

December 3, 2018

RE: Merrick Code of Conduct

Alamogordo City Commission,

The following is my response to the code of conduct complaint filed by Rich Merrick on November 2, 2018. The complaint involves two facebook posts made between September 26th and September 29th, 2018.

On the night of September 26th I was scrolling through the online newspaper and came across a newspaper article from the Albuquerque Journal regarding State Auditor Wayne Johnson. It was a story about how Mr. Johnson took a paycheck from his county commissioner position while simultaneously taking a paycheck as the state auditor. I simply posted "go figure?" and left it at that. On the night of September 29th I was once again scrolling through the online newspaper and came across yet another article about auditor Johnson "mispending campaign funds" (it should be noted that he was a political candidate running for office) and I found it sort of interesting that this was the second time in a week that this candidates credibility was called in to question by two different news sources. After reading this second article, I must admit I was curious to know what his credentials were since he was running for office. I looked up Ballotpedia which is a reputable source for candidate information and found his bio which I then copied and pasted. Mr. Merrick is correct, I did say he won the boobie prize. Mr. Merrick is incorrect in saying that I saw the position of state auditor in that way. In fact, I see it quite the opposite. It is an incredibly important position and I, as a tax paying citizen, did not feel he was qualified to fill it after reading his bio. My reference was to the fact that he lost the mayor's race to the former state auditor so instead he got the office of state auditor which is not what he was after. I believe the definition Mr. Merrick used was "*an award for the poorest performance in a game or competition.*" That was in fact what happened. Mr. Johnson was awarded an appointment to serve the rest of the term of state auditor after losing the mayor's race (which he competed for) but was not really what he wanted. While my tone may have been a bit snarky it was not incorrect and it was only my opinion. If you will note on the September 29th post I said "well now I have confidence." I posted this from my personal page which has nothing on it about my elected position (but does have a disclaimer about my opinions being my own and not reflecting others), nor has it ever, this is my personal page that I have had since 2009. Using I instead of WE should be a clear indication that I was speaking for myself and not the commission. The bio is factual and was found with a simple google search. Both the Albuquerque Journal and The Alamogordo Daily News put out unfavorable articles about Auditor Johnson which I simply shared. Finally, this incident was in September and in October Mayor Boss and I attended the RPOC meeting where Mr. Johnson was the speaker. We had a very meaningful conversation, he was very cordial and made it a point to come and introduce himself to both the Mayor and I, and afterwards I spoke to both he and his wife. I found him to be a very pleasant individual. It should also be noted that Mr. Merrick and his wife were both in attendance and witnessed the exchange

and subsequent conversation. I have made public posts and comments about other topics of interest to me including the Alamogordo Public Schools and my disappointment with their operations and treatment of teachers. I have done so without the disclaimer of private citizen and yet no one has said a word. I understand this is not quite the same since the auditor put out a report about the city however the statement at the end of the complaint says that “all she had to do was put those five words in” and this would have been avoided. I disagree as I think it was very obvious I was not speaking for the commission. In addition, Mr. Merrick suggests that I did irreparable damage to Mr. Johnson’s reputation. I would ask if it was any worse than the two articles suggesting he was cheating the taxpayers or misappropriating funds?

2-03-570 (3) a. The suggestion was made that I did not “***treat a person or claim in a fair and equitable manner***”. This is simply not true. If I am to assume that he is referring to the “claim” in the auditor’s report, he is very mistaken. I took that report very seriously and I spent MANY hours researching where we could have gone wrong and what we could have done different because I did take the report seriously.

2-03-570 (3) c. “***commissioners shall refrain from abusive conduct, personal charges of verbal attacks upon the character or motives of other members of the commission, city staff or the public.***” Mr. Johnson was a political candidate running for office. As a registered voter I routinely look up information about candidates including their qualifications because I don’t vote on party lines. This was not abusive, nor was I calling him out for anything, nor was it a personal charge. Everything said was factual information, he was a political candidate and I simply put it out there. I think it was obvious that my post did not represent an official city position because there was no position to represent, simply facts.

2-03-570 (3) d. “***Respect for process. Commissioners shall perform their duties in accordance with the processes and rules of order established by the city commission governing the deliberation of public policy issues, the involvement of the public, and the implementation of policy decisions of the city commission by city staff.***” I’m almost insulted at the suggestion that I don’t have respect for the process. I just spent tens of thousands of dollars and three years of my life being educated about the process. I’ve worked hard and will continue to work hard for this city. I respect the process but I believe the process has to be fair. I take my position very seriously and have devoted much time away from family and work to represent our city at various events and meetings. I understand my position and what is expected of me but I am also entitled to a personal life with personal beliefs just as we all are.

2-03-570 (3) e. “***Commissioners shall not engage in personal attacks of any kind under any circumstance***” My post wasn’t personal it was factual and I can provide a copy of the factual information if needed.

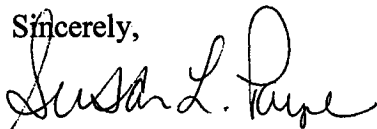
2-03-570 (3) h. “***Personal opinions and comments may be expressed only if the commissioner clarifies that these statements do not reflect the official position of the city commission.***” I do not routinely go on facebook and share my personal opinion on other pages but when I do I make it very obvious that it is my opinion and not that of the commission. I had many people call, message or text and tell me that they in no way saw my comments as taking an official city

position and they did not feel I deserved to be personally attacked like I was. As I said above, I never said WE I said I meaning me alone.

2-03-570 (3) k. *“If a commission member appears before another governmental agency or organization to give a statement on an issue, the commissioner must clearly state if his or her statement reflects personal opinion or is the official stance of the city. Even if the commissioner is representing his or her own personal opinions, remember that this still may reflect upon the city as an organization.”* Like I said, I never said WE I said I. Furthermore, if we take this section literally then does that mean if I speak for my Christian non-profit to another entity like the state legislature for instance, and I am advocating for a change in a particular law that I believe may be morally wrong, does that mean I need to preface my comments by saying “I am speaking as a private citizen” or would it even ever occur to anyone to ask rather than safely assume? As I mentioned earlier, I have been advocating for change in our public schools for several years now and I have never been called out as speaking for the commission, nor have I ever made that disclaimer when doing so. I did not discuss any city business or legal matters nor would I ever. A reasonable person understands that the opinions expressed are mine and do not reflect the opinions of my colleagues.

I would like to be clear about my position on this. My tone was snarky, no doubt about it, but my statement was factual and was never intended to represent anyone else’s opinion in any way. I am humbled to have been elected to this position and I take my job very seriously. I believe I have demonstrated time and time again that I am committed to my position and to moving this city forward in spite of the constant berating and personal attacks that I (as well as some others) endure on almost a daily basis by the same small group of unhappy citizens. While I understand the reason for initially instituting the code of conduct section in our ordinances I do not believe it is currently being used in the spirit in which it was intended. It is now being used as a weapon by individuals who want to control the actions of their elected officials by attempting to publicly shame them because of personal grudges. It is disappointing to say the least and only serves to disrupt the important work that we have been tasked with. Thank you for your time.

Sincerely,



Susan L. Payne

City Commissioner District 3