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WASHINGTON STATE
SUPREME COURT

NO. 93589-1

IN THE

STATE OF WASHINGTON SUPREME COURT

WARREN E. BOHON,

PETITIONER

V.

CITY OF STANWOOD,

RESPONDENT

Appellant Warren E Bohon

Responses to City of Stanwood's

Reply to **Answer to "Amended" Petition for review**

Warren E. Bohon, Pro Se

881 Port Susan Terrace

Camano Island Wa 98282

(425) 463-8460

ORIGINAL

In the spring of 2001 Mayor Mathew Mc Cune and Council members Lester Anderson, Shelley Klasse and Herbert Kuhnly acted in Collusion With Public works Director William (Bill) Beckman to Suppress Competitive Bidding by City of Stanwood Public Employees in Felony violation of a Collective Bargaining Contract and Washington State Law.

Those actions violated RCW Chapter 9.18 titled
Bidding Offenses - BRIREY OR CORRUTION- OFFENDER AS WITNESS.

Such acts were a gross misdemeanor they made Lester Anderson a Council Person involved in establishing the New Position, the Salary and the duties of The job and he was not qualified by law to have that job those actions by RCW 42.23.050 require such a contract to be Null and Void and the involved Conspirators to forfeit their positions as Public Servants.

Said users of Public Funds Property and Personnel are Prohibited by Article 7, section 1 (AMENDED 14) of the Washington State Constitution.

In 2004 Water Department (a subsidiary of Public Works Dept) Employees Rodney Sundberg and his Supervisor Lestor Anderson were Insubordinate of their duty as Public Servant employees by Washington State General Law applicable to the City of Stanwood (COS) And the honest Public Works group of Employees 8 in number wrote a letter Requesting an investigation. Illegally that investigation was never done as Law required. To have been by the obligation of Bill Beckman and higher City Personnel.

Stephanie Hansen (Cleveland) Mayor Herbert Kuhnly and Council Persons

Diane White and Shelley Klasse were aware of such illegal actions and they Failed to act se law required them to do.

Major questions of Material Fact are raised as such OCCURANCES that are Directly and Materially important issues in subject case.

With such insubordination of duty of all the persons listed by name-and their-Actions WAS I PRETXTUALLY FIRED TO PREVENT THE PUBLIC INTERST EXPOSURE OF SUCH CORRUPTION

Instead of having an Outside Prosecuting Attorney investigation or the City Of Stanwood Hearing Examiner or acting as required by RCW 41.58 Mayor Herbert Kuhnly and Diane White Paid tens of thousands of Public Funds-A Gross Waste, in a Cover up Effort to keep such Corruption under wraps Of City Top Officials. In direct Violation of

CITIZEN TAX PAYORS RIGHT AND THEN TO KNOW

My office was directly over head of William Beckman's and Lester Andersons.

I was eyewitness to William (Bill) Beckman and his fellow water department Buddies acts of drinking on the job (Beckman and John Case)

John Case filing false Water Meter readings of Citizen taxpayers,

Water department Rodney Sundberg acts of Falsely reporting his own meter Reading, Beckman illegal use of City Building, Funds and Personnel to create An illegal hiring of Lester Anderson, the results of Lester Anderson's Violent Abuse of Patricia Madden and the ignoring of Beckmans and Andersons illicit Actions as Public Servant employees Attched is proof that other Citys Terminated public employees for such insubordinate of duty.

This case is about the City of Stanwood termination of me for using the Law most Important to seeking such needed Corrections that are supposed to address Gross Waste of Public Funds and Abuse of Supervisory Authority

I spoke the truth about Bill Beckman and Lester Anderson total lack of Qualifications to occupy any position as a supervisor of honest efficient Employees. California Supreme Court Docket Number S125236

People v Chacon

Supreme Court of Washington, EN BANC

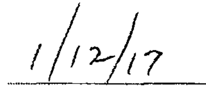
HUBBARD V SPOKANE COUNTY NO. 70975-1

DECIDED: July 18, 2002

YOUNG V MARYSVILLE EDUCATION ASSOCIATON

These are cases listed above that are being referenced to my case. 3 Cases listed above.

Warren E Bohon



1/12/17

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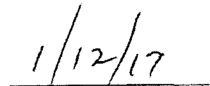

Warren E Bohon

1/12/17

2001

CITY COUNCIL COMMITTEES

Public Safety Committee

Les Anderson
Cheryl Baker
Paul Thompson, alternate

Ordinance Committee

Cheryl Baker
Shelley Klasse
Herb Kuhnly, alternate

Public Works / Community Development Committee

Herb Kuhnly
Shelley Klasse
Les Anderson, alternate

Finance Committee

Herb Kuhnly
Paul Thompson
Cheryl Baker, alternate

Endangered Species Act Committee

Les Anderson
Paul Thompson
Shelley Klasse, alternate

2001

CITY OFFICIALS

Mayor
(Four-Year Term)

Matthew J. McCune	Term expires 12/31/01

Council Members
(Four-Year Terms)

Cheryl Baker	Term expires 12/31/01
Shelley Klasse	Term expires 12/31/01
Les Anderson	Term expires 12/31/03
Herb Kuhnly	Term expires 12/31/03
Paul Thompson	Term expires 12/31/03

Planning Commissioners
(Five-Year Terms)

Linda Utgard, Chair	Term expires 12/31/02
Jim Lund	Term expires 12/31/02
Dave Eldridge	Term expires 12/31/02
Dale Weber	Term expires 12/31/04
Wade Starkenberg	Term expires 12/31/03
Bobbe Alf	Term Expires 12/31/04
Richard Watson	Term Expires 12/31/04

Department Heads

Bill Beckman	Public Works Director
Stephanie Cleveland	Community Development Director
Landy Manuel	Clerk Treasurer
Dave Bales	Chief of Police
Scott Koehler	Fire Chief

City Attorney

William M. Zingarelli

Utilities workers fired for fixing their bills

Originally published December 2, 2011 at 8:10 pm Updated December 2, 2011 at 10:16 pm

For the second time this year, Seattle Public Utilities has fired employees for fixing utility bills.

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By
Lynn Thompson
Seattle Times staff reporter

For the second time this year, Seattle Public Utilities has fired employees for fixing utility bills.

Three employees were fired and a fourth suspended Friday for falsifying payment records, waiving late fees or arranging for extended payment plans, all to benefit themselves or a family member.

The dismissals came as the Seattle Ethics and Elections Commission in an independent investigation found that four current and one former SPU employees had improperly adjusted utility accounts. Four were customer-service representatives who routinely had access to utility and electric bills. The fifth was a civil engineer who also had access to the billing system.

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The most serious is that of the engineer, Chau Phan, who left SPU in February after 16 years with the utility. Phan signed a settlement agreement with Wayne Barnett, director of the Ethics and Elections Commission, in which Phan acknowledged that he had fixed his own residential utility account and that of a rental property to record payments of more than $1,000 when none were made.

Barnett is recommending that Phan be fined $1,500. Because he is no longer an SPU employee, he was not subject to disciplinary action.

The Ethics Commission meets Wednesday and may accept the recommendation or impose different sanctions.

The utility fired two employees in January and February for lowering their own bills and said it would launch an investigation in cooperation with the city auditor. At the utility's request, the Ethics Commission began its own investigation in September. The utility said its investigation is expected to take several more months to complete.

The utility did not release the names of the employees disciplined, so its not certain they are the same ones mentioned in the Ethics Commission report, or which violations which employee is accused of committing.

The state auditor in June completed a routine examination of Seattle Public Utilities billing system that blasted the agency's oversight. The audit concluded that SPU did not have adequate controls over customer accounts and that as many as 300 employees had access to the combined utility billing system for SPU and Seattle City Light.

The audit also noted that in a 17-month period, July 2009 to November 2010, the utility made 2.4 million adjustments to more than 264,000 accounts.

SPU director Ray Hoffman said that although the dollar amount involved in all the cases is relatively small, the greater issue is employees using their positions for personal gain.

"SPU takes the public's trust seriously and expects our employees to follow the city's ethics code. We are committed to a full review of department procedures and have taken strong steps to prevent misconduct," Hoffman said in a statement.

Among the measures instituted since the billing investigation began last year are enhanced internal controls and monitoring of billing transactions, fewer staff with access to customer accounts, and a requirement that employees sign a confidentiality agreement that includes an ethics statement, said SPU spokesman Andy Ryan.

Ryan said that since the first cases were uncovered, the utility has been reviewing 10 years of department billing data for irregularities.

- Local News

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Ex-Bell Gardens official loses state high court ruling

The decision clears the way for the prosecution of Maria Chacon in a conflict-of-interest case.

February 09, 2007 | Maura Dolan | Times Staff Writer

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SAN FRANCISCO — Ruling against a former Bell Gardens City Council member, the California Supreme Court decided Thursday that public officials may be guilty of corruption even if they relied on a government attorney's opinion that their conduct was legal.

The unanimous decision clears the way for the prosecution of ex-council member Maria Chacon, who was charged with conflict of interest after allegedly pressuring other council members to appoint her city manager.

Chacon contended that she based her actions on an opinion from the city attorney, but the court said that was no defense.

"A public official is not required to know that his conduct is unlawful" to be found to have broken the law, Justice Carol A. Corrigan wrote for the court. "Therefore, reliance on advice of counsel as to the lawfulness of the conduct is irrelevant."

Los Angeles Dist. Atty. Steve Cooley called the decision a "big victory for us and those other prosecutors in California who are actively enforcing conflict-of-interest laws."

"This sends a very, very powerful message that this mechanism to circumvent conflict-of-interest statutes is not going to be tolerated," Cooley said.

D.A. spokeswoman Sandi Gibbons said many counties around the state prosecute public corruption, and the defense the Supreme Court struck down was not uncommon.

"This has huge statewide significance," Gibbons said.

Michael D. Nasatir, an attorney for Chacon, said he was "terribly disappointed."

"Maria Chacon has always maintained that she is entirely innocent of these charges," Nasatir said. "We will not stop fighting until her innocence is established. We respect the American jury system, and her salvation is now in the hands of a jury of her peers."

Cooley said he was unaware of Chacon's current employment, and Nasatir declined to elaborate beyond his statement. If convicted of the felony charge, Chacon could receive a maximum of three years in prison.

Chacon, arrested in 2001, was considered the most powerful public official in Bell Gardens at the time. She was credited with a campaign in the early 1990s to oust the white-majority council in the heavily Latino city and helped allies win elections.

Many residents protested her appointment as city manager, saying she was unqualified because she lacked a college degree and had no experience running a city.

Prosecutors said Chacon, in an effort to get the appointment, sought the support of another council member and told him of her desired salary and terms. But the Bell Gardens municipal code prohibited anyone from being appointed within one year of service on the City Council.

That waiting period was removed by a vote of the council, which included Chacon. The other council members later gave her an $80,000 annual contract, and she moved from the council to the city manager's office.

Cooley prosecuted Chacon under a state law that prohibits public officials from having a financial interest in a contract approved by their agency.

A trial judge ruled that Chacon could present evidence that she had relied on advice from the city attorney that her conduct was legal. L.A. prosecutors said they could not proceed under those circumstances, and the judge dismissed the case.

But prosecutors appealed to the 2nd District Court of Appeal, which overruled the trial judge. The state Supreme Court upheld the appellate decision.

The defense Chacon wanted to use -- reliance on advice from a government official -- has been recognized as legitimate in other cases. But the Supreme Court said it should not be extended to public officials who claim reliance on "public attorneys charged with counseling them and advocating on their behalf."

The court observed that the city attorney in Bell Gardens was a subordinate of the City Council. An official cannot escape liability by "claiming to have been misinformed by an employee serving at her pleasure," the court said.

Otherwise, a public official could "insulate herself from prosecution by influencing an appointee to provide the advice she seeks."

The court did not determine that Chacon had violated the law, only that she could not rely on the defense of bad advice from a government lawyer. A trial date has yet to be set.

Prohibited Uses of Public Funds, Property, or Credit

Constitutional Prohibitions

In General

Article 7, section 1 (Amendment 14) of the Washington State Constitution requires that taxes and other public funds be spent only for public purposes. *See also State ex rel. Collier v. Yelle*, 9 Wn.2d 317, 324-26, 115 P.2d 373 (1941); AGO 1988 No. 21.

Article 11, section 15 further provides as follows:

> The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

Suits or prosecutions involving violations of that policy are ordinarily brought under specific civil or criminal statutes.

Prohibition Against Gifts/Lending of Credit

On the other hand, article 8, section 7 of the state constitution has been the direct basis of several lawsuits against local governmental entities. That provision is as follows:

> No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.

Local governments are often asked to use their funds, property, or borrowing power (credit) to subsidize or assist endeavors by individuals or private organizations, such as the construction or operation of recreational facilities, economic development, or tourist promotion, and other civic or charitable works. However, the Washington State Supreme Court has long held that no matter how public the purpose may be, it may not be accomplished by public gifts or loans to private persons or organizations (except certain aid to the poor or infirm).[12] *Johns v. Wadsworth*, 80 Wash. 352, 354-55, 141 Pac. 892 (1914) (the legislature may not authorize the use of public funds to aid a private fair); *Lassila v. Wenatchee*, 89 Wn.2d 804, 812-13, 576 P.2d 54 (1978) (a city may not buy a building for resale to a private movie theater operator).

In recent years, by constitutional amendment or judicial decision, municipalities have been authorized to engage in several programs that previously were held or thought to be unconstitutional under article 8, section 7. For example, by several elections in 1979, 1988, and 1989, the electorate approved and added section 10 to article 8 of the Washington Constitution, permitting counties, cities, towns, and similar operators of municipal electric and water utilities, as authorized by the legislature, to use their operating revenues from the sale of energy or water to assist homeowners in financing conservation measures on a charge-back basis. In 1981, the people adopted a constitutional amendment authorizing the legislature to permit the state, counties, cities, towns, and port districts, and public corporations established thereby, to issue non-recourse revenue obligations (not funded or secured by taxes or state or municipal credit) to finance industrial development projects. Wash. Const. art. 32, § 1.

Other programs utilizing non-recourse revenue bond funding may be authorized by the legislature without violating the constitution. However, municipal corporations (including "home rule" cities and counties) may need such express statutory authorization to do so (see attorney general's advisory memorandum to the state auditor dated March 10, 1989).

Our supreme court also has found that some expenditures for economic development are made for a public purpose. *See Anderson v. O'Brien*, 84 Wn.2d 64, 70, 524 P.2d 379 (1974). Accordingly, our state legislature has declared certain economic development programs to be a "public purpose." *See* ch. 43.160 RCW. However, the characterization of a program as a "public purpose" may not justify a gift or loan of credit to a private entity for that purpose, except in aid of the poor or infirm.

As a measure of "aid to the poor," the legislature has authorized cities and counties to assist in low income housing by loans or grants to owners or developers of such housing. *See* RCW 35.21.685; RCW 36.32.415; *see also* RCW 84.38.070 (all municipal corporations to provide their utility services at reduced rates for low income senior citizens). In *Tacoma v. Taxpayers*, 108 Wn.2d 679, 743 P.2d 793 (1987), the Washington State Supreme Court also upheld, on statutory grounds, a Tacoma ordinance authorizing Tacoma's electric utility to finance energy

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[12] Although the language in the constitution reads "poor *and* infirm" (emphasis added), the courts have held that this should be interpreted in the disjunctive ("poor *or* infirm"). *Health Care Facilities v. Ray*, 93 Wn.2d 108, 115-16, 605 P.2d 1260 (1980).

conservation measures in private buildings. The ordinance was also held constitutional even though it did not fall within the authorization of article 8, section 10, discussed earlier. The court accepted the cities' arguments (several cities joined as intervenors in the case) that the installation of conservation measures involved a repurchase of electric energy by the city and was not an unconstitutional gift to the private owner. *Tacoma v. Taxpayers*, 108 Wn.2d at 703-05.

Often in cases where a loan or grant to a private organization for a public purpose may be prohibited, the public purpose for which a county's, city's, or special purpose district's aid is requested can be legally accomplished, if the jurisdiction desires, by means of an appropriate contract by which the private organization provides the services in question as an agent or contractor for the county, city or district. For instance, a city, having authority to provide recreational programs for its residents, may do so by contracting with a youth agency or senior citizens' organization to operate recreational programs for those groups, under appropriate city supervision. The contract should be carefully drawn, however, so that the program or project remains the city's own operation and is not an unlawfully broad delegation of city authority, or grant of city funds, to a private agency. Payments should be made pursuant to vouchers reflecting the satisfactory performance of services, as provided in chapter 42.24 RCW.

Statutory Prohibition – Using Public Office Facilities for Political Purposes

There is a special statutory provision, somewhat similar to the constitutional prohibitions just discussed, which forbids the use of public facilities for certain political purposes. RCW 42.17.130, a section of the open government law, provides as follows:

> No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.[13] Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: Provided, That the foregoing provisions of this section shall not apply to the following activities:
>
> (1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support

[13]The facilities of a public office may be made available on a non-discriminatory, equal access basis, for political uses. WAC 390-05-271(2)(a).

or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elective official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;[14]

(3) Activities which are a part of the normal and regular conduct of the office or agency.[15]

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[14] A city, county, or special district may, however, make "an objective and fair presentation of facts relevant to a ballot proposition," if such an action is part of the normal and regular conduct of the agency. WAC 390-05-271(2)(b).

[15] The term "normal and regular conduct" is defined by regulation. *See* WAC 390-05-273 (conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.).

High court rules petition for recall may go forward

MARYSVILLE SCHOOL BOARD UNDER FIRE

Court says teachers' contract violated

BY LYNN THOMPSON
Times Snohomish County bureau

A recall petition against two Marysville School Board members who took a tough stance against teachers participating in a state labor rally last year may go forward, the State Supreme Court ruled yesterday.

School Board members Ron Young and Helen Mount had asked the court to strike down a January Snohomish County Superior Court decision that found there were sufficient legal and factual grounds to proceed with a recall.

Following yesterday's ruling, Lisa Griffith, one of the parents who initially organized the recall petition, called on Mount and Young to voluntarily step down from the board.

Marysville School Board members Ron Young, left, and Helen Mounts said they will not step down from their positions.

"As long as those two members remain, the whole community cannot go forward," she said, adding that the board's action prolonged the district's record-breaking 49-day teachers strike last year and cost the district an estimated $1.5 million.

But she said the parents' group has not decided whether to proceed with a recall-signature drive. The group would need to gather the signatures of about 8,000 registered voters in order to get the recall petition on the ballot.

Mount and Young, who each have one year remaining in their terms, said yesterday they would not step down.

"The [new] board is working well together. I'm hoping we'll put this behind the district and move forward for the betterment of students in Marysville," Mount said.

The Supreme Court agreed yesterday with the lower court that the school board's decision to hold school on a paid holiday to make up for the day teachers participated in a statewide rally in Olympia violated the teachers' contract.

Most teachers in the district did not report for work on the make-up day. The district docked their salaries and spent an additional $74,500 for substitute teachers and legal fees. An arbitrator later ruled against the district and restored the teachers' pay.

The incident was one of 10 charges the parents' group originally included in the recall petition filed in the wake of the strike. The Snohomish County Superior Court judge dismissed all of the counts except the one involving the teachers' rally.

In the aftermath of the strike, three school-board members were voted out of office and the recall action was started against the remaining two, Young and Mount.

In ruling that a recall petition could go forward, the Supreme Court said that if an elective public officer "knowingly and willingly breaks a collective bargaining agreement and thereby causes unnecessary financial harm, this may be considered an improper act and a violation of oath."

The two school-board members argued that they were following the advice of the school-district attorney.

A special election could cost the district about $30,000, according to the county elections office, and it could further divide the community at the same time the district is considering placing a school-construction bond measure before voters.

Lynn Thompson: 425-745-7807 or lthompson@seattletimes.com

Public Purposes

mount over Everett police officer on leave since fatal shooting

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By Diana Hefley, Herald Writer

@dianahefley

EVERETT -- An Everett police officer acquitted of murder for a line-of-duty shooting has received nearly $75,000 in wages while on administrative leave for the past year.That public expense is added to a growing stack of legal bills connected to the June 10, 2009 shooting. So far, attorneys have billed the city of Everett more than $400,000 to defend Troy Meade against criminal charges, prepare for civil litigation and offer legal advice on labor matters, according to records. Meanwhile Everett officials won't say when, or if, Meade will return to the force or why a decision hasn't been made. Meade has been on leave and collecting a paycheck since June 2009 when he fatally shot Niles Meservey. Meservey, 51, was drunk and seated in the driver's seat of his Chevrolet Corvette when Meade opened fire into the back of the vehicle. The officer told a jury he feared for his life. He was acquitted on April 26 after a two-week trial It's unclear if city officials are waiting to make a decision about Meade's future with the police department, pending the outcome of ongoing civil litigation. Meservey's daughter filed a $15 million lawsuit against Everett, claiming the city failed to adequately train Meade. That trial is scheduled for April 4,

2011.It's also unknown if the city is waiting on the results of an internal investigation into the shooting to make a decision."The city has not begun an internal investigation," city spokeswoman Kate Reardon said. "While we anticipate an internal, no timeline has been set."Reardon didn't answer questions about why an investigation hasn't occurred in the 13 months since the shooting.Police routinely conduct internal investigations after officer-involved shootings to determine if the officer violated any department policies. The investigation is done independently of any criminal probe. The results are used to determine if there are grounds to discipline the officer or determine if the officer acted within policy.In Snohomish County it's standard practice for police officers to be put on administrative leave after using deadly force. They often return to work before the criminal probe into the incident is wrapped up.After the verdict in the criminal trial, Meade told reporters that he wants to return to work.Meade's been paid $74,862.11 for the more than 2,000 hours he's been on leave, Reardon said.He was put on paid administrative leave the day after the shooting. The department brought him back about two months later and assigned him to a desk job. Meade was again placed on leave Sept. 18, 2009. At that time, he was directed to turn over his service gun and badge, according to records obtained by The Herald.In a letter to Meade at the time, Everett Police Chief Jim Scharf wrote that he was making the order "because

of the circumstances surrounding this investigation."A criminal investigation into the shooting led Snohomish County prosecutors in October to charge Meade with manslaughter. They later added a second-degree murder charge.Meade testified that he was afraid of being run down when he fired into the back of Meservey's car. Prosecutors argued that Meade, an 11-year veteran, had other options besides lethal force, including taking cover behind a nearby vehicle. Meservey was belligerent and refused to get out of his Corvette. Meservey drove forward into a metal fence. There was disputed testimony during the trial about whether or not the Corvette's back-up lights came on before Meade opened fire.In a separate civil decision, under different court rules, jurors determined that the shooting was not self-defense. If they had found otherwise, prosecutors would have been required to pay for Meade's defense.Instead, Everett taxpayers will foot the bill.City officials believe they are obligated to pay for Meade's defense because the shooting happened while Meade was working in his official capacity as a police officer. Seattle defense attorney David Allen has billed the city $241,000 for representing Meade. That price tag includes fees for expert witnesses and a legal investigator. Allen, one of the state's top defense attorneys, charged $400 an hour for his services.Meade hired Allen in September and retained him through the end of the April trial, according to city

records.Allen contacted city officials before the trial to request that Everett pay for his client's criminal bills as outlined in the city's municipal code, Reardon said.Cities often pay legal fees for claims against employees acting in their official capacities, said Sheila Gall, general counsel for the Association of Washington Cities. Union employees also generally negotiate similar assurances in their contracts with cities, she said.In addition to Meade's wages and criminal defense costs, the city is racking up thousands of dollars in legal fees to defend against the multimillion-dollar lawsuit. Records show that through June, outside lawyers have billed the city more than $200,000 in legal fees in connection with the case.The lawsuit Meservey's daughter filed in February alleges that Everett failed to provide Meade proper training to handle situations such as the one he faced the night he encountered Meservey.The city denies that it's responsible for the Stanwood man's death. Court documents indicate that the city plans to offer an affirmative defense, alleging that Meservey is responsible for his own demise.Diana Hefley: 425-339-3463; hefley@heraldnet.com.

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Supreme Court of Washington,En Banc.

Wallis D. HUBBARD, Petitioner, v. SPOKANE COUNTY, Steve Hasson, Phil Harris, and James Manson, Respondent.

No. 70975-1.

Decided: July 18, 2002

William Powell, Spokane, for Petitioner. Hugh Lackie, Amy Clemmons, Spokane, for Respondent. Andrea Brenneke, Jeffrey Needle, Seattle, Amicus Curiae on Behalf of Washington Employment Lawyers Assoc.

Petitioner Wallis Hubbard seeks reversal of a Court of Appeals decision in favor of Respondents Spokane County, County Commissioner Steve Hasson, County Commissioner Phil Harris, and James Manson, director of the Spokane County Building and Planning Department (County) on his claim of wrongful termination. We hold that RCW 42.23.070(1) and the Spokane County Zoning Code provide the necessary public policy to sustain a wrongful discharge action in violation of public policy. We further find that dismissal of the case on summary judgment was inappropriate because questions of material fact remain.

I

Hubbard was employed by the Spokane County Planning Department for 17 years before his position was eliminated in June 1995. He served as director of the department for the last 15 of those years. The planning department administers and enforces the County's land use and zoning ordinances and is subject to state statutes. Until May 1995, the planning department was a separate department in the public works division. Dennis Scott was the director of the public works division and Hubbard's immediate supervisor until May 1995.

On May 26, 1995, Hubbard received a letter from Scott indicating that the building

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