

Schroader, Kathy



From: David McDonald < david@mcdonaldpc.com >
Sent: Tuesday, December 01, 2015 12:21 PM
To: Schroader, Kathy
Subject: For the Records Follow up on Alleged Charter Violations UPDATED
Attachments: McCauley-Ltr-151201.pdf

Kathy

Please file this e-mail and attachment in both the Comprehensive plan update record/index and the SEPA record/index.

Thank you for your diligent work in keeping the records.

Best Regards,

David

Begin forwarded message:

From: David McDonald < david@mcdonaldpc.com >
Subject: Re: Follow up on Alleged Charter Violations UPDATED
Date: December 1, 2015 12:13:41 PM PST
To: "McCauley, Mark" < Mark.McCauley@clark.wa.gov >
Cc: "Horne, Chris" < Chris.Horne@clark.wa.gov >, "Orjiako, Oliver" < Oliver.Orjiako@clark.wa.gov >, "Cook, Christine" < Christine.Cook@clark.wa.gov >

Mr McCauley.

Please find attached my follow-up letter on alleged Charter violations by Councilor Madore. I have, as always, copied legal and planning staff.

Thank you for your attention to this matter.

Best Regards,

David T McDonald

On Dec 1, 2015, at 10:41 AM, David McDonald < david@mcdonaldpc.com > wrote:

Mr McCauley

Just to follow up on my earlier e-mail regarding alleged charter violations. I should have referenced the other provisions of Section 2.6. Certainly, any directives that have been given to GIS, the Planning director or planning staff by Councilor Madore in creating this new Alternative #5 (and by specifically bypassing the Planning Director and his staff) appears to be in violation of §2.6(A) unless Councilor Madore requested, and you gave Dr. Orijako direction, to work directly with Councilor Madore under this provision and there was a specific "constituent issue" that was covered under this request.

"Section 2.6 Relationship with other branches

A Council members shall not interfere in the administration of the executive branch. They shall not issue orders to or direct, either publicly or privately, any officer, agent, employee, contractor or vendor subject to the direction and supervision of the county manager or other elected official.

B Nothing contained herein shall prohibit a council member from

2 Submitting a request to the county manager to work with a department head to investigate a constituent issue "

Although the Charter is newly minted, it appears that Councilor Madore issuing to staff these types of non-legislative, executive directives violate this provision.

Also, I would like clarification as to the issue I raised in my letter to Mr. Horne and Ms. Cook regarding the possible termination of ESA and the possible addition of a new consultant.

Please advise.

Thank you,

David T. McDonald

This e-mail and related attachments and any response may be subject to public disclosure under state law.

David T. McDonald
David T. McDonald, P.C.
Courtroom Lawyer
Suite 625
833 SW 11th
Portland, Oregon 97205
503-226-0188 (o)
503-226-1136 (f)
Admitted To Practice In Oregon and Washington

State and Federal Courts

CONFIDENTIALITY NOTICE

This electronic mail message and any attachments are confidential and/or legally privileged. It is intended only for the addressee. If you are not the intended recipient or believe you have received this message in error, please notify the sender immediately by e-mail reply or telephone. Any disclosure, copying, further distribution or any action taken in reliance upon this transmission without the express permission of the sender is strictly prohibited.

David T. McDonald
David T. McDonald, P.C.
Courtroom Lawyer
Suite 625
833 SW 11th
Portland, Oregon 97205
503-226-0188 (o)
503-226-1136 (f)
Admitted To Practice In Oregon and Washington
State and Federal Courts

CONFIDENTIALITY NOTICE

This electronic mail message and any attachments are confidential and/or legally privileged. It is intended only for the addressee. If you are not the intended recipient or believe you have received this message in error, please notify the sender immediately by e-mail reply or telephone. Any disclosure, copying, further distribution or any action taken in reliance upon this transmission without the express permission of the sender is strictly prohibited.

December 1, 2015

Mark McCauley
Clark County Acting County Manager
1300 Franklin Street
Vancouver, Washington 98660

Via pdf and e-mail

Mr. McCauley:

I have read, and re-read, the agenda document for tonight on the Comprehensive Plan Policy Update. I have made my arguments to Mr. Horne but I want to formalize them in writing to you. As stated the Charter specifically separates executive functions and responsibilities from legislative functions and responsibilities. First, I believe that given the "Title" of the Agenda item "Public Hearing: Implementation of the Clark County Board of Councilor's Councilor's Comprehensive Plan Policy" the agenda item listed has not been properly noticed as a Type IV hearing.

Moreover, it is my understanding that Councilor Madore is the one who designed this Agenda item, not staff. FOCC asserts that, under the provisions of the Charter, even if this is not considered a Type IV process requiring the 15 day notice, Councilor Madore lacks authority to initiate this action. The planning process for the Comprehensive Plan update and concomitant actions would fall to the head of the Planning Department, Dr. Orjiako. If he has authorized this change of contract then I would appreciate having the document where he so authorized. Otherwise, it appears to be a blatant directive from Councilor Madore to the executive branch to engage in new contracts in violation of the Charter.

Therefore, for those reasons, we asked that the item be pulled from the agenda.

Thanks very much,


David F. McDonald

CC: Dr. Oliver Orjiako, Chris Horne, Chris Cook