure at a council meeting is a violation because they are using public government facilities and resources to do so?

Yes. Do not discuss support or opposition of political items, including ballot measures, at a regular council meeting.

8. In the event that council suspends their own rules in order to hear both sides of these ballot measures for the school district, what are potential consequences if council does not hear both sides of a ballot measure from another agency like a local fire district?

City council can adopt resolution to support a ballot measure but they aren't under any obligation to do so. He doesn't believe there are any consequences. They respond to complaints to the PDC. If someone wrote a complaint "failure to respond to ballot measure request", well council doesn't have any obligation to fulfill that request.

9. Are a letter of support and resolution treated completely differently in this matter? Does RCW 42.17A.555 apply to letters of support when the topic is of political significance like a ballot measure?

They are treated the same, whatever name we gave it. For example, resolution, ordinance, letter of support, etc. would all be treated the same.