



1111 Third Avenue
Suite 3000
Seattle, WA 98101

Main: 206.447.4400
Fax: 206.447.9700
foster.com

October 24, 2019

Mx. Fox Blackhorn
Compliance Coordinator 2
Washington Public Disclosure Commission
711 Capitol Way South, #206
P.O. Box 40908
Olympia, WA 98504-0908
Email: pdc@pdc.wa.gov

Re: *City of Camas Response to Complaint filed by Glen Morgan (PDC Case #58473)*

Dear Mx. Blackhorn:

We serve from time to time as counsel to the City of Camas, Washington. The City received a copy of the above referenced Complaint from your office at the Public Disclosure Commission (PDC) on October 10, 2019. The City investigated the allegations of Glen Morgan in the Complaint and appreciates this opportunity to respond.

Mr. Morgan alleges improper use of City resources arising from the engagement of WSP USA Inc. to provide, among other services, community engagement services regarding the City's Community Aquatics Center Plan. The Aquatics Center is proposed to be financed with voter-approved general obligation bonds at the November 5, 2019, election under Ordinance No. 19-007 of the City (Bond Proposition).

As further explained below, the Complaint lacks foundation for two reasons. First, the Complaint does not allege any specific conduct that promotes passage of the Bond Proposition or that is otherwise prohibited by RCW 42.17A.555. All of the materials and activities produced by the City and its consultant have been informational only. Second, the City has a longstanding practice of engaging the community and also of hiring consultants to assist with community engagement activities, including for City initiatives that do not require ballot propositions. The City's activities surrounding the Aquatics Center and the Bond Proposition, including hiring its consultant to provide community engagement services, are therefore normal and regular conduct of the City consistent with RCW 42.17A.555(3).

Under WAC 390-37-060, the Public Disclosure Commission may terminate an investigation if a complaint is "obviously unfounded or frivolous." Mr. Morgan's conclusory allegations do not support a finding of a violation of RCW 42.17A.555 or Public Disclosure Commission Interpretation 04-02, *Guidelines for Local Government Agencies in Election Campaigns* (PDC Interpretation 04-02). For the reasons discussed in this response, no further investigation is required and the PDC should close this complaint file.

1. Informational Activities of the City and its Consultant

One of the PDC's Basic Principles is that local governments have a responsibility to keep the public informed:

The Public Disclosure Commission holds that it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies. This includes informing the community of the needs of the agency that the community may not realize exist. Local governments may expend funds for this purpose provided that the preparation and distribution of information is not for the purpose of influencing the outcome of an election.

PDC Interpretation 04-02, p. 3-4. Correspondingly, local governments must keep informed of the public's priorities. PDC Interpretation 04-02 accordingly authorizes local governments to:

...conduct surveys and/or other community research, including demographic questions, to determine the community's priorities, public perception of performance, and/or to inform the community about agency programs and policies.

...conduct community research (including but not limited to the use of questionnaires, surveys, workshops, focus groups, and forums) to determine the community's priorities for both programs and/or facilities and their associated total costs and projected dollars per thousand assessment.

PDC Interpretation 04-02, p. 24.

Consistent with PDC Interpretation 04-02, the City's consultant was hired to assist the City in informing the public and soliciting input regarding the Community Aquatics Center Plan. The consultant's contract was formally approved on the City Council's consent agenda on July 15, 2019. However, the consultant's work began earlier. For example, the consultant organized and managed an informational open house on June 18, 2019, to present the Plan and solicit feedback from the community. The final scope and design of the project are not yet determined, and the City will continue to solicit and consider community feedback to inform the planning process, even after the November election.

More information about the draft Plan, the community forums and the community feedback received can be found on the City's website for the project: <https://camascommunityaquaticscenter.com>. Consistent with PDC Interpretation 04-02, information on the website is limited to specific facts regarding the Plan, including: project description and cost breakdown, location information and traffic impacts, estimated levy rates and cost per typically valued household, and similar factual information regarding the Plan.

The website does not directly solicit public support or convey a tone or tenor in support of the Bond Proposition. It does not make general statements regarding the City's prudent fiscal management with respect to the proposed Aquatics Center or the City's general fund budget. It does not speculate about potential secondary benefits, like economic development and community safety benefits, or about favorable interest rates in the current municipal bond market. And it does not use emotionally laden language to promote the Bond Proposition. *See generally* PDC Guidance Memorandum, *Election-Related Communications by Local Government Agencies* (Jan. 12, 2015). Information shared over the City's social media platforms, including Facebook and Twitter, has also been limited to specific facts regarding the Plan and related community outreach.

In the Complaint, Mr. Morgan makes a number of conclusory statements regarding informational materials to "endorse, promote and encourage" voter support. But he does not cite any specific examples to support his statements. This is because there are none. As described above, a review of the materials referenced in the Complaint show that the information provided by the City is limited to objective and fair presentations of facts regarding the Community Aquatics Center Plan and the anticipated tax impacts of the Bond Proposition. And as described more fully below, the scope and timing of the City's community outreach, including hiring a third-party consultant and distributing information online and through social media platforms, is consistent with longstanding City practices, regardless of whether the particular City initiatives require voter approval of a ballot proposition.

The informational materials produced by the City and its consultant do not contain anything objectionable under PDC Interpretation 04-02 and do not support a finding of a violation of RCW 42.17A.555. No further investigation is required.

2. Normal and Regular Community Engagement of the City

Among other exceptions, the restrictions in RCW 42.17A.555 do not apply to City activities that are a part of its "normal and regular" conduct. RCW 42.17A.555(3). PDC rules provide that conduct is normal and regular if it is "... (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner." WAC 390-05-273.

2.1. City community engagement and contracts for consulting services are lawful.

As a Washington code city, the City of Camas possesses all of the powers possible for cities and towns under the Washington Constitution, unless expressly denied by law. Chapter 35A.11 RCW. Those powers include the authority to contract for services, including the provision of services that could otherwise be performed by city employees. The informational and community outreach activities of the City described in this response are therefore authorized by law. As the PDC expressly recognizes, "it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies." PDC Interpretation 04-02, p. 3.

2.2. *City community engagement and contracts for consulting services are usual.*

The City of Camas has a longstanding practice of engaging its community regarding City initiatives. Community engagement efforts include ongoing and active online web and social media presences and the hiring of consultants to assist on specific initiatives.

The City maintains active Facebook and Twitter accounts, both of which are under the social media handle @cityofcamas. The City provides a wide range of content on these platforms, including information about upcoming council meetings, job openings, road paving and street improvement schedules, community events and other issues of interest to the public. Posts also include City sponsored open houses, like those for the Community Aquatics Center Plan. The City posts content on these platforms frequently, sometimes more than once a day. Notably, posts about the Community Aquatics Center Plan comprise only a small fraction of the City's social media activity since its consultant's work began in May of 2019.

The City also regularly hires consultants to assist in its community engagement activities, even when voter approval is not required for a particular City initiative. For example, the City hired consultants to assist with its 2014 comprehensive plan update. There, the City hired Cogan Owens Cogan LLC to provide, among other services, public outreach and engagement, including a public website and social media engagement, community conversations, outreach during "Camas Days" (an annual Chamber of Commerce sponsored community celebration), online questionnaires and other community engagement activities regarding the City's comprehensive plan update. A public vote was not required. Other recent examples include hiring community engagement consultants for the following City projects:

- Brady Road Improvements
- Crown and Park Master Plan (City park planning)
- Larkspur and Camas Meadows Street Improvements
- Intersection Improvements at NW 6th Avenue and Norwood Street
- NE Lake Road and NE Everett Street Intersection Improvement Project

The City's activities for the Community Aquatics Center Plan have been no different, and Mr. Morgan's conclusory statement that these activities are not normal and regular conduct is factually and legally incorrect. The City's community engagement activities are consistent with the guidelines under PDC Interpretation 04-02 and do not support a finding of a violation of RCW 42.17A.555. No further investigation is required.

3. Conclusion

The City appreciates the opportunity to investigate the allegations in Mr. Morgan's Complaint and provide this response. For the reasons stated in this response, the PDC need not investigate this matter further and should close this complaint file.

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Please contact me at (206) 447-6264 or lee.marchisio@foster.com if you have any questions or require additional information.

Sincerely,

FOSTER GARVEY PC

By 
Lee Marchisio

cc: Pete Capell, City Administrator