



August 18, 2020

Tabitha Townsend  
Washington State Public Disclosure Commission  
P.O. Box 40908  
Olympia, WA 98504-0908

RE: PDC Case No. 74881, South Sound Future Enterprise Washington

***VIA EMAIL ONLY***

Dear Ms. Townsend:

I am replying on behalf of my client, South Sound Future Enterprise Washington (the Committee) to your emails of August 11 and August 13, 2020, requesting a response to a complaint filed with the Public Disclosure Commission (PDC), alleging violations of RCW 42.17A.320 and .335.

**RCW 42.17A.320: Sponsor ID**

The complaint alleges that the disclaimer on the mail piece identified as “#1” in the complaint is not ten-point type as required in [RCW 42.17A.320\(3\)\(A\)](#). In fact, the disclaimer is in ten-point type as evidenced by the attached PDF. Attachment No. 1.

**Alleged violations of RCW 42.17A.335**

The complaint alleges that the mailers identified as “#3” and “#5” in the complaint made claims that constitute libel or defamation against state senate candidate Julie Door (the Candidate). The claims referenced suggested that the Candidate:

1. Supports higher property taxes,
2. Supported higher sales taxes, and
3. Supported higher fees on burial expenses in Puyallup.

It is a violation of RCW 42.17A.335 when a person sponsors “with actual malice a statement constituting libel or defamation per se” for political advertising containing “a false statement of material fact about a candidate for public office.” [RCW 42.17A.335\(1\)\(a\)](#). A violation of this section “shall be proven by clear and convincing evidence.” [RCW 42.17A.335\(4\)](#).

### Property Taxes

The complaint includes a copy of the City of Puyallup Budget Appendix E which partially explains property tax increase limitations. However, this explanation does not refute the fact that the Candidate voted to raise the overall property tax rate the full 1% allowed under the law as cited in the advertising. Attachment 2. The Candidate could have instead voted against raising the property tax rate or even supported lowering it. The Candidate did not do so. The argument that the effective rate of taxation per \$1,000 of housing value is lower does not mean property taxes assessed on the community are lower. They are in fact higher because the council adopted the 1% maximum increase allowed under the law at their discretion.

### Sales Taxes

In December of 2019, the Candidate supported Resolution No. 2395 to utilize taxpayer funds collected through a sales and use tax to expand affordable housing by supporting a resolution stating “the intent of the city council to adopt legislation to authorize a sales and use tax for affordable and supportive housing in accordance with substitute house bill 1406.” Attachment 3. In January 2020, the Candidate voted to approve an ordinance creating “a code section laying the foundation for the collection of tax monies from the state” to be used for affordable housing.

### Fees on Burial Expenses in the City of Puyallup

The advertising in question suggests that the Candidate as a Puyallup City Councilmember supported increasing the fees and therefore the costs of burials with the City of Puyallup. The complaint is correct in that the advertising cites to minutes from a March 2019 city council meeting that the Candidate did not attend. However, the Candidate did attend a city council meeting in December 2019 where the candidate voted to increase burial fees. Attachment 3. No evidence has been presented suggesting the Candidate does not or did not support increasing burial fees in the City of Puyallup specific to any vote or in general.

The Complainant suggests that the evidence presented in the political advertising is insufficient to support the claims made in the advertising and that this is part of the basis for bringing a complaint under RCW 42.17A.335. However, it is important to note that statements made within the content of advertising are not required to be supported in any manner within the advertising itself. The Committee believes its political advertising is a fair and accurate description of the positions of the Candidate on issues of importance to the voters of the 25<sup>th</sup> Legislative District.

### Libel and Defamation in Political Advertising Context

The burden of proof under any circumstance for libel or defamation is high and the same is true with RCW 42.17A.335(4). Regardless of the evidence presented here by the Committee, it is important to note the statute does not require a respondent to establish the truth of any statement but rather requires clear and convincing evidence of a false statement of material fact. Instead, the Complainant has provided virtually no evidence or explanation of any kind about why or how the political advertising by the Committee is not true. Under these circumstances, no false statement of material fact can be found.

Finally, this complaint is not brought by the candidate and no rebuttal from the candidate has been provided. The Complainant, Robin Farris, is not listed as an officer or representative of the Candidate or the Candidate’s committee. It is highly questionable whether a violation under RCW 42.17A.335 can ever be found where the Candidate that is the subject of the alleged libel or defamation has not raised a claim with the PDC herself and has taken no part in such a complaint.

Tabitha Townsend  
August 18, 2020  
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I hope you find this information useful. Please contact me if I can provide further information.

Sincerely,



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Dan Brady

Attachments

1. Disclaimer with font measurement
2. Minutes of November 2015 Puyallup City Council meeting
3. Minutes of December 2019 Puyallup City Council meeting

No candidate authorized this ad. It is paid for by South Sound Future Enterprise Washington, 975 Carpenter Rd NE STE 101 Lacey, WA 98516. Top 5 contributors: Washington Realtors Political Action Committee. Top 3 donors to PAC contributors: Association of Washington Realtors, National Association of REALTORS, Seattle-King County Association of Realtors.

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**City of Puyallup  
Regular City Council Meeting  
November 10, 2015**

(These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of six years from the date of the meeting and are available upon request.)

**COUNCILMEMBERS PRESENT:** Mayor Knutsen, Deputy Mayor Hopkins, Councilmember Door, Councilmember Palmer, Councilmember Shadko, Councilmember Swanson, Councilmember Vermillion

**APPROVAL OF THE AGENDA**

**Council Action:** A motion was made by Councilmember Shadko, second by Deputy Mayor Hopkins, to include an emergency moratorium ordinance on the agenda as item #22, and approve the agenda as amended. The motion passed 7-0.

**APPROVAL OF THE MINUTES**

**Council Action:** A motion was made by Councilmember Vermillion second by Deputy Mayor Hopkins, to approve the minutes of September 22 and October 6, 2015. The motion passed 7-0.

**PRESENTATIONS AND/OR PROCLAMATIONS**

**Proclamation – “DECA Month in the City of Puyallup”**

A proclamation was read and presented recognizing November 2015 as “DECA Month in the City of Puyallup.”

**COMMITTEE REPORTS**

Deputy Mayor Hopkins spoke about his attendance at the Flood Control District meeting which included a Corps of Engineers report. He said the City will be reimbursed for its flood wall project to provide flood protection for the Wastewater Treatment Plant’s equipment. He also spoke about the Homeless Coalition and the Freezing Nights program which currently serves between 45–60 guests nightly. He noted the Council’s receipt of a letter from the New Hope Resource Center urging the council to declare a state of emergency and to open city facilities for homeless persons. He mentioned that the Homeless Coalition intends to send a similar letter requesting a small number of beds in a city facility for homeless families.

Councilmember Vermillion reported on Pierce Transit’s Caravan Grant Program. He explained that Pierce Transit’s retired vans are eligible for direct donation to qualifying 501(C)3 organizations as long as they can show that they’re making a contribution to reducing or supplementing a significant transportation need. He announced the availability of vans on a first come first served basis and invited 501(C) 3 organizations that transport ADA related persons to apply for the vehicles.

Mayor Knutsen opened the public hearing at 6:57 p.m.

Mr. Bud Metzger commented on the 1% tax increase clarifying that the increase applied only to the City of Puyallup tax amount which is a small portion of the entire tax paid by citizens.

Mayor Knutsen closed the public hearing at 6:59 p.m.

**Council Action:** A motion was made by Deputy Mayor Hopkins, second by Councilmember Vermillion, to approve first reading of the ordinance. The motion passed 6-1 (Knutsen).

**Council Action:** A motion was made by Councilmember Shadko, second by Deputy Mayor Hopkins, to approve the resolution. The motion passed 6-1 (Knutsen).

### **RESOLUTION NO. 2294**

**A RESOLUTION** of the City of Puyallup, Washington authorizing the increase of property tax revenue for 2016 in terms of dollars and percentage pursuant to RCW 84.55.120

### **Public hearing and first reading of the proposed City of Puyallup 2016 Budget**

#### **a) Public Hearing**

#### **b) Ordinance First reading**

Mayor Knutsen opened the public hearing at 6:59 p.m.

Mr. Bud Metzger questioned the Traffic Element of the 2016 budget that sets the city's traffic goal at level E which is lower than the current level D.

Mr. Howard Schick stated his preference for the budget to show tax increases in dollar amounts rather than in percentages. He noted that property taxes have increased substantially over the years which poses a challenge to older citizens on social security.

Mayor Knutsen closed the public hearing at 7:03 p.m.

In response to Mr. Schick's comment, Councilmember Palmer explained that the city's taxes are a very small percentage of total taxes and the raise is marginally intended to keep up with inflation.

Councilmember Swanson explained how to calculate individual property taxes using the Assessor-Treasurer's millage rate.

In response to Councilmember Door's question about lowering transportation goals from Level of Service (LOS) D to E, Development Services Director Tom Utterback elaborated that for the sake of capital planning the city is required to set realistic targets rather than higher targets that would prove too expensive to execute. He also noted that for some corridors like South Meridian there is no capacity for expansion, so a lower level of service has to be accepted.

**City of Puyallup  
Regular City Council Meeting  
December 10, 2019**

**COUNCILMEMBERS PRESENT:** Mayor Palmer, Deputy Mayor Swanson, Councilmember Door, Councilmember Farris, Councilmember Jacobsen, Councilmember Kastama, and Councilmember Johnson

**APPROVAL OF THE AGENDA**

**Council Action:** A motion was made by Deputy Mayor Swanson and seconded by Councilmember Johnson to approve the agenda.

**Council Action:** A motion was made by Councilmember Jacobsen and seconded by Deputy Mayor Swanson to amend the agenda by adding an item to direct the Puget Sound Clean Air Agency to take no action to adopt the Clean Fuel Standards at this time. The motion passed 4-3 (Palmer, Door, Farris).

The main motion to approve the agenda as amended passed 7-0.

**CONSIDERATION OF MINUTES**

**Council Action:** A motion was made by Deputy Mayor Swanson and seconded by Councilmember Johnson to approve the minutes of September 24 and October 8, 2019. The motion passed 7-0.

**PRESENTATIONS AND PROCLAMATIONS**

**Presentation: Recognition of Puyallup High School's Girls Soccer Team: Class 4A State Championship**

Mayor Palmer recognized the Puyallup High School girls soccer team achievement in winning the Class 4A State Championships. He presented each player with a commemorative city pin and Coaches White and Carlson with a certificate in recognition of the accomplishment.

**Presentation: City LEAN Initiative Project – Right of Way Permit Process**

Interim City Manager Steve Kirkelie introduced the Permit Center Team of Rubye Salsgiver, Jeannessa Frazier, Julie Johnson, Linda Lian and Building Code Official Ray Cockerham.

Permit Technician Rubye Salsgiver reviewed the processes used by the building department in their chosen objective to improve the Franchise Utility Permit process. She identified their project charter of “a problem well defined is a problem half solved,” noted its importance throughout the project. She reviewed the team’s goals, expected objectives and anticipated outcomes.

Mr. Mike Wojcik: agreed with Mr. Myers concerning a lack of enforcement of violations

Mr. Chris Taylor: expressed support for the Eagles; questioned Sound Transit's treatment of them; and acknowledged staff's efforts with multiple events that occurred over the weekend

Mr. Robin Ordonez: support for Mr. Myers and Mr. Wojcik concerns with the lack of enforcement; Oil Tank Removal Project funding; and the warehouses at Shaw Road

**CONSENT AGENDA**

**Approve the Communication Services Agreement with South Sound 911 Public Authority for 911 public safety communications**

**Approve the South Sound 911 Law Enforcement Support Services Agreement**

**Approve an Interagency Agreement with the Washington State Traffic Safety Commission**

**Accept the work completed by Doolittle Construction for the 2019 Chip Seal project in the final amount of \$414,826.94**

**Accept a grant from the Department of Commerce to assist the City in developing a Housing Action Plan**

**Accept a grant from the Department of Commerce in the amount of \$252,840.00 for the Washington State University LID Frontage Improvements Phase 4A project**

**Accept a grant from the Department of Ecology in the amount of \$2,095,994.00 for the Washington State University LID Frontage Improvements Phase 4B project**

**Authorize the purchase of an International Truck Chassis and five-yard dump box for the Public Works Department**

**Resolution updating the City's Fee Schedule**

**Council Action:** A motion was made by Councilmember Jacobsen and seconded by Councilmember Johnson to approve the consent agenda. The motion passed 7-0.

**RESOLUTION NO. 2392**

**A RESOLUTION** of the City Council of the City of Puyallup, Washington, revising certain fees charged by Development Services, Parks and Recreation, Woodbine Cemetery and the Puyallup Municipal Court

**Council Action:** A motion was made by Deputy Mayor Swanson and seconded by Councilmember Door to approve second reading of the ordinance with the amendments voted and approved by councilmembers. With a roll call vote, the motion passed 7-0.

**ORDINANCE NO. 3203**

**AN ORDINANCE** of the City of Puyallup amending Chapters 14.02, 14.10, 20.15, 20.20, 20.21, 20.25, 20.35, 20.55, and 21.20 and adding section 19.06.055 and 20.20.029 of the Puyallup Municipal Code, thereby addressing amendments related to zoning, utility charges and impact fees

**RESOLUTIONS**

**Resolution of intent to authorize a credit of the state portion of the sales and use tax for affordable and supportive housing in accordance with SHB 1406**

Ms. Lopez provided a brief explanation of the resolution of intent and the next steps in the process, necessary for the city to utilize the funding.

**Council Action:** A motion was made by Deputy Mayor Swanson and seconded by Councilmember Jacobsen to approve the resolution. The motion passed 7-0.

**RESOLUTION NO. 2395**

**A RESOLUTION** of the City of Puyallup, Washington, declaring the intent of the City Council to adopt legislation to authorize a sales and use tax for affordable and supportive housing in accordance with Substitute House Bill 1406 (Chapter 338, Laws of 2019), and other matters related thereto

**Resolution to consider the Parks Recreation and Open Space Plan as part of the 2019 Comprehensive Plan Update**

**Council Action:** A motion was made by Deputy Mayor Swanson and seconded by Councilmember Jacobsen to approve the resolution. The motion passed 7-0.

**RESOLUTION NO. 2396**

**A RESOLUTION** of the City Council of the City of Puyallup, stating the City's intent to consider the Parks, Recreation and Open Space Plan as part of the 2019 annual Comprehensive Plan Update

**CONSIDERATIONS AND REQUESTS**

**Consider and approve a 2020 City Council Meeting Calendar**