

City of Langley, Washington

Ethics Training and Advisory Board

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Ethics Advisory Opinion – 0062017

Alleged Unethical Conduct by a member of the City's Parks, Open Space and Trails Commission Member and the City's Tacit Approval of Work by that Member's Family Business

Introduction

The City of Langley Ethics Training and Advisory Board has been asked by Mayor Callison for an advisory opinion in the matter of work done by Frosty Hollow (a company owned by Marianne Edain and her partner Steve Erickson) in connection with a wetland inspection conducted by the City's Parks, Open Space and Trails Commission, which Mayor Callison suggests may have resulted in possible ethics misconduct. The Mayor described his concerns to the ethics committee on September 18, 2017 (see Ethics Board minutes of their September 18 meeting.)

Regarding the above, interviews were conducted with Gail Fleming, chairman of the Park and Open Space Commission; Stan Berryman director of Public Works and Mayor Tim Callison. A review of the emails between S. Berryman, T. Callison and M. Edain and review of the minutes of the Parks, Open Space and Trails Commission were also conducted.

Focus of Opinion

Values

The circumstances in question pose a possible inconsistency with Ethics Code values including:

1. *Stewardship* -- As stewards of our shared commons, we honor the history, culture and future of the citizens who call our community home. We yield our own private interests to act wholeheartedly on behalf of the greater civic environment.
2. *Transparency* -- In pursuit of transparency, we adhere to clear, accurate, honest and open communication principles. All opinions, views and responses are treated with a level of sensitivity that assures both openness and a responsible level of confidentiality.

3. *Integrity* -- Our daily actions are based on a solid habit of honesty. We perform our duties in an open and responsible manner. To do otherwise would be a dereliction of our duty and a breach of trust.

Principles of Conduct

1. *Conflict of Interest-1.25.050 (Section A & A2)* -- The advisory request seems to suggest, although no actual section of the Code's Principles of Conduct was cited, ethical misconduct may have occurred regarding the approval and acceptance of work performed by Frosty Hollow, a local company owned by Steve Erickson and Marianne Edain (a volunteer member of the City's Park and Open Space and Trails Commission) in connection with a wetland inspection visit conducted by the Commission.
2. *Conflict of Interest-1.25.050 (Section A)* The advisory request seems to suggest, although no actual section of the Code's Principles of Conduct was cited, that city officials involved in the wetlands inspection may have unintentionally authorized work and payment for services from Frosty Hollow for a wetlands consultation, which did not have officially documented approval from the City.

Opinion

1. *Conflict of Interest-1.25.050 (Section A & A2)* -- If the information we have discovered is true and accurate, the Ethics Board finds that meeting minutes and recollections of those in attendance do not adequately support Ms. Edain's reported disclosure and recusal. But the Ethics Board believes that, even though undocumented, a good faith attempt was made by Ms. Edain to deal with the potential conflict of interest between Frosty Hollow and Frosty Hollow principal Steve Erickson and the City of Langley. As such, there is no good reason to consider her actions on behalf of the Parks, Open Spaces and Trails Commission ethically improper.
2. *Conflict of Interest-1.25.050 (Section A)* -- If the information we have discovered is true and accurate, the Ethics Board concludes that the City may have inadvertently approved and accepted work conducted and prepared by Frosty Hollow. As there was no obvious ethical issue with obtaining a consult from Frosty Hollow, the city is not party to any ethical misconduct.

Although not an ethical issue, the Ethics Board is concerned, as was documented in the minutes of the Parks, Open Spaces and Trails Commission, that the Director of Public Works, Mr. Stan Berryman, was present when Ms. Edain was directed to obtain the wetlands consultation from Frosty Hollow. As there was no documentation of Mr. Berryman objecting to this action, one might conclude that there may have been an inferred tacit city approval of this consultation. It also suggests that appropriate city purchasing processes may not have been followed. This was acknowledged by Mayor Callison in his discussion with the Ethics Board, September 18, 2017.

Advice

1. Conflicts of interest are not inherently negative; rather, the way in which the conflict is handled makes the difference. The party who has a conflict of interest should be honest and inform all involved parties so that goals of fairness, objectivity and transparency are obvious to all citizens. This situation and how it was managed was not properly documented in the minutes of the Commission and was therefore not transparent to any citizen reading these public minutes.
2. We appreciate the Mayor for bringing this to the Ethics Boards attention and his discussion regarding conflict of interest at the recent City Council meeting. Chairs of citizen boards and commissions have the responsibility to identify potential conflicts of interest as they occur and manage them. In addition, we suggest they ensure that meeting minutes accurately reflect how conflicts of interest were handled. City officials have the ultimate responsibility to manage conflicts of interest. This includes assisting committee chairs with identifying issues as they occur.
3. We recognize that identifying and managing conflicts in a small community may create a certain amount of social awkwardness and potential animosity. It is far easier for officials and committees to deal with these issues early in the process rather than deal with the unfortunate consequences at a later date. We recommend that all City officials and volunteer board members have continued training in managing conflicts of interest.

Respectively Submitted,

Ethics Training and Advisory Board
Date 11/14/2017