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CONFIDENTIAL MEMORANDUM

TO: Summit Law Group; John Hohman; John Whitehead

FROM: Brenda L. Bannon, Investigator 

DATE: April 26, 2024

SUBJECT: *City of Spokane Valley; Workplace Investigation Summary Report*

I. SCOPE OF INVESTIGATION AND SUMMARY

On or around March 6, 2024, Summit Law Group retained my services to conduct an independent workplace investigation concerning allegations of improper communications and behaviors by a sitting Councilmember in the City of Spokane Valley (“COSV” or “City”) workplace. The need for the investigation grew from several sources including a written complaint lodged by a member of the City staff and safety concerns articulated by a group of City employees that were raised during a routine City facilities safety consultant meeting. Witnesses raised harassment and hostile work environment concerns, and stated a perspective that gender animus may be a factor in the allegations of misconduct.

The City Manager has stated that his role is to support the City Council on behalf of the City, and in so doing, his intent in initiating this investigation was to provide (i) a safe working environment for City staff and (ii) an environment and culture of inclusion, listening, responding and serving the City employees. The decision to initiate the investigation was driven by City Policy. (Policy 200.025(3)(c)). The same policy commits to conducting the investigation in a manner intended to preserve the confidentiality of the investigation. (200.025(3)(c)). The City policy highlights that if the definition of “harassment” is met, “it may include conduct by supervisors, co-workers, customers, citizens, or vendors that affects an employee's work environment.” (200.025(3)(a)).

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I have interviewed twenty-two witnesses; thirteen of the witnesses were female and nine were male.¹ The witnesses included six of the seven sitting Councilmembers. Additionally, I have reviewed various policy provisions, memoranda, miscellaneous email, notes and other documentation and communications. I have also compiled publicly available contextual information. It is the Investigator's normal practice to accept business records prepared in the ordinary course of business as conclusive regarding dates and events. In an effort to protect the confidentiality of the investigation and to preserve the overall integrity of the general investigative process, I have only referenced participating witnesses' titles in the narrative of the report where important to the overall context.² The Councilmember who is the subject of this investigation ("subject"), opted against presenting himself to the Investigator for an interview unless the Investigator consented to (i) allow a third-party member of the public to be present during the interview, and (ii) allow video recording of the interview, along with other preconditions. Consistent with all other witnesses, this request was denied. Instead, the Investigator offered to (i) allow the subject's attorney to be present during the interview, and (ii) allow a certified court reporter to record the interview at the City's expense. Through his legal counsel, the subject declined this offer. The subject's participation in this investigation was entirely voluntary, yet the Investigator would have preferred to have conducted the subject's interview in order to be provided his perspective of the events described by the witnesses in this investigation.

II. POLICY PROVISIONS AND LEGAL STANDARD

The Investigator utilized as the policy framework for this investigation the applicable COSV policy regarding harassment and discrimination (AP&P No. 200.015 & 025), and the COSV Governance Manual. (**Appendix A**).

The findings and conclusions set forth in this report are based on the entirety of the record considered by the Investigator and are not limited to the factual information contained in this report. The findings are based on a "preponderance of the evidence" standard which means that based on the available credible evidence gathered during the investigation, it is "more likely than not" that an event occurred or did not occur as alleged. Background information is presented as context for the current workplace analysis. *The examples discussed in this report are intended to be illustrative and not comprehensive.* If information is a direct quote, it will be noted as such with quotation marks. Finally, this report is not intended to provide any legal conclusions or offer any legal advice and should not be construed as such.³

¹ Interviews were conducted both remotely using a video-conferencing platform, and in-person depending on scheduling logistics. Remote witnesses were interviewed while the Investigator was in a private remote office and the witness was in a private location with no one else present. The in-person interviews occurred in a City Hall conference room with no one else present.

² See RCW 42.56.250(1)(f).

³ Because the investigation subject opted against being interviewed absent his preconditions, the Investigator's findings are independently based on the credible evidence reviewed to include corroborative documentation. Generally speaking, credibility is not merely a determination of whether a witness is being truthful -- it involves consideration of a number of factors which include, but are not limited to: (i) ability to observe; (ii) ability to recall and consistency of recollection; (iii) reputation for truthfulness; (iv) statements by other witnesses that are consistent or inconsistent with those of the declaring witness; (v) self-contradiction; (vi) bias/unusual interest in the outcome of the case or a friendly or hostile relationship with one of the parties; (vii)

III. SUMMARY OF INVESTIGATION AND FINDINGS

The COSV was incorporated in 2003. It has a Council-Manager form of government, and an elected body of seven Councilmembers. The subject of this investigation was elected into office as a Councilmember in November 2023. He was provided formal training and orientation regarding his new role in November and December 2023, and he began serving in his elected office in January 2024. Newly elected councilmembers -- to include the subject -- are provided with a binder full of information, and that includes the COSV Council Governance Manual.

Based on the weight of the evidence evaluated in this investigation, the Investigator concludes that the subject has not readily adhered to training and traditional workplace expectations for decorum and respectful workplace interactions with City staff and Council colleagues. By many accounts, the subject can be strident in routine conversations and “attention grabbing,” and has a naturally loud, carrying voice. Taken as a whole, and as will be described in summary fashion below, witnesses describe that he can be intimidating (i.e., yelling, invading personal space, interrupting work, ignoring greetings or comments, and trying to make staff/others feel stupid by pretending not to understand statements being made). His naturally loud voice carries even more forcefully when the subject yells. Witnesses have described the subject yelling in the COSV workplace several times. This yelling occurred while the subject was a candidate for office, and it has also occurred since the subject was elected into office. The yelling has occurred in public spaces easily witnessed by many employees.

Some of the “type” of behaviors and communications described in this summary report occurred before 2023. Beyond passing reference to a few examples of earlier conduct and communications that were witnessed by City employees and recounted in the workplace, this report will primarily focus on allegations that were witnessed by City employees in 2023 or afterwards.

1. Fall 2023, Campaign Signs Dispute and Conduct With City Employees at City Hall.

In fall 2023, the subject’s campaign signs were seen placed in a City roundabout and a WSDOT median. Both locations are considered traffic control devices contraindicating placement of campaign signs. Citizens called to complain. Several City employees report having had contact with the subject on this topic; the issue was escalated from one level of staff through the chain of command to the Public Works Director. The subject was called by a City staff member and asked to remove the signs. The subject argued his perspective of campaign sign placement and became “very upset;” per the witness, “the tone in his voice, he was agitated.” The subject demanded to speak with the Public Works Director. This witness alerted the Public Works Director that the subject would likely be stopping by to speak to him.

The subject then came to City Hall’s first floor lobby front counter, and he demanded to be able to discuss the City directive to remove the signs. He reportedly came to City Hall to address this topic

contemporaneous documentation; and (viii) an individual’s conduct during the investigation, including demeanor and body language during interviews and/or other tangible and intangible conduct that goes to a witness’s sincerity. Life and work experiences are also factored in as to a witness’s perspective.

2-3 times; according to the Development Services Coordinator, the subject's "body gestures, and his loudness and anger were very visible and very noticed." The subject "...was upfront, angry loud, not really wanting to talk to any of [the] staff, somewhat directing that [he needed] to talk to the city manager about this." This raised voice could be heard by other City employees to include an uninvolved employee who was wearing his headphones.

On September 20, 2023 the subject also sent an email to the Public Works Director demanding that the City "cease and desist" all such activity. Though all known candidates were provided notice of proper sign placement, the subject alleged "political targeting" in his case.

In September 2023, while at the City Hall lobby front counter, the subject was asked by the Building Official to remove the signs. The subject raised his voice and became irate. The Building Official described to the Investigator that she was used to dealing with difficult members of the public and placed this experience in that category of her workplace duties. She further described, "[a]nd he was getting pretty loud. And I remember that because I intentionally made my voice very quiet to bring the volume down as I tend to do. And so just as I was bringing my voice down to be very quiet, I saw [the Public Works Director] coming down the stairs and I said, aha. Well ... let's let you guys talk a little further." One witness who observed this scenario described the subject "yelling at" the Building Official.

The Public Works Director came to the City Hall lobby front counter to meet with the subject and address the campaign signs issue; the Director escorted the subject to a first floor, side conference room that had a closed door. The subject's loud and demanding voice could still be heard outside of the conference room. The subject became "confrontational." He yelled at the Public Works Director, and became "very loud and boisterous," while asserting that he was right and the City was wrong.

When the Director put the subject on the phone with the relevant point of contact at WSDOT,⁴ the subject yelled at the phone, and he continued to yell over his shoulder at the Director as he left the conference room, walked through the public first floor lobby, and as he "stormed out of City Hall." This conduct was heard and witnessed by many City employees.

Several witnesses have reported that the subject's behavior was more than unpleasant. The Director self-described to the Investigator being "thick-skinned," and he reported that he was more amused by this loud, confrontational behavior than offended. The front counter staff supervisor similarly agreed that the behavior was "obnoxious," but he reported that it did not impact him on a personal level. Based on a review of the evidence gathered in this investigation as a whole, the Investigator concludes that the subject treated male and female employees the same regarding the campaign signs dispute.

2. Since January 2024, Conduct at First Floor Lobby Entrance/Employees' Cubicles.

Witnesses described to the Investigator that after the subject Councilmember was elected, he established a habit of walking into City Hall without greeting the front desk reception. Instead, it was

⁴ Washington State Department of Transportation.

not uncommon for him to loudly announce his entry by stating that he was there to “cause trouble,” “cause a fight,” or that he is here to “cause chaos.” One witness described this behavior to be “disturbing and disrespectful.” Another employee described these communications and behavior to be awkward and unprofessional (“...saying that very loudly so that everyone in that front lobby area can hear him. And so sometimes it is a bit awkward having to have people in applying for permits or land use applications hear, that doesn't feel very professional.”) Some witnesses gave the subject the benefit of the doubt that he may have been trying to be funny.

Several witnesses described the subject disregarding their greetings, efforts to say hello, or attempts to see if they could be of help (witnesses on the first and third floors). A few witnesses recall the subject returning their greeting. One employee described to the Investigator that before and after the election, the subject's interactions with City staff were “loud,” and “pushy,” and that after the election, he was heard declaring at City Hall before a Council Meeting, “I'm here to be difficult.” The subject has also loudly criticized employees if they are speaking to one another on the first floor of City Hall (i.e., “I see a lot of standing around.”) Reportedly, this behavior is more than unsettling. This conduct occurs in full view of the City employee cubicle space that is arranged on the first floor of City Hall in order to greet and assist the public.

Witnesses have variously described feeling rattled, upset, and unnerved by the subject's manner and communications, in addition to his apparent efforts to generate or perpetuate public anger. One witness stated, “[a]nd I'm not somebody who typically has any sort of fear. I've worked in government a long time. Yes, you get angry people a lot, but I have had much more concern of my own safety at the front counter since [the subject] has been a councilmember just because the amount of public that come in angry with us.” By contrast, some witnesses stated to the Investigator that dealing with frustrated, angry behavior goes with the territory of being a City employee.

Additionally, on Tuesday evening City Council nights, the subject has reportedly allowed members of the public to have entry into the City Hall lobby before the 5:30 p.m. time frame that has been traditionally used by City employees. According to witnesses with knowledge, there is a stated operational need to get the Council Chambers set up for the evening's session, finalize the City business of the day, and get cash and in-process documents put away before unlocking the doors. City staff efforts to apprise the subject about these important issues have been disregarded, or “fallen on deaf ears.” Based on a review of the evidence as a whole, the Investigator concludes that male and female employees on the first floor of City Hall are treated the same by the subject. The subject has outwardly shown more respect towards the City Manager when there is a public encounter on the first floor of City Hall (i.e., a polite or cordial greeting).

3. Since early January 2024, Conduct at Third Floor Administrative Offices.

After the subject Councilmember was elected, he was provided a third floor cubicle to be able to manage administrative issues before Tuesday evening Council meetings. Because the Council role is part-time, and most Councilmembers have daytime employment, it is not typical for a Councilmember to spend daytime office hours in the cubicle space on a regular basis.

Beginning in early January 2024, the subject Councilmember began to intermittently spend much of the Monday through Friday work day in his third floor cubicle. By many reports, his “very loud, booming voice” could be easily heard in the administrative staff work area even when the staff tried to dampen the noise by wearing headphones or closing doors. According to witnesses, the subject spent much time speaking loudly on the phone while making derogatory comments about the City and City staff. Though the subject was in his own cubicle across a hallway from the administrative staff, he could be heard on the phone loudly belittling staff, the City and City projects and programs. Words and phrases such as “incompetent,” “not know what [he/she/they] are doing,” and they “are not running things right” were frequently heard. According to witnesses, this behavior and communication disrupted staff’s work and was at times demeaning.

According to several witnesses, the subject also began to unexpectedly walk into the administrative staff work space and demand to know where the City Manager was, or make strident requests for information or answers to questions. Such usually occurred without a greeting, a “please” or a “thank you.” He sometimes stated he was “there to cause trouble.” One witness described the subject’s interactions with the Executive Assistant as follows: “And he would get right over her and look down upon her in, I believe, intentional body language, and [he used] very loud and very fast target, rapid fire questions at her.” This reportedly occurred several times. This witness described that observing such interactions was “incredibly uncomfortable” for her.

According to several witnesses, at times, the subject encroached on the personal space or work space of others. This took the form of physically leaning over a counter, moving around behind an employee to look over her shoulder, looking at her computer monitor, hovering over a shoulder, or “barging into” an office and coming up within inches of someone to ask terse questions. In one example, a seasoned witness described, “I was in the U part [of my desk configuration] sitting down and he pretty much blocked [me] into my desk space, and I can’t remember what the subject matter was about, but it was a large man dressed in orange with a loud voice and it was intimidating.”

Descriptions from witnesses include, in her “personal bubble,” in his/her “face,” or “tower over.” Additionally, many witnesses described the subject ignoring the Executive Assistant’s inquiry(s) about helping him, or informing the subject that the City Manager was not available, and brusquely walking right past her straight into the City Manager’s office.

Witnesses described to the Investigator examples of off-putting conduct such as having their work interrupted by loud questions about “where is he” (referring to the City Manager) or loud, gruff statements, “I can wait.” Witnesses told the Investigator that the subject sounded very irritated and one employee described him sounding “ill tempered.” Witnesses also described that it became difficult to effectively get their work done in that atmosphere. One seasoned City employee, who has extensive experience in a different City, stated that the conduct and communications were “extremely disruptive.”

Several witnesses reported that most of the time, the subject seemed to make little if any effort to modulate or lower his voice for the small office environment.⁵ In one instance, the subject reportedly

⁵ Witnesses variously reported the subject generally does not use an “inside voice” or “library voice.”

lowered his voice when a male Councilmember sat down in a nearby cubicle; reportedly, the same courtesy was not provided when a female colleague sat in a nearby cubicle. One witness overheard the subject yelling by the administrative staff offices while asking questions about an operations matter. Reportedly, these behaviors cumulatively have led to several employees' feelings of "angst." Some witnesses reported feeling less discomfort for their own treatment and more discomfort at witnessing a co-workers' mistreatment.

Witnesses reported that in one instance, after the Councilmembers packed up their belongings in preparation for some third floor construction and painting, the subject came to the third floor looking for his lost wallet and key card. He reportedly insinuated that a staff person took it since his phone last "pinged it" up on the third floor; he stated he knew it was not in his boxes. He later reported he found it elsewhere but did not apologize.

Overall, by most accounts, the evidence supports a conclusion that the subject was rude, disrespectful and oppressive to male and female employees alike. The seasoned Executive Assistant chose to "shrug off" the described communications and behaviors rather than lodge a complaint.

4. Early January 2024, Confrontation in Council Chambers after a Council Meeting.

After a January 9, 2024 COSV Council meeting, the subject asked a female Councilmember to hang back to talk. This request was accommodated. After the rest of the public, Council and all-but-one staff member had filtered out of the first floor, the subject positioned himself between the other Councilmember and the door and got close to her face and started yelling at her (according to a witness, "he was very short with her, very much what I would've said in her personal space and not allowing her to exit the room. He was between her and the door..."). The subject is much larger than the other Councilmember and several inches taller.

According to the Councilmember, the subject "...was super aggressive. He gets really close to you. I tried to leave. He would not let me leave. He blocked the door, continued to yell at me, and I just kind of shut down. I was trying to leave."⁶ The remaining staff member had cleared out City equipment and documents and was observing the interaction.

By witness accounts, the subject yelled, and berated the Councilmember personally and professionally. The subject repeated iterations of his opinions regarding the Councilmember's incompetence, a theme of his "people" voting him into office, and that she needed to get used to it even if she did not like him.

According to the Councilmember, when she grabbed her purse to leave and made a step towards the door, he shifted his position to maintain his control of her egress ("And then when I would back up, he would back up with me, and then if I tried to go around him, he would move over to not let me around him.") The staff member witnessed the scene and the Councilmember's apparent distress; the

⁶ Allegedly, the subject had previously come right up to this Councilmember's face after a public political event and yelled at her regarding her personally (calling her names such as "stupid"); he also loudly criticized her political abilities.

staff member reported becoming uncomfortable to the point of going to the third floor to grab her own belongings and find “backup.” She located the City Services Administrator to assist with the situation.

The Administrator came downstairs and saw the subject loudly arguing at the Councilmember. The Administrator also observed the demeanor of the subject: “He seemed angry. His hands movement was high, almost like he was encroaching onto her and almost like he was preventing her from leaving.” It reportedly “looked very aggressive.” It looked like “...his body was hovering over hers.” The subject was doing most of the talking, and the scene was described as a loud heated argument. The Administrator walked into Council Chambers to create a ruse of getting a document signed and needing to leave in order to disengage the Councilmember from the subject. This interruption dissipated the situation. The subject stopped yelling. These two City employees then walked with the Councilmember to the parking lot and watched her get into her car reportedly to assure her safe exit from City Hall.

In the aftermath of this incident, staff members told the Investigator that they routinely walk the Councilmember to her car after Tuesday meetings and sometimes her husband does the same.

5. Miscellaneous Contextual Incidents.

In summer 2022, a male Code Enforcement Officer responded to the subject’s home in Spokane Valley in response to a nuisance/junk vehicle citizen complaint; the subject engaged in a challenging, “heated” discussion with the Code Enforcement Officer -- loudly lecturing the City employee about what the employee needed to do. It reportedly became intense and uncomfortable for the employee; he cut short the conversation and left the property. Under current circumstances with the ongoing 2024 nuisance/junk vehicle citizen complaints -- and the related need for current license and registration on the complained of vehicles -- the City’s Code Enforcement Officers have been directed by the Building Official that it is advisable to respond to the subject’s home for enforcement purposes in a team of two. The subject has complained that the current enforcement action is politically motivated, and he took the issue to the local newspapers.

In February 2024, a City Planner was waiting in line at the DOL Office across the street from City Hall when he witnessed the subject, dressed in his campaign shade of bright orange, yelling and swearing at DOL employees about logistics for updating vehicle license/registration. It is a small office space, and the incident was reportedly distressing. This incident was reported back to other City employees and to management.

In late February 2024, a group of approximately a dozen administrative staff were in a meeting with a safety consultant in a routine effort by the City to gauge City Hall facility safety issues, and whether any related adjustments needed to be made. Fear of active shooters was discussed along with safety perspectives about the physical layout of the facility. A consensus of attendees volunteered to the outside consultant that the subject was one of their “top” safety concerns that was “volatile” and “internal” as a threat to their safety. The attendees expressed “fear” of the subject Councilmember.

IV. CONCLUSION

The Investigator finds that virtually since beginning his official role as an elected COSV Councilmember, the subject has engaged in repetitive communications and behaviors that have been upsetting to various City employees. Similar communications and behaviors were openly demonstrated in City Hall while the subject was a candidate in 2023.

Administrative Policy and Procedure No. 200.025(3)(a) “Harassment” states in part as follows:

Harassment encompasses unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as sex, sexual orientation, gender identity, color, race, ancestry, religion, national origin, age, disability, marital status, veteran or military status, citizenship status, or other protected group status. The City will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment. Harassment is defined in RCW 10.14.020. It may include conduct by supervisors, co-workers, customers, citizens, or vendors that affects an employee's work environment. (bold emphasis added).

The weight of the credible evidence evaluated in this investigation fails to support a finding that there is a factual predicate to support a violation of Policy 200.025(3)(a). For example, there have been no allegations of swearing at City employees, making derogatory or sexually suggestive comments or slurs, or making protected class-based or off-color jokes.

Instead, the overwhelming weight of the evidence evaluated in this investigation supports a finding that the subject Councilmember has been unreasonably loud, pushy, curt, rude and disrespectful to male and female employees alike unrelated to any individual employee's protected class traits. Male and female employees have described the subject yelling, “getting in their face” or invading their personal space when he disagrees with a discussion topic, or at times, for no particular discernible reason. Both male and female employees have reported to the Investigator feeling intimidated by these communications and behaviors.

The COSV Governance Manual sets out an expectation of respect and decorum as follows:

6. Respect and Decorum

It is the duty of the Mayor and each Councilmember to maintain dignity and respect for their offices, City staff and the public...

The COSV Governance Manual states its Core Beliefs in Resolution 07-019 in Section No. 7 as follows:

We believe that Councilmembers set the tone for civic discussion and should set an example by:

(a) *Setting high standards of decorum and civility.*

(b) Encouraging open and productive conversation amongst themselves and with the community about legislative matters.

(c) *Demonstrating respect for divergent points of view expressed by citizens, fellow Councilmembers and the staff.*

(d) Honoring each other and the public by debating issues within City Hall and the Community *without casting aspersions on members of Council, the staff, or the public.*

(e) Accepting the principle of majority rule and *working to advance the success of “corporate” decisions.*

The weight of the credible evidence as a whole overwhelmingly supports a finding that the subject Councilmember’s communications and conduct, as described above in summary fashion, support a factual predicate for a violation of the COSV Governance Manual regarding expectations of respect, decorum and the City Council’s Core Beliefs, to include standards for workplace civility (pertinent sections from “Core Beliefs” are italicized for emphasis above).

Please advise should you need further investigation, clarification, or elaboration.

APPENDIX A



Administrative Policy & Procedure No. 200.015 Equal Employment Opportunity

1. POLICY

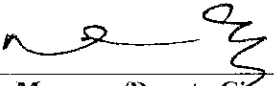
The City affords equal treatment and services to employees and City representatives, and promotes equal employment opportunity based on ability and fitness in accordance with applicable state and federal law.

2. REFERENCES

- a) U.S. Civil Rights Act of 1964 and 1991
- b) RCW 49.60
- c) Spokane Valley Municipal Code 2.50.030
- d) Administrative Policy 200.025: Harassment
- e) Administrative Policy 200.220: Hiring Process
- f) Administrative Policy 200.240: Change in Position: Advancements, Demotions, and Transfers

3. DESCRIPTION AND IMPLEMENTATION

- a) **Equal Employment.** The City promotes equal employment opportunities by establishing and following fair and equitable procedures for the recruitment of new employees, and the advancement of existing employees.
- b) **Reporting Perceived Discrimination.** An employee subjected to any form of discrimination should report such activity immediately to his/her non-involved supervisor, department director or directly to the Deputy City Manager.
- c) **Investigation.** The Deputy City Manager or designee will investigate and appropriately respond to all complaints of discrimination. If the Deputy City Manager or the City Manager is the subject of the complaint, an outside agency may be asked to investigate the complaint.
- d) **Accommodation.** The City will provide reasonable accommodation to qualified, disabled employees and applicants as required by law.



City Manager/Deputy City Manager



Administrative Policy & Procedure No. 200.025 Harassment

1. POLICY

The City does not condone harassment or retaliation. Employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in connection with employment. The City also prohibits employees from retaliating against anyone who has made a good faith complaint of harassment or participated in the investigation of such a complaint.

2. REFERENCES

- a) Civil Rights Act of 1964
- b) RCW 49.60
- c) RCW 10.14.020
- d) SVMC 2.50.040
- e) Administrative Policy No. 200.030: Whistleblower

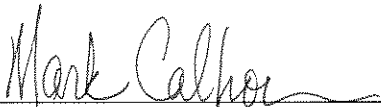
3. DESCRIPTION AND IMPLEMENTATION

a) Harassment Applicability and Scope.

- i) The City is committed to providing a workplace that is free from discrimination or any kind of unlawful harassment. In keeping with this commitment, the City will not tolerate harassment by City personnel or of City personnel by anyone, including any co-worker (including members), contractor, vendor, member of the public, client, or other third party. Harassment encompasses unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as sex, sexual orientation, gender identity, color, race, ancestry, religion, national origin, age, disability, marital status, veteran or military status, citizenship status, or other protected group status. The City will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment. Harassment is defined in RCW 10.14.020. It may include conduct by supervisors, co-workers, customers, citizens, or vendors that affects an employee's work environment.
- ii) Harassment does not include the conduct or actions of supervisors intended to provide employee discipline, such as counseling, correction, deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote positive performance.

- iii) **Sexual Harassment.** Sexual harassment is one form of prohibited, unlawful harassment. Unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment may include explicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing," "practical jokes," jokes about gender-specific traits, foul or obscene language or gestures, display of foul or obscene printed or visual material, and physical contact such as patting, pinching, or brushing against another's body.
 - iv) Each individual must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of unlawful harassment include, but are not limited to:
 - 1. Verbal: repeated sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
 - 2. Visual/Non-verbal: derogatory posters, cartoons, drawings or emails, suggestive objects or pictures, graphic commentaries, leering, or obscene gestures;
 - 3. Physical: unwanted physical contact including touching, interference with an individual's normal work movement or assault; and
 - 4. Other: making or threatening reprisals as a result of a negative response to harassment.
- b) **Reporting.**
- i) **Employee Experiencing Harassment.** An employee subjected to any form of harassment should first confront the harasser and ask that the conduct cease. If an employee is uncomfortable confronting the harasser, or if the conduct does not cease, she/he should report such activity immediately to his/her non-involved supervisor, Department Director, or directly to Human Resources.
 - ii) **Employee Witnessing Harassment.** An employee who witnesses harassing conduct toward another or who becomes aware of such conduct should report such activity immediately to his/her non-involved supervisor, Department Director, or directly to the Human Resources Manager.
 - iii) **Supervisor Responsibility.** A supervisor receiving a harassment complaint or witnessing harassment is required to report to his/her Department Director, who, in turn, is required to report the matter to the Human Resources Manager. Such reports are to be made regardless of how knowledge of the case was acquired.

- c) **Investigation.** The City Manager or designee investigates and appropriately responds to complaints of harassment. If the City Manager is the subject of the complaint, an independent outside agency may be asked to investigate the complaint. The results of the investigation and the nature of the disciplinary action, if any, are communicated by the City Manager to both the complainant and the alleged offender, as well as to the affected Department Director, except where such disclosure is prohibited. Investigations shall be conducted in a manner to preserve confidentiality to the extent possible. Disclosure shall occur when necessary to investigate the complaint or when required by law.
- d) **No Retaliation.** In accordance with state and federal law, the City does not permit retaliation against any employee who makes a good faith complaint of harassment or participates in an investigation. Concerns of retaliation should be promptly reported to the Human Resources Manager.
- e) **Disciplinary Action.** The City will take prompt effective corrective action to end any harassing or retaliatory behavior. An employee who harasses another employee or member of the public may be subject to the full range of disciplinary action, up to and including termination from employment. Similarly, any employee who violates the no-retaliation policy may be subject to discipline up to and including termination.
- f) **Training.** The Human Resources Manager shall be responsible for disseminating information on Spokane Valley's Policy against harassment and retaliation, and provide training programs for employees and supervisors.
- g) **Policy Implementation.** All officers, supervisors and managers are responsible for the implementation of this Policy, ensuring compliance with and knowledge of its terms, and for taking immediate and appropriate corrective action if they witness inappropriate behavior.



City Manager/Deputy City Manager



Governance Manual

Adopted by Resolution 23-104 A Comprehensive Collection of Rules and Procedures

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INTRODUCTION

In December 2002, prior to our City's official incorporation, then Mayor DeVleming appointed three members of Council to serve on an ad-hoc Governance Coordination Committee for the purpose of drafting Council Rules of Procedure, to serve as an aid to effective legislative and organizational harmony, and to provide procedural rules to conduct meetings efficiently, fairly, and uniformly. The end-product legislation of that Committee's four-month process was approved by Council at the May 13, 2003 Council meeting. That historic first manual also included Resolution 03-027, a General Policy Resolution of Core Beliefs, which was amended by Resolution 07-019, which can be found in full in Appendix B on page 47. RCW 35A.12.120 states in part, that "The council shall determine its own rules and order of business and may establish rules for the conduct of council meetings and the maintenance of order."

City Council meetings shall be governed by the most recent edition of Robert's Rules of Order, a copy of which is maintained in the office of the City Clerk. However, in the event of a conflict between the Council's Governance Manual and Robert's Rules, the Council's Governance Manual shall prevail.

This Manual has undergone several changes since its inception, with some sections remaining static over the years, such as Council meeting time and location, and other sections having been modified to include Internet use, filling Council vacancies, the use of social media, and the option for Councilmembers to view their packet electronically. This Manual is usually reviewed annually and at times amended to recognize additional topics or for clarification as the need arises.

This Manual is designed to provide guidance for the City Council and is not intended to be an amendment or substitute for any state statutes, City ordinances, court decisions, or other authority. The rules and policies in this Manual do not constitute land use regulations, official controls, public hearing rules or other substantive rules binding upon or to be used or relied upon by members of the public, and do not amend statutory or other regulatory requirements.

EXECUTIVE SUMMARY

FOUNDATION: The City of Spokane Valley incorporated March 31, 2003, and is a non-charter code city operating under a Council-Manager plan of government as outlined in chapter 35A.13 RCW Optional Municipal Code for Council-Manager plan of government. Under this form of government, there are two branches of government: legislative and administrative.

PURPOSE OF CITY GOVERNMENT: The general purpose of local government is to promote the social, economic, environmental and cultural well-being of the community, to ensure that resources are used efficiently and effectively, to ensure transparency and accountability in decision-making, and to provide the prudent use and stewardship of local community resources. These statements should be considered the lens through which this Manual is intended and through which the actions of the City Council and staff are viewed. The City recognizes that individual rights are critically important in our society, and the City is committed to not infringe upon those rights whenever possible. Good governance should reflect the will of the citizenry and can only occur as a result of an open public process: “All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.” (Washington State Constitution Article I, Section 1)

OBLIGATIONS: The City acknowledges the importance of complying with the Open Public Meetings Act and the Public Records Act: “The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” RCW 42.30.010 and 42.56.030.

RCW 42.30.010 Open Public Meetings Act: “The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people’s business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.” Unless as part of an executive session, Councilmembers shall not meet as a quorum of four or more in a non-public meeting. Unless as part of a duly noted Council meeting, a quorum of four or more Councilmembers shall not meet as part of a web conference dealing with City business, nor a conference call, serial communication, social media or even a “straw poll” in executive session. The Open Public Meetings Act does not prohibit a quorum or more of Councilmembers meeting at social gatherings or events provided City issues are not discussed. If Councilmembers are involved in a violation of the Open Public Meetings Act, and are aware that their actions violate the Act, they may be personally liable. If the violation is not intentional, the City may still be liable for attorney’s fees. However, elected officials’ right to speak freely and gather publicly is protected by the First Amendment of the U.S. Constitution.

RCW 42.56.030 Public Records Act: “This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern.”

PRIORITIES: The City’s priorities are public safety, pavement preservation, transportation and infrastructure (including grade separations and park related projects), and economic development. Additional information on priorities and Council goals can be found in each year’s budget.

BASIC TENETS: Council’s core values and basic tenets of governing can be found in Resolution 07-019, which is included in its entirety in Appendix B on page 47 of this Manual.

BRANCHES OF CITY GOVERNMENT: The Council is the legislative branch of the City government. Council appoints an officer whose title shall be “City Manager” and who shall be the chief executive officer and head of the administrative branch of the City government. “The City

Manager shall be responsible to the Council for the proper administration of all affairs of the code city.” RCW 35A.13.010.

Legislative Branch: City Council.

The City Council consists of seven elected officials, each elected to four-year terms. Individual Councilmembers do not have governing power as individuals, but only when meeting as a Council when a quorum (four or more) are present. Council represents the City residents and business owners of the City of Spokane Valley, and is the law-making, policy-making, and budget and spending approval authority of the City government. Council hires, directs, guides and evaluates the performance of the City Manager. The City Manager shall be appointed for an indefinite term and may be removed by a majority vote of the Council (RCW 35A.13.130), or as otherwise agreed to by contract. For functions of the Mayor and Deputy Mayor, see also Chapter 1(A)(3), page 8 of this Manual.

Some of the duties, responsibilities, and limitations of **each** Councilmember:

- Brings the experience, concerns and knowledge of a typical City resident to City government.
- Is cognizant of the needs, wants and concerns of City residents and businesses as a whole.
- Contacts residents and businesses to gather feedback and ideas. The resulting information may be shared with staff or other Councilmembers individually, or with fewer than two simultaneously (but not serially), or with all Councilmembers at a Council meeting.
- Studies internal and external written and documented information related to the government and administration of the City.
- Is prohibited from giving City employees directives, or saying anything that could be taken as an attempt to influence the conduct of the employee’s job.
- Gives feedback and ideas regarding City government and administration to the City Manager.
- Participates in assigned City and regional committees and all Council meetings.
- When acting in the capacity of Councilmember outside of Council meetings, communicates that any personal opinion is the opinion of the individual Councilmember and not that of the collective Council, unless pre-authorized to speak, as Council does not want the public to assume that any individual personal opinion represents that of the entire Council. Councilmember’s freedom of speech is protected by the U.S. and Washington State Constitutions. Provided there is no quorum., Councilmembers may work together on City Council-related projects and discuss City business in non-public meetings. No permission is needed, nor is notice required to be given for such gathering.

Administrative Branch: The City Manager, and City Staff.

The City Manager is the City’s chief executive officer and head of the administrative branch. The City Manager is an at-will position and reports directly to the Council. The City Manager is directly accountable to the City Council for the execution of the City Council’s policy directives, for the administration and management of all City departments, and for the supervision of staff. (See Chapter 3(B), page 39 of this Manual and chapter 35A.13.RCW for a description of the role of the City Manager.)

Although this summary is provided as an overview of the Governance Manual, reading the entire Manual is strongly encouraged.

CHAPTER 1

Council Meetings



of absence if they desire to remain on the Council. At a third consecutive meeting where a Councilmember is not excused and there has been no request for a leave of absence, the absent Councilmember's office shall be forfeited effective immediately.

b. Excused Absences: Members of Council may be excused from meetings with prior notification to the Mayor, City Clerk, or City Manager prior to the meeting, and by stating the reason for the inability to attend. Acceptable absences may include death of a family member, family or personal illness, inclement weather, accident, scheduled vacations, family or personal emergency, City related business, or unusual or unforeseen circumstances. Following or prior to roll call, the Presiding Officer shall inform the Council of the member's absence, and inquire if there is a motion to excuse the member. The motion shall be nondebtable. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the City Clerk shall make an appropriate notation in the minutes.

c. Leave of Absence: A Councilmember whose serious health or physical condition would prevent them from performing the duties of Councilmember may ask to be placed on a leave of absence under the following conditions:

- i. Such serious health or physical condition must be certified in writing by a medical physician.
- ii. The request for a leave of absence shall be in writing, and hand-delivered or mailed to the Mayor, City Clerk, or City Manager at least one week prior to the date when such leave would commence.
- iii. The request for a leave of absence must state the anticipated date the Councilmember will resume their duties.
- iv. By majority vote of the whole Council, a leave of absence shall be granted as follows:
 - a. The absence shall not exceed 90 days from the date the motion is passed by Council
 - b. The absent Councilmember shall retain pay and medical benefits during the leave of absence
 - c. At the end of the 90-day leave of absence, the absent Councilmember shall either:
 - i. Return to normal Council duties commencing with the first Tuesday following the end of the 90-day leave; or
 - ii. be subject to RCW 35A.12.060 concerning three consecutive absences, beginning with the first Tuesday following the end of the 90-day leave.

d. A leave of absence may only be granted twice during a Councilmember's four-year term, with no less than six months between each request. Upon approval of a leave of absence, the absent Councilmember shall not be replaced with a pro-tem Councilmember during the absence.

6. Respect and Decorum

It is the duty of the Mayor and each Councilmember to maintain dignity and respect for their offices, City staff and the public. While the Council is in session, Councilmembers shall preserve order and decorum and a Councilmember shall neither by conversation or otherwise, delay or interrupt the proceedings of the Council, nor disrupt or disparage any Councilmember while speaking. Councilmembers and the public shall comply with the directives of the Presiding Officer. Any Councilmember making disruptive, disparaging or impertinent remarks, or unreasonably disturbing the business of the Council shall be asked to cease such disruption. Any other person attending a Council meeting who disrupts the meeting in such a fashion that the Council is impaired in its ability to attend to the business of the City, may be asked to leave, or be removed from the meeting. At any time during any Council meeting, any Councilmember may object to personal affront or other inappropriate comments, by calling for a "point of order." After the Councilmember is recognized by the Presiding Officer and the Councilmember explains their point concerning respect and decorum, or lack thereof, the Presiding Officer shall rule on the remark. If the person making the remark is a Councilmember, the Presiding Officer may ask the Councilmember to cease. If the person making the remark is a member of the public, the Presiding Officer shall determine if the remark is actually disruptive, and whether the remark has impaired the ability of the Council to attend to the business of the City. If so, the Presiding Officer shall seek the removal of that person from the meeting. Continued disruptions may result in a recess or adjournment as set forth in #10 below.

7. Dissents and Protests

Any Councilmember shall have the right to express dissent from or protest verbally or in writing, against any motion, ordinance or resolution of the Council and have the reason therefore entered in the minutes.

8. Remote Participation

a. Remote Council Meetings: In the event of unusual circumstances such as a pandemic or other health or safety emergency where Council meetings would need to be held in such a manner as to protect the health, safety and welfare of Council, staff and citizens, participation in such meetings shall be done remotely provided an option is available for the public to attend through internet or other electronic means. Council, staff and the public must be able to see and hear the meeting proceedings. At least a quorum of councilmembers must be able to participate.

b. Remote Broadcast: All City Council meetings shall be broadcast live using an online remote meeting platform, such as Zoom, Microsoft Teams, or another similar platform, to allow citizens to attend the meetings remotely. Public comment will be accepted from remote attendees at the appropriate portion(s) of the meeting as defined per the agenda.

c. Councilmembers may appear at a Council meeting by remote connection: Any Councilmember intending to attend a meeting remotely should notify the Mayor and City Clerk in advance of the meeting, such request shall be for reasons where the Councilmember cannot physically attend the meeting, and should be made only when necessary. Councilmembers' cameras should remain on for the duration of the remote meeting. If a technical problem prevents such participation where the remote Councilmember cannot hear or be heard, the Councilmember shall be counted as an excused absence and the technical difficulty shall be stated for the record. During any meeting that a Councilmember is attending remotely, the Mayor or presiding officer shall so state for the record at the beginning of such meeting. In instances where the Mayor is remotely attending a meeting, the Mayor may still function as the Presiding Officer. More than one member of Council may attend a meeting remotely, provided all together in person and remotely, there is a quorum of Councilmembers attending.

9. Internet Use

a. Use of the City's network systems implies Council is aware of and understands that the system is provided to assist in the performance of their roles as Councilmembers, and as such, Councilmembers are obligated to use, conserve and protect electronic information and information technology resources and to preserve and enhance the integrity of those resources which belong to the citizens of Spokane Valley.

b. As noted on page 16, Councilmembers shall avoid accessing any electronic message during Council meetings whether by e-mail, text, or other means,. Accessing such communication could be construed as receiving public comment without the benefit of having the citizen in person to address their concerns. Likewise, Councilmembers shall avoid browsing the Internet during Council meetings in order that Council's full attention can be given to the topic at hand.

c. Information technology resources are provided for the purpose of conducting official City business. The use of any of the City's information technology resources for campaign or political use is prohibited unless it has been determined by the City Attorney, Washington State Attorney General, or Washington Public Disclosure Commission, that such use is not a violation of RCW 42.17A.555 or is otherwise authorized by law.

d. Confidential material shall not be sent via e-mail or text.

e. All letters, memoranda, and interactive computer communication (e-mail, text, tweet, etc.) involving Councilmembers, the subject of which relates to the conduct of government or the performance of any governmental function, with specific exceptions stated in the Public Records Act (RCW 42.56) are public records. Copies of such letters, memoranda and interactive computer communication shall not be provided to the public or news media without the member of the public or news media filing a public record request with the City Clerk. With this in mind, texting and tweeting concerning City business is strongly discouraged.

APPENDIX B: RESOLUTION 07-019

CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON RESOLUTION NO. 07-019

AMENDED GENERAL POLICY RESOLUTION OF CORE BELIEFS

A RESOLUTION OF THE CITY OF SPOKANE VALLEY AMENDING RESOLUTION 03-027, ESTABLISHING A *GENERAL POLICY RESOLUTION* EMANATING FROM THE CORE BELIEFS OF THE CITY COUNCIL AND COMMUNITY AND SETTING FORTH DUTIES OF BOTH ELECTED AND APPOINTED OFFICIALS OF THE CITY TO HELP GUIDE LEGISLATIVE AND EXECUTIVE DECISIONS TOWARD EFFECTIVE, RESPONSIVE, AND OPEN GOVERNMENT

WHEREAS, the City Council of the City of Spokane Valley, as the elective legislative body, is charged with promulgating Ordinances and Resolutions which become the law of the city; and

WHEREAS, such Ordinances and Resolutions must provide enforceable provisions subordinate to, and in harmony with, all other applicable federal and state statutes and regulations; and

WHEREAS, the City Council desires to provide a clear set of general policy guidelines for the conduct of city government;

Section 1. Modifying Resolution 03-027 as set forth below by adding new section 7. The remainder of the resolution 03-027 is unchanged:

NOW, THEREFORE, the City Council of the City of Spokane Valley does hereby affirm and resolve that the following **core beliefs** shall serve as guidelines for the conduct of affairs by all branches of Spokane Valley City Government.

- Section 1.** We believe that Spokane Valley should be a visionary city encouraging its citizens and their government to look to the future beyond the present generation and to bring such ideas to public discussion and to enhance a sense of community identity.
- Section 2.** We believe that elected body decision-making is the only lawful and effective way to conduct the public's legislative business and that careful observance of a clear set of Governance Coordination rules of procedure can best enhance public participation and decision making.
- Section 3.** We believe in the City Council as policy leaders of the City. One or more City Councilmembers are encouraged to take the lead, where practical, in sponsoring Ordinances or Resolutions excepting quasi-judicial or other public hearings and the statutory duties of the City Manager as set forth in RCW 35A.13.020.
- Section 4.** We believe in hearing the public view. We affirm that members of the public should be encouraged to speak and be heard through reasonable rules of procedure when the public business is being considered, thus giving elected officials the broadest perspectives from which to make decisions.
- Section 5.** We believe that the City of Spokane Valley's governance should be known as "user friendly," and that governance practices and general operations should consider how citizens will be served in the most responsive, effective and courteous manner.

- Section 6.** We believe that the economic and commercial job base of the community should be preserved and encouraged to grow as an alternative to increasing property taxes. We believe it imperative to have an expanded and diverse economic base.
- Section 7.** We believe that Councilmembers set the tone for civic discussion and should set an example by:
- (a) Setting high standards of decorum and civility.
 - (b) Encouraging open and productive conversation amongst themselves and with the community about legislative matters.
 - (c) Demonstrating respect for divergent points of view expressed by citizens, fellow Councilmembers and the staff.
 - (d) Honoring each other and the public by debating issues within City Hall and the Community without casting aspersions on members of Council, the staff, or the public.
 - (e) Accepting the principle of majority rule and working to advance the success of “corporate” decisions.
- Section 8.** We solicit the City Manager’s support in conducting the affairs of the city with due regard for:
- (a) Promoting mutual respect between the Citizens, City staff and the City Council by creating the organizational teamwork necessary for effective, responsive and open government.
 - (b) Providing the City Council and public reasonable advance notice when issues are to be brought forward for discussion.
 - (c) Establishing and maintaining a formal city-wide customer service program with emphasis on timely response, a user-friendly atmosphere, and an attitude of facilitation and accommodation within the bounds of responsibility, integrity, and financial capability of the city, including organizational and job description documents while pursuing “best practices” in customer service.
 - (d) Seeking creative ways to contain or impede the rising cost of governmental services, including examination of private sector alternatives in lieu of governmentally provided services.
 - (e) Providing a database of future projects and dreams for the new City of Spokane Valley so that good ideas from its citizens and leaders are not lost and the status of projects can be readily determined.

Approved by the City Council this 11th day of December, 2007.

ATTEST:

/s/ DIANA WILHITE

Diana Wilhite, Mayor

/s/ CHRISTINE BAINBRIDGE

Christine Bainbridge, City Clerk

Approved as to form:

/S/ MICHAEL F. CONNELLY

Office of the City Attorney