

Sanction Rebuttal

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Judicial process

We should be clear that this Resolution of Censure procedure differs a lot from a civil trial, with which we are all generally familiar. I want to be clear that I recognize that the Yakima City Council, by majority vote, is empowered to institute processes which do not follow judicial traditions. However, there are good reasons why our country has the judicial procedures that we have, and those procedures are more likely to get results that will stand over time. When we abandon those processes we should take warning and proceed cautiously.

I was surprised by the plan to retake this vote, after it had been voted on April 2. The reason may be that the required “opportunity to refute, disprove, or otherwise contradict the allegations” was overlooked. I appreciate the opportunity to address that now. The Resolution of Censure is on the agenda website for this meeting. In addition, I have a six page document, in the public record, written by Mayor Coffey regarding specific concerns. I will consider both of these as charging documents and I will address the specifics.

I have appreciated the outpouring of public support since the Censure Motion was voted. I find it particularly interesting that the Yakima Herald Republic reader poll was 141 to 1000 against this Council action, a remarkable tally of 88%. That is not a scientifically conducted or binding poll, but it is a cautionary note.

Subjective language

Much of the language in this controversy is subjective, and open to interpretation. This is different from the rules of civil trial.

Examples of subjective words used here are: decorum, perception, confidence, ethical, professional, untimely, inappropriate, embarrassing, insensitive, combative, integrity, impartiality, conscientious, respectful, positive, constructive, abusive, disgrace, embarrassed, “brought discredit”, and “set an example”. With subjective language, there can be a mismatch between “intention” of the speaker, and the “impact” upon the listener. It is particularly difficult to agree on what these words mean in the setting of conflicting interests. These words create barriers, rather than settle differences.

My campaign promises and goals

When I campaigned for this seat, my slogan was “Facts Matter - People Matter”. I promised evidence-based decision-making (scientific method), facts, and transparency. We govern on behalf of informed voters, and we have a duty to the public right to know. Elected officials are free to bring any documents in the public record to public discussion, as I have done. This is not restricted by the preferences of the rest of the City Council, or any other body than the constituents of District 4.

The Real Problem

The core of the current problem, is the City Manager's actions regarding the police department. Although the City Manager has executive authority in decision-making, the City Council has oversight. Prudent management includes an advise and consent function, and should not allow concealing documents from the public. On a similar topic, I was in disagreement with the City Manager's push to eliminate the Fire Marshall position. With regard to the termination of the last police chief, there are many many pages of relevant documents in the public record. I have read those, and I am not persuaded that it was a good decision. I will also note that "no cause" terminations always create ambiguities and often create problems that go beyond the non-disclosure agreement and the cost of the severance pay.

The Mental Health Comments

Mayor Coffey's document says that the trigger for censure was the March 14, 2019 HCNB Committee meeting and that "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...these remarks could create legal liability, and did 'disgrace and embarrass the city'".

I stand behind my remarks; there was no impropriety. Mental health issues in public spaces, are a significant problem in local governments today. This issue is explored at great length in the well-done and recent documentary, "Seattle is Dying" (which I encourage everyone to view). Also, I have mental health training, and Mayor Coffey does not. Judgment on the propriety of my remarks should be left to a nonbiased expert, either a mental health expert or forensic mental health expert.

Minority and Majority Opinions

Mayor Coffey's document also states that "Council members are encouraged to share opinions that may differ from the majority of the council,... [but] Council members shall represent that the opinions stated are the member's own and do not... represent those of the Council".

The standard for legislative bodies in this country is that elected officials are always assumed to be speaking for themselves. When Kevin McCarthy speaks, he is not constrained to state that he doesn't represent the opinions of the full House. When Chuck Schumer speaks, he does not have to say that he doesn't represent the opinions of the full Senate. It is assumed; everyone knows it. That's true for every elected legislator.

I stand behind my words. I have never, ever claimed to represent the full Council, except when a vote has been taken. Creation of a requirement for a "personal opinion" disclaimer, in order to suppress discussion that is contrary to the preferences in the majority, is not part of our democratic tradition.

YVCOG, Transform Yakima Together, and Camp Hope

Councilman Hill's Resolution, and Mayor Coffey's document, devote considerable space to remarks that I have made about YVCOG, Transform Yakima Together, and Camp Hope. I stand behind all of my comments. I think that it is very odd that nonprofit organizations spending taxpayer money expect to be protected from discussion of public record information that may be critical of their programs. With regard to these programs, there are multiple worrisome documents in the public record. I stand behind disclosing them. Two objective facts stand out:

1) Camp Hope Director, Mike Kay, is a former police officer who had his police commission revoked by the state of Oregon. There was litigation, and there are many documents easily available on Google. This is a very significant sanction. This would be the equivalent of having my medical license revoked. This information has been concealed from mention in open meetings. I recognize that it is possible for a person to partially or wholly reform, but background problems are warning signs, and are certainly germane to the "qualifications of [the] Camp Hope manager".

2) Around the first of this year, control of Camp Hope and its lease of city property, were removed from Transform Yakima Together and transferred to Sunrise Outreach. It is my understanding, that long time Camp Hope executive, Andy Ferguson, is no longer with either agency. The reasons for these changes have not been disclosed, and I think that is probably inappropriate. Certainly these are warning signs.

Another Personal vs. Majority Opinion

Mayor Coffey cites another "severe violation" regarding the decision to restore funding to the Fire Marshal position at the December 4, 2018 City Council meeting, and reversal of that decision at the December 11 City Council meeting. I said to YHR reporter, "I think it is disrespectful and destructive to the important public safety mission of the fire department", and "having debated this last week, it strikes me as feckless and indecisive to make a change now". I stand behind those quotations. My opinion is at odds with the majority vote of the council, but is legitimate information to inform the public.

A Frivolous Remark

Councilman Hill's Resolution, and Mayor Coffey's document refer to a comment, by me at the March 14, 2019 HCNB meeting, in which I used the word "naughty". I do not recall this remark and I have not reviewed the tape. I am ready to admit that this was a flippant remark without specific content or meaning, and I am sorry for whatever offense was given.

Alleged Disclosure of Information from Executive Session

Mayor Coffey's document refers to a remark, by me, in an April 26, 2018 executive session of the Council called for "the purpose of discussing prospective litigation". At that meeting I said that I would disclose "a letter that was presented to the Council and discussed in executive session to the media, because [I] felt that it was a public issue".

My recollection is that this was a letter of concern regarding YVCOG, which was written by me, and approved by a 6 - 0 vote of the Council on April 19. This letter was, clearly, already in the

public record, so there was no protected executive session information to disclose. The letter was reviewed in executive session only because some Council members wished to reverse their votes. There was no significant threat of “prospective litigation”, and I think that the executive session may have been inconsistent with the Open Public Meetings rules. I stand by this action.

Maier Coffey also refers to the Council’s January 8, 2019 meeting discussion regarding a lease agreement for Camp Hope. She says that I “began to discuss prospective litigation that had been the subject of an earlier executive session”. A point of order was raised, and I was not allowed to speak. In fact, the prospective litigation was the suit by the Greenway, which had been in the newspaper and had never been in executive session. So there was no possibility of disclosing protected executive session information, which is the specific intent of silencing discussion by use of this rule. Consequently, I stand by my remarks.

Mayor Coffey states that these 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”. That statement is false. I have never disclosed protected information from executive session.

Duty to the Chamber of Commerce

Mayor Coffey is distressed by criticism from the Greater Yakima Chamber of Commerce regarding “lack of professionalism, lack of cohesiveness, and inconsistency” on the part of the Yakima City Council. An executive session was held to discuss those concerns. In my opinion, that executive session did not meet the Open Public Meetings criteria.

I have great respect for all of the Yakima Chambers, and for business interests. I was a business owner for 25 years, and I don’t think that anyone else here can make that claim. However, the preferences of the CoC do not compel policy, any more than the preferences of a single City Council member. In particular, the 68% vote on the plaza Referendum, overrides the preferences of the Chamber of Commerce and the Council members who wanted to see the plaza go forward.

Summation

This censure procedure was added to the Council Rules of Procedure last summer. I thought that it could lead to trouble because it has no objective criteria, and I voted against it. I did not anticipate that it would lead to this type of trouble, but I think that it is helpful to openly discuss our differing expectations of City Council process.

The selection of the Police Chief is an important decision. In light of the Patrolmen’s Association “no confidence” vote and my own observations, I cannot agree with the City Manager’s decisions or the Council’s uncritical support. I stand by that decision, even though it is a minority opinion.

