



Oregon

Kate Brown, Governor

Government Ethics Commission

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August 15, 2019

Matthew Brown
14682 NW Cosmos St
Portland OR 97229

Dear Mr. Brown:

We received your correspondence concerning Stephen Topaz on 8/15/2019.

Oregon Government Ethics law in ORS Chapter 244 relates to conflicts of interest, prohibited use of position or office for personal financial gain, nepotism, and gifts to public officials.

The Oregon Government Ethics Commission does not have jurisdiction over the general behavior and conduct of an elected official with the exception of taking actions in their official capacity, the effect of which would or could financially benefit them, a relative or household member, or a business with which they or a relative or household member are associated.

Many of your allegations of inappropriate comments made by Councilor Topaz are not within the Commission's jurisdiction, however, allegations that Councilor Topaz may have taken official actions to obtain a financial benefit related to his personal residence may be within the jurisdiction of the Commission. Your submission, however, did not include enough information to proceed further at this time on the allegations you made in Trust#2 section and Leadership #2 section that may be within our jurisdiction.

You may submit a second filing with information as to the following:

1. What, specifically, is Councilor Topaz's complaint with the City concerning his personal residence?
2. What official actions did Councilor Topaz take concerning his complaint with the City that would or could have had the effect of providing him with a personal financial benefit?
3. When were these actions taken (dates)?
4. Where were these actions taken (public meeting, work session, other)
5. Please supply any meeting minutes, audio records, or other records that form the basis for your belief that a violation may have occurred.

If you wish, you may call Investigator Diane Gould at 503-378-5105 if you need more information as to our jurisdiction and complaint procedures.

Sincerely,

Ronald A Bersin
Executive Director

RAB/drh



July 17, 2019

To St. Helens City Council;

Under the City of St. Helens Code of Ethics, Accountability #5; “support a workplace atmosphere that encourages employees’ pride in their work and avoid a “kill the messenger” response if problems are called to their attention”.

Under the City of St. Helens Code of Ethics, Trust #5; “Whistleblowing is appropriate on unlawful or improper actions”. Anyone who observes significant unlawful or improper actions by a City official is expected to report them.

I am officially bringing a matter to your attention as the City Council to hopefully solve but at the very least document events that have occurred over the last several months. This grievance letter pertains to Code of Ethics violations and Council policy violations made by Councilor Stephen Topaz since he began his term in January 2019.

Situation 1

In an opinion article located in the Spotlight newspaper from June 28, 2019, Councilor Topaz has insinuated that I, as Finance Director for the City of St. Helens, have purposely avoided his questions regarding Public Works projects relating to the costs and conditions of the Water Reservoir project.

This insinuation made publically during a work session meeting along with this article, has created a hostile work environment in regards to trust and confidence between a City Council and City staff. The City Council is there as a governing body to make policy decisions and it is the purpose of City staff to carry out those policies with dignity and trust. When there is a break in that trust between a City Councilor and staff members there must be some sort of resolution to continue and grow back that trust. I look to you as a governing board to help fix this situation.

During the public meeting where these questions were asked on the spot, I repeatedly asked Councilor Topaz to write down his questions or email them to me and I would be happy to work with other staff members to get his questions answered. Councilor Topaz has neglected to show any type of correspondence to myself or other staff members after that meeting with questions that he asked at the meeting. I do not believe it is within the boundary of my position to have such answers “off the top of my head” without conversing with other employees who may have a more accurate answer and also may be more appropriately educated on such topics. I cannot provide answers to questions I have not been formally asked beforehand. In past City Council meetings, when questions are asked of staff, there is usually an understanding that if City staff does not know the answer right away, they are given time to research those questions and get back to a City Councilor in a meaningful amount of time with answers. Negligence on a Councilor Topaz’s part to provide me a list of specific questions should never

be a reason to scorn a public employee during a public meeting as well as in writing to a public paper that already has a sour taste of editing for the City of St. Helens; thus feeding the fire to an already tumultuous and toxic relationship the City has with specific reporters and editors who choose unethically to post articles and opinions that involve half-truths and illegally obtained information.

The fact that Councilor Topaz is allowed to do this is deplorable to myself and other employees that have made their concerns known to me in private. I will not reveal their names or anything that was said to protect their anonymity at this time. I ask that the City Council, as a governing body that is fully aware of Councilor Topaz's actions, take measures to ensure that no City employee is treated this way again during a public meeting. I request that no public employee is scorned in writing by a City Councilor, a City Councilor that is ultimately their boss, as all City employees' work at the pleasure of the entire governing body.

This article now, which is easily searchable and readable through Google and other search engines, may have a professional effect on my position at the City as well as any potential positions that I may apply for in my future career with/without the City.

At no time in my career here in St. Helens or anywhere else have I ever avoided questions and, in my opinion, I believe I am overly transparent in my actions as Finance Director for the City. My record of successful audits over the last several years here in St. Helens, as well as GFOA Budget Awards also speak to that reference.

At no time during the past seven months of being a City Councilor has Councilor Topaz ever visited me during working hours or called me after hours to directly ask me questions regarding anything that is happening in the City. Yet Councilor Topaz finds it appropriate to ask on-the-spot questions that no employee would sufficiently know off the top of their head. I have asked Councilor Topaz personally numerous times, including this one during public meetings and public forums, for him to write down questions to hand me or email me after the meeting and I would be happy to work with other staff to answer his questions. He has never followed up from those requests and then creates hostility among myself and other employees regarding his comments made publically and assumptions that I am "avoiding questions". Much of the information needed for these particular questions regarding the reservoir should have been asked/directed towards the Public Works Director. My only assumption is that Councilor Topaz does not want to reach out to the PW Director because of the bad history between this employee and him regarding a lawsuit brought against the City several years ago.

Situation 2

During a public forum about the Recreation Program held on June 24, 2019, Councilor Topaz repeatedly made comments about the finances of the Recreation Program, to which he said he has never been given and knows nothing about the expenses or revenues of the Program. As

many of you may recall, City Council has been given multiple work session presentations with myself and Recreation staff. One of those presentations was about the financials of the Recreation Program. This was a public work session meeting where I went in depth regarding the revenue and expenses of the Program. After that presentation, Councilor Topaz never made any request for additional information to myself or any other member of the Recreation staff. As of today, he has still never made a request to see me during hours to ask questions about anything and has never given me questions to answer about the Recreation Program. Many times during his public speaking opportunities, he has been heard saying that the Council has not been given this information so we (the City Council) don't know anything.

Again, I feel these types of comments are creating a hostile work environment because I am being publically scorned for not providing information that; 1. I believe I have provided; and 2. It has never been asked or requested of me to bring additional financial information or any other information regarding the Recreation Program.

I have **REPEATEDLY** asked Councilor Topaz to visit me anytime or call me anytime with questions he may have regarding the financials of the City and our processes or anything related to financials of the City. Other City Councilors and City staff know and understand that I am available 24/7 to answer questions. Not once since his term began in January, has he ever come to my office nor talked with me in City Hall or at outside events when we are both present, other than greeting salutations.

Situation(s) 3

I have stood by for the last several months when I believe he has berated other City employees during public meetings. This was a situation that I will forever regret and apologize to that employee for not speaking up in their defense. It is a situation in my career now that I will regret with every passing day and one that, as a manager, I kick myself for not standing up at the time. This berating came at the hand of Councilor Topaz during one of the Recreation Program presentations.

I have heard from individuals, groups and organizations both public and private that around the community, Councilor Topaz is very vocal about the lack of respect he has for the City Council in general and also individually as Council members. I have heard community members tell me what Councilor Topaz thinks of the City Council and what he thinks of many of the City's staff in that he is "smarter than everyone up there" and "smarter than everyone in this room".

Code of Ethics and Governing Policy

As written directly in the City of St. Helens Code of Ethics Booklet, the purpose of City government is to serve the public. City officials should treat their office as a public trust. City Officials have special powers, along with a special obligation to act only on behalf of the public (ORS Chapter 244).

City of St. Helens' Code of Ethics, Trust #2; The City's powers and resources are to be used for the benefit of the public rather than any Official's personal benefit.

Councilor Topaz has broken this trust twice during public meetings, both occurrences having to do with his residence and a lawsuit he held with the City several years ago regarding water in his basement. The final judgment was in favor of the City.

The first occurrence happened during a public work session when Councilor Topaz made questions and comments regarding Public Works fixing the issue at his personal residence, asking when they were going to fix it. The second occurrence happened during a budget committee public meeting held a few months ago where Councilor Topaz again brought up his personal residence when discussing upcoming PW projects in the Capital Improvement Plan for the 2019-2020 Fiscal Year. These occurrences show a direct violation of the Code of Ethics, Trust #2.

City of St. Helens' Code of Ethics, Leadership #1; City officials obey all laws and regulations.

Recently, there was an executive session meeting regarding the Lagoon Repurposing where executive privilege information was leaked to the Spotlight Newspaper. Although I have not asked Councilor Topaz or the Spotlight regarding how this information was acquired by the Spotlight, the recent additions of public opinion articles from Councilor Topaz would lead me to believe that these executive privilege documents were given to the Spotlight by Councilor Topaz. If this is true, this would be a direct violation of the code of ethics.

City of St. Helens' Code of Ethics, Leadership #2; City officials do not exploit loopholes.

Councilor Topaz has broken this ethical promise in relation to his personal lawsuit against the City by manner of looking for opportunities to pressure City staff to procure City funds to fix his personal residence. The judgment several years ago sided with the City and no correction by the City was required at that time.

City of St. Helens' Code of Ethics, Leadership #3; Leadership facilitates, rather than blocks, open discussion.

Councilor Topaz, during public meetings and forums, continues to make publicly false statements that are detrimental to topics of discussion reciting his personal opinions as fact. I have personally dealt with this as mentioned earlier regarding financial information of the Recreation Program during public work sessions and forums. During these discussions, I have tried to engage Councilor Topaz respectfully in responding to his questions and accusations, but I am met with Councilor Topaz increasing the volume of his voice to try and talk over me and not allowing me to speak in response to his questions and statements made during this time. As noted earlier, when I have requested him to provide me questions or information that he needs, he has never followed through. This type of behavior of blocking discussions vs facilitating discussion among City officials, the public, and City staff is detrimental to the City's future and is a direct violation of the Code of Ethics, Leadership #3.

Governing Policy #2, Governing Structure:

"The City Administrator shall coordinate the activities of all departments, supervise the Administrative Department, and coordinate the collaborative process described below". Councilor Topaz has repeatedly attempted to meddle in departments that I have heard from in Police, Public Works, and Recreation. Operations of any departments, according to the City's governing policies, strictly say this is the job of the City Administrator and that all activities of departments should be overseen by the City Administrator and not City Councilors individually. In short, City Council should give the City Administrator direction/goals and then it is the job of the City Administrator to delegate those tasks out among staff members to complete.

Closing Remarks and Request

It is my belief that a City Councilor should be expected to carry themselves in a professional manner at all times when they are present at public meetings, forums, and events. The City Council must set a standard to what a City Councilor means to the City of St. Helens.

Councilor Topaz's temperament and interaction with staff members is not, in my opinion, the type of standard the City wants to start setting. His comments regarding other Council members is deplorable and I will not stand by, ethically, while a City Council seems to allow this to continue to happen with no recourse. Councilor Topaz has made a concerted effort, in my eyes, to destroy the culture and positive nature of City employees and the City Council vision/standards of being elected as a public officer. The work environment, productivity, and culture since he has come on board in January has severely suffered, especially in the last few months, due to his personal nature and interaction with myself and other City staff.

The way he carries himself in City Hall, specifically meant with examples of him bursting through closed-door meetings, discussions during public meetings, and to other employees is

starting to create a hostile work environment for myself and other employees that are not prepared yet to file a grievance such as this and may not feel as comfortable to speak publically like I am today.

I will employ you as City Council to take action now and show, as a governing body, for the City of St. Helens management staff, the entire city staff, and your community that you will set a new standard for expectations, policies, and procedures in relation to how a City Council official should act, with consequences if it violates those things.

1. Take a step to ensure that this type of environment is not allowed anymore at the City of St. Helens. Review and re-write policies directly related to City Council members regarding expectations, policies, and procedures as a public officer as well as their interaction with management, staff, media and the public.
2. When a City Councilor appears to break these policies/codes, there should be process and guidelines in place for the rest of the City Council to take action. This should include potential recourses up to and including losing an official's seat in public office if the Council and governing board agrees that it is needed and/or required.
3. Require ongoing training regarding professionalism and appropriate City Councilor actions/processes of how to work alongside City staff and with the public including how to conduct public meeting processes and interactions with media members. Additional training should be required on general processes of government and procedures of how to engage and request information from City staff.

As of right now, I am employing you to take action to correct these observations by myself and other staff members.

This is not a City Administration process. The City Council must govern itself and its membership in regards to ethics and professionalism. A City Councilor and Governing Body must have a process and procedure to ensure that good governance will follow the board no matter who is elected. Having policies and procedures to help the City operate to the best of its ability is your goal as a governing body. It is why you were elected. Please do not push this aside. I implore you to act now because it is not only the employee morale but the future of the City that will suffer if you, as a governing body, standby and let these actions continue.

Thank you,
Matt Brown
Finance Director, City of St. Helens