

From: Coffey, Kathy <Kathy.Coffey@yakimawa.gov>
Sent: Sunday, April 14, 2019 2:30 PM
To: Lex Talamo <ltalamo@yakimaherald.com>
Subject: RE: Media Inquiry: Representing the public, representing the city

Lex,

Following are my responses to your e-mail below.

In my opinion, the action taken by a super majority of the Council to temporarily remove Councilmember Funk from her board, committee, and commission assignments, while significant, was duly warranted based on Councilmember Funk's pattern of behavior exhibited by her over an extended period of time that was not in accordance with provisions of the Code of Ethics for Yakima City Council Members (Code of Ethics) and Principles of Conduct of Conduct for Yakima City Council Members (Principles of Conduct) and potentially exposed the City to legal liability. I supported and continue to stand by that action.

The phrase you cited from Section 1 of the Code of Ethics, "...maintain decorum and set an example for conduct when representing the City...", would arguably be defined differently by nearly everyone who reads it. For me, that phrase speaks to treating everyone Council members encounter with common courtesy and respect.

Section 1 of the Code of Ethics also includes the phrase, "...endeavor not to disgrace or embarrass the City while acting in an official capacity.

The tipping point for me regarding Councilmember Funk's in appropriate pattern of behavior exhibited by her over an extended period of time occurred at the March 14th, 2019 meeting of the Council Healthy Communities & Neighborhood Development Committee (HCNB). In open session, Councilmember Funk, who chaired the HCNB, suggested that a community member who had left the committee meeting a few minutes earlier should be evaluated, voluntarily or involuntarily, to determine if the community member may have mental health issues.

For a Council member to speculate on the mental health of a community resident in an open public meeting is wrong, disrespectful, and does not set an example for conduct when representing the City. Additionally, Councilmember Funk's action potentially exposed the City to legal liability. Through her comments at the March 14th, 2019 HCNB meeting, Councilmember Funk, while acting in an official capacity, did, in my opinion, disgrace and embarrass the City – a violation of Section 1 of the Code of Ethics.

From my perspective, this public demonstration of a disregard for the reputation of a community member by Councilmember Funk based on conjecture regarding the community member's mental health is reason enough for the super majority of the Council to take the action it took to remove her, temporarily, from her board, committee, and commission assignments.

In answer to your question regarding "freedom of speech," Council members are certainly allowed and encouraged to share opinions that may differ from action taken by a majority of the Council. However, as stated in Section II of the Code of Ethics, "Council members shall represent that the opinions stated are the member's own and do not necessarily represent those of the Council unless the Council has voted and passed an ordinance, resolution or motion that so states the expressed policy." Additionally, as stated in Section VI of the Principles of

Conduct, Council members are expected to, "Refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, or committees, staff, or the public."

During several Council regular meetings in 2018, Councilmember Funk publicly criticized Transform Yakima Together's operation of Camp Hope (a homeless camp), including calling into question the qualifications of Camp Hope Manager Mike Kay, and the Yakima Valley Conference of Government's (YVCOG) funding of Camp Hope activities, specifically YVCOG's response to Councilmember Funk's repeated requests for data on the camp's operations. In a May 24th, 2018 letter to Councilmember Funk, YVCOG Executive Committee Chair James Restucci stated, *"It has come to the attention of the YVCOG Executive Committee that you have made and continue to make statements about (YVCOG) specifically calling into question our fiscal policies and fitness as an organization. The letter goes on to say, "Absent facts that prove otherwise, we ask that you refrain from making comments about YVCOG and our management of public funds."*

At the Council's September 11th, 2018 regular meeting, YVCOG Executive Director Larry Mattson read a statement detailing YVCOG's efforts to respond to Councilmember Funk's request for data. Mattson also reiterated YVCOG's insistence that Councilmember Funk discontinue making negative and unfounded comments about YVCOG in public. Mattson's statement read, in part *"If the false and disparaging statements do not terminate, we will be forced to consider other available courses of action to preserve and protect the reputation of our organization."*

In my opinion, Councilmember Funk repeatedly violated Section VI of the Principles of Conduct by refusing to refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Transform Yakima Together, Mike Kay, and YVCOG. Furthermore, due to her unsubstantiated and continued assertions regarding Transform Yakima Together, Mike Kay, and YVCOG, Councilmember Funk potentially exposed herself and the City to legal liability.

From my perspective, those two examples of Councilmember Funk's pattern of behavior over an extended period of time not in accordance with the Code of Ethics and the Principles of Conduct qualify as severe violations.

Another example of a severe violation occurred when, on December 11th, 2018 following a decision by a majority of the Council to not fund a fire department public education captain position in the 2019 budget, Councilmember Funk was quoted in the Yakima Herald-Republic saying, *"I think it is disrespectful and destructive to the important public safety mission of the fire department."* In that same article, Councilmember Funk was quoted as saying, *"I think having debated this last week, it strikes me as feckless and indecisive to make a change now."*

In my opinion, Councilmember Funk's public comments regarding the decision of a majority of the Council were in direct opposition to the letter and intent of Section IV of the Principles of Conduct, which reads, "Committed to working with City officials and staff in a conscientious and respectful manner."

Additionally, in response to a vote of no confidence statement regarding City Manager Moore made by the Yakima Police Patrolman's Association (YPPA) during the Council's March 19th, 2019 regular meeting, Councilmember Funk was quoted in the Yakima Herald-Republic saying, *"I support the credentialed officers who have expertise in their field that the administration does*

not have." Councilmember Funk's newspaper quote continued, *"When administration interferes with the expertise of the officers, bad things happen. To be dismissive and not respectful of the patrolmen does not wash with me."* Councilmember Funk, according to the newspaper article, also said that she supported the police union *"100 percent."* Those quotes were made prior to City Manager Moore having an opportunity to respond to the YPPA vote of no confidence and to provide information to the Council addressing the YPPA's allegations.

In my opinion, Councilmember Funk's public comments regarding the YPPA's vote of no confidence statement regarding City Manager Moore represent a severe violation of Section III of the Principles of Conduct, which reads, "Committed to acting and being seen acting with integrity and impartiality that will bear the closest scrutiny."

Also, at the March 14th, 2019 HCNB meeting, Councilmember Funk told an older male community member to let her know if a younger female assistant city attorney was "naughty" when the assistant city attorney responded to an information request from the community member.

In my opinion, Councilmember Funk's inappropriate and, more importantly, insensitive comments represent a severe violation of Section VI of the Principles of Conduct, which reads, "Committed to working with City officials and staff in a conscientious and respectful manner."

Section III of the Code of Ethics, as well as Revised Code of Washington Section 42.23.070 requires attendees at a Council executive session to refrain from divulging information discussed in the executive session.

Following an April 26th, 2018 executive session of the Council called for the purpose of discussing prospective litigation, in open session Councilmember Funk said it was her intention to send a letter that was presented to the Council and discussed in the executive session to the media because she, *"...feels this matter is a public issue and better handled in public."*

Additionally, during the Council's January 8th, 2019 regular meeting discussion regarding a lease agreement with Sunrise Outreach Center of Yakima to lease City property for a homeless encampment, Councilmember Funk began to discuss prospective litigation that had been the subject of an earlier executive session. Assistant Mayor Gutierrez raised a Point of Order contending Councilmember Funk was talking about information that was discussed during an executive session. I found the Point of Order to be well taken.

In my opinion, Councilmember Funk's comments on April 26th, 2018 and January 8th, 2019 were severe violations of the requirement of both the Code of Ethics and state statute for attendees at Council executive sessions to refrain from divulging information discussed in an executive session.

Multiple revisions to the Rules of Procedure of the Yakima City Council (Rules of Procedure), including adding a new section concerning remedies for violations by Council members of the Rules of Procedure, the Code of Ethics, the Principles of Conduct, or other applicable laws and/or regulations, were adopted by a 6-1 vote (Councilmember Funk dissenting) at the Council's July 17, 2018 regular meeting. The action taken by a super majority of the Council at the Council's April 2nd, 2019 meeting to remove Councilmember Funk from her board, commission, and committee assignments for a period of six months was the first time the new remedies for violation section of the Rules of Procedure was utilized.

Recently, the Greater Yakima Chamber of Commerce publicly criticized the Council for a lack of professionalism, a lack of cohesiveness, and inconsistency. The Chamber admonished the Council and asked that its members ask themselves, "How am I helping to solve problems? Are my actions and behaviors at meetings contributing to progress?"

In my opinion, a majority of the Council has taken the Chamber's disapproval to heart and have actively worked to foster a more positive, collaborative, and collegial environment. Unfortunately, I haven't seen Councilmember Funk attempting to achieve those goals. By the action of a super majority of the Council, she is being held accountable for her actions.