

CITY OF SPOKANE ETHICS COMMISSION

Neil Muller,

Complainant,

EC-23-03

vs.

Mark Carlos,

Respondent.

**FINDINGS, CONCLUSIONS AND
DECISION**

INTRODUCTION

The City of Spokane Ethics Commission held a hearing on December 14, 2023, pursuant to SMC 1.04A.110F. Before the Commission was the complaint filed by Neil Muller against Mark Carlos and Mark Carlos' motion to dismiss. Also before the Commission was Mark Carlos' objection to a potential conflict of interest between Commissioner McFarland and complainant Neil Muller. Neil Muller, complainant, was present. Mark Carlos, Respondent, was present via video.

The following documents were considered:

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| 5/31/23 | Complaint by Muller |
| 7/12/23 | Carlos Jurisdictional Response |
| 10/25/23 | Muller Opening Brief re: Carlos |
| 10/25/23 | Carlos Objection to Potential Conflict of Interest Between Commissioner McFarland and the Complainant Neil Muller |
| 11/9/23 | Second Amended Consolidated Prehearing Order |
| 11/22/23 | Muller Witness List for Complaint re: Carlos |
| 11/29/23 | Carlos Response to Opening Brief and Motion to Dismiss |
| 11/29/23 | Muller Response to Objections by Ethics Violation Respondents (Zappone, Carlos and Gunn) re: Potential Conflict of Interest |

FINDINGS, CONCLUSIONS AND DECISION

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1 11/30/23 Carlos Reply to Muller Response to Objections by Ethics Violation
2 Respondents (Zappone, Carlos and Gunn) re: Potential Conflict of
3 Interest
4 12/6/23 Muller Reply to Carlos Response to Opening Brief
5 12/14/23 Commissioner McFarland's Written Response to Potential Conflict of
6 Interest

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8 After review of the documents and filings outlined above (along with attachments) and
9 consideration of the arguments presented by the parties, this Commission makes the
10 following findings, conclusions, and decision.

11 **FINDINGS**

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13 On May 31, 2023, complainant Neil Muller filed his complaint with the City of
14 Spokane Ethics Commission.

15 The complaint alleges that Mr. Carlos violated provisions of the City of
16 Spokane's Code of Ethics contained in SMC 1.04A.030 through his conduct relating to
17 the adoption of the City's Redistricting Plan contained in Ordinance No. C-36298.
18 Specifically, the complaint alleges that Mr. Carlos violated SMC 1.04A.030 A, General
19 Prohibition Against Conflicts of Interest, SMC 1.04A.030 G, Personal Interest in
20 Legislation Prohibited, SMC 1.04A.030 K, Fair and Equitable Treatment, SMC
21 1.04A.030 M, Aiding Others Prohibited, and SMC 1.04A.030 N, Commissions of Acts of
22 Moral Turpitude or Dishonesty Prohibited. The alleged conducts of Mr. Carlos
23 attributed by Mr. Muller as having constituted prohibited conduct includes texting with
24 Council Member Zappone and other staff in an unprofessional manner regarding
25 constituents, conducting city business on private electronic devices and maintaining a
26 conflict of interest in the adoption of the redistricting ordinance.
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1 Mr. Carlos responded in part by stating that he did not maintain a personal
2 interest in the legislation adopting the redistricting ordinance because he testified on his
3 own personal time, as a private citizen and as a former Neighborhood Council Chair of
4 the Emerson Garfield Neighborhood.
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6 **CONCLUSIONS**

7 Based upon the foregoing Findings of Fact, the Ethics Commission enters the
8 following Conclusions:
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- 10 1) The Motion to Dismiss is denied;
- 11 2) The mannerism, tenor, and tone of communications is not a violation of the
12 Code of Ethics;
- 13 3) The communication of City business on personal electronic devices, while it
14 may be a violation of the City's administrative policies, is not a prohibited
15 conduct enumerated in SMC 1.04A.030;
- 16 4) Based on the preponderance of the evidence standard, there is insufficient
17 evidence presented to the Ethics Commission that Mr. Carlos' conduct
18 alleged in the complaint constituted a violation of the Code of Ethics; and.
19 5) While the Ethics Commission has determined that there is no violation of the
20 Ethics Code, it does note that all City employees need to understand and
21 follow the City's administrative policies regarding the use of personal devices
22 to when conducting City business.
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27 **DECISION**

28 Based upon the Findings and Conclusions set forth above and the deliberation of
29 the Ethics Commission, the Ethics Commission concludes by preponderance of the
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1 evidence that a violation of Spokane Code of Ethics did not occur, and that the
2 complaint is dismissed accordingly pursuant to SMC 1.04A.110 F 2 and 3.

3 The decision was approved by a vote of 4 to 0 of the Ethics Commission
4 members present for and participating in the hearing. Co-Chair Sarah O'Hare recused
5 herself.
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7 DATED this 20 day of December, 2023.
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11 Clayton McFarland
12 Co-Chair
13 City of Spokane Ethics Commission
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