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May 26, 2023

Ms. Ray Liaw
Van Ness Feldman
719 Second Avenue, STE 1150
Seattle, WA 98101

Re: Port of Centralia ethics investigation

Dear Ms. Liaw:

At the request of the Port of Centralia, I investigated allegations that Commissioner Peter Lahmann may have violated the Washington State Code of Ethics for Municipal Officers (Chap. 42.23 RCW) and/or the Port's Code of Ethics (Resolution 2005-05). The Port Commission authorized this investigation upon receipt of a January 19, 2023, memorandum from Amy Graber, the Port's Director of Finance and Administration.

The potential ethics violations are connected to Lahmann's employment and advocacy work related to apprenticeship programs. Graber's memo expresses concern that Lahmann may engage in "quid pro quo" arrangements with Port tenants, in which he agrees to advocate for tenants' interests in exchange for them utilizing apprenticeships. The memo further alleges that in public settings, such as meetings with other organizations, Lahmann identifies himself as the Port's representative without Commission authorization to do so.

I interviewed the following people on the dates indicated:

- Amy Graber on March 23, 2023
- Executive Director Kyle Heaton on March 29, 2023
- Commissioner Peter Lahmann, with representative Shane O'Rourke, on May 5, 2023
- Commissioner Julie Shaffley on May 8, 2023
- Commission President Kyle Markstrom on May 10, 2023

This report constitutes a summary of the evidence, the witness interviews, and the conclusions I draw therefrom. It is not intended as a full recitation of the facts gathered. I base my conclusions on a preponderance of the evidence standard, under which I accept an

allegation as fact when it is more probably true than not true based on the available evidence. An appendix of documents relevant to the investigation is attached to this report.

SUMMARY OF COMPLAINT AND EVIDENCE

Background

Peter Lahmann was elected in 2017 as one of three Commissioners for the Port of Centralia. His current committee assignments include serving as representative to Southwest Washington Economic Development District and Southwest Washington Regional Transportation Planning Organization. He also serves as alternate trustee to the Washington Public Ports Association (“WPPA”).

Lahmann is employed as an Apprenticeship Program Specialist for the Washington Department of Veterans’ Affairs (“WDVA”). He has held this position since 2021. His job duties include connecting military personnel, veterans, military spouses, and military families to apprenticeship opportunities. WDVA pays Lahmann a fixed salary, and he receives no bonuses or additional compensation for connecting servicemembers to apprenticeships. As a state-funded agency, WDVA receives no bonuses or additional compensation for reaching apprenticeship goals. In the past, Lahmann had a private consulting business related to apprenticeships, but he closed that business in 2018.

State law authorizes port commissions to establish economic development programs.¹ According to its mission statement, the Port promotes economic development “through our master-planned industrial parks and mixed-use developments that provide jobs and tax revenues to the local economy.” The Port operates three industrial parks, which host dozens of tenants and contribute hundreds of jobs. Some of the tenants are large in scale and employ organized workforces.

As a component of economic development, port commissions may vote to establish workforce development programs, which may include job training and placement as well as “pre-apprenticeship training.” The Port of Centralia Commission has not voted to adopt a workforce development program.

Unlike other types of governmental entities, port districts are not required to ensure that contractors utilize apprentices on public works projects.² Local government entities,

¹ RCW 53.08.245.

² RCW 39.04.320 requires the state, school districts, and institutes of higher education to ensure that contractors utilize apprentices to perform a minimum percentage of labor on public works contracts over specified amounts.

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including ports, may choose to adopt such standards, and some have.³ The Port of Centralia Commission has not voted to adopt apprenticeship utilization standards for its contracts.

Summary of concerns from Graber memo

Amy Graber's memo outlines three areas of concern. First, Lahmann has pushed for apprenticeship utilization standards in its contracts, even though the Port is not legally required to do so. Second, Lahmann may be "abusing his position as an elected Port Commissioner to coerce Port tenants into meeting with him about this apprenticeship program in connection with representing their issues to the Port Commission." Third, in meetings, on boards, and in other professional settings, Lahmann presents himself as a Port representative without Commission authorization to do so.

Encouraging the Port Commission to adopt apprenticeship standards

At four Port Commission meetings in the last two years, Lahmann advocated for the Commission to adopt apprenticeship language for its public works contracts. Lahmann has never proposed this as formal agenda item or made a motion at a Commission meeting. Rather, he brings the issue up in discussion, without calling for an official vote.⁴

Lahmann told me he would not necessarily push for a contractual *requirement* to utilize apprentices; rather, he would like to add language indicating that it is desired. Lahmann believes that when the state law was enacted, the state legislature wrongfully omitted local agencies such as port districts. He believes local agencies should fill the gap with their own standards.

Lahmann brought this issue up for the first time in the February 17, 2021, Commission meeting. At the same meeting, he invited his fellow Commissioners to attend a presentation on apprenticeships, which he had helped arrange for a Lewis County Commission meeting.

At the July 7, 2021, and August 26, 2022, Port Commission meetings, Lahmann again encouraged the Commission to adopt apprenticeship standards along with language encouraging contractors to employ graduates of Centralia High School and Centralia College.

At the January 4, 2023, meeting, Lahmann asked if the contractor on a Port project, which was partially funded by WSDOT, was required to utilize apprenticeships. Graber

³ See [Municipal Research and Services Center commentary on apprenticeship requirements for public works contracts](#).

⁴ Lahmann alleged that he is not allowed to put items on the agenda but his colleagues are.

researched that question and determined that a financial contribution from a state agency does not trigger a requirement to utilize apprentices.

Alleged quid pro quo with Port tenants

Grabber's memo recites that on July 6, 2021, Lahmann emailed Patricia Lalonde of Scot Industries to state that he had enjoyed their earlier conversation concerning "hiring opportunities" as well as the north end industrial interchange. At the July 21, 2021, Commission meeting a few weeks later, Lahmann moved for the Commission to draft a letter in support of efforts by Lewis County, WSDOT, and the Federal Highway Administration to construct the north Lewis County industrial access project. The motion failed.⁵

Also at the July 21, 2021, meeting, Lahmann asked why the Scot Industries directional sign had been removed from the industrial park. Executive Director Kyle Heaton responded that the Port periodically rotates signage.⁶ Lahmann moved for the Commission to seek bids for the construction of an additional kiosk, so as to accommodate signage for all businesses. The motion failed.

Lahmann had met the Scot Industries representative at a quarterly meeting of the Department of Labor & Industries, which he attended as an employee of WDVA. At that time, Scot Industries was establishing a machinist apprenticeship program. To the best of Lahmann's recollection, the Scot representative was with a representative from Sierra Pacific, and he spoke to them together.

Lahmann disputes that there was a "quid pro quo" with Sierra Pacific or Scot Industries. He said they started out talking about apprenticeships, but the discussion turned to Port business. During the conversation, Lahmann mentioned he is a Port Commissioner. He thought it was important to make sure they, as Port tenants, were aware of this. The Scot representative told him that the sign directing trucks to their operation had been removed. Lahmann did not understand why, because he thought all Port tenants should have directional

⁵ I was told the other two commissioners did not support the interchange project in its original configuration, but once the design was re-done, decided to lend their support. Lahmann believed the original location was beneficial for businesses.

⁶ Scot Industries signage was a point of contention between Executive Director Kyle Heaton and Commissioner Lahmann. On February 8, 2021, Patricia Lalonde emailed Heaton to ask why the sign had been removed. Heaton responded that the Port selects (and pays for) tenant signage on its street monuments and updates the signage from time to time. In a June 6, 2021, email, Lahmann accused Heaton of using a "caustic tone of voice" when Lahmann asked about the Scot Industries sign. Lahmann's email stated, "The idea that we would not be lauding the businesses that have chosen to make Centralia and the Port their home is foreign to me. . . . If there is no room on the current sign structure for a Scot sign, does that indicate an error in planning for future growth?"

signage. Lahmann does not recall talking about the interchange; however, he does not dispute that it probably came up.

At the Commission meeting on August 4, 2021, Lahmann stated that Scot Industries had established an apprenticeship training program and he was assisting them in finding apprentices. He stated that anyone with an interest in becoming a machinist should contact the Scot representative.

At the November 2, 2022, Commission meeting, Lahmann reported that representatives from Sierra Pacific and Scot Industries had complained that the Port provided inadequate notice of construction on a railroad crossing, which had harmed their businesses.⁷ Lahmann publicly stated his hope that on future projects, the Port will do a better job notifying tenants about construction. Again, Lahmann denied there was a quid pro quo with Sierra Pacific or Scot Industries.

On August 3, 2022, Commissioner Lahmann told Graber, in a conversation following the Commission meeting, that representatives from United Natural Foods (“UNFI”) had met with him to discuss hiring military veterans. Lahmann said he told the UNFI representatives that the Port “is there to help them with whatever they need.” Lahmann told me this conversation occurred at Joint Base Lewis McChord, where he was working on behalf of WDVA. He admitted telling the UNFI representative that the Port was there to help, characterizing that as “good customer service.”

Identifying himself as the Port’s representative without Commission authorization

- *Attendance at WPPA meetings*

In October of 2019, Lahmann attended a WPPA seminar in Leavenworth without receiving prior approval from the Commission. Lahmann said he was planning to notify his colleagues, but the Commission meeting preceding the seminar was canceled.

At the November 20, 2019, Commission meeting, the majority voted against Lahmann’s request for reimbursement of \$128 in expenses.⁸ Former Commissioner Dan Keahey indicated that Lahmann had not received Commission authorization as required by Resolution 2005-05. Lahmann responded that Commissioners typically do not request authorization to attend meetings or community events, such as groundbreaking ceremonies.

⁷ A representative of Scot Industries had called Heaton on August 3 to complain about the road closure connected to the construction.

⁸ At the same meeting, the Commissioners *did* vote to reimburse Lahmann for expenses related to attending a WPPA trustee’s meeting in September of 2019.

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Keahey and Commissioner Julie Shaffley then stated that the purpose of advance authorization is to allow the Commission to plan for reimbursements.

On December 8, 2022, Lahmann attended the WPPA annual meeting in Tacoma, where he led a roundtable discussion on "Apprenticeships to our Washington Ports." The WPPA agenda listed Lahmann as an Apprenticeship Specialist for the DVA *and* a Port of Centralia Commissioner.

Again, the Port Commissioners had no advance notice that Lahmann was planning to attend the WPPA meeting. When Lahmann mentioned at a subsequent meeting that he had led the roundtable, Commissioner Kyle Markstrom asked if it was for Lahmann's "day job." Lahmann responded yes. Lahmann did not request expense reimbursement for his attendance at the meeting.

Lahmann told me he led the roundtable in his capacity as the apprenticeship coordinator for WDVA. He attended only the roundtable and the closing remarks, not the entire meeting. He said that prior to the pandemic, he had met a WPPA representative at a break-out session concerning apprenticeships, and she suggested he present at a future WPPA meeting. In early 2022, Lahmann went to the WPPA office to discuss this further. WPPA scheduled the roundtable for its annual meeting in December.

Lahmann said he had no input over how WPPA identified him on the agenda or program. He said that if he wore a name tag, it would have been his WDVA ID because he was there in that capacity. Lahmann said WPPA naturally knows he is with the Port of Centralia because the Port is a WPPA member and he has attended WPPA meetings in the past.

- *PACMTN*

Lahmann is on the Board of Directors for Pacific Mountain Workforce Development Council ("PACMTN"), a nonprofit organization serving Mason, Grays Harbor, Lewis, Pacific, and Thurston Counties. PACMTN's mission is to "connect employers and job seekers by creating a pipeline of skilled and talented workers prepared to meet the needs of local employers and industries of tomorrow." The PACMTN Board consists of 26 volunteers appointed by the County legislative bodies.

The Board includes "leaders of local business, education institutions, labor unions, community-based organizations and other governmental agencies." According to its Recruitment Packet, the Board reserves 15 seats for local business leaders and 11 seats for professionals specializing in workforce development. One seat is reserved for a specialist in apprenticeships, who is nominated by unions or labor organizations. Another seat is for an

employee of Washington State employee services, to be nominated by the Employment Security Department.

The apprenticeship and employment security seats are currently filled by other Board members. Lahmann's application for his current seat, which he submitted in June of 2018, notes under the "representation" section of the form that his "business" is the Port of Centralia and that he is a Commissioner. It recites that he has connections through the Port and other governmental entities. The PACMTN website lists Lahmann as an economic development representative for Lewis County and a Port Commissioner.

Lahmann was on the PACMTN board before becoming a Port Commissioner. Prior to 2018, he occupied one of the labor and employment seats. In 2018, the Lewis County Commission appointed him to his current seat. He believes it is appropriate for him to serve as an economic development representative because that is the Port's central mission.

- *Communications with other public agencies*

On January 17, 2023, Lahmann emailed Jennifer Wray-Keene, Executive Director for the Port of Woodland, from his WDVA email address. The email indicates that Lahmann had spoken to Wray-Keene about apprenticeships and hiring veterans at the WPPA meeting in December. The email identifies Lahmann as a Commissioner for the Port of Centralia, and states:

If I could be helpful to you or your staff in your military hiring needs, please let me know. If you need the perspective from a Port Commissioner point of view, please see the included contact information for that.

Below the signature line, Lahmann listed his WDVA contact information under the header "For apprenticeship information please use this contact." He listed his Port contact information under the header, "For questions regarding Port business, please use this contact." He copied the email to his Port account.

Lahmann had spoken with Wray-Keene at the WPPA meeting and contacted her afterwards in his dual capacity as an apprenticeship coordinator and Port Commissioner. He did not believe he was compelled to handle Port business and apprenticeship business in separate conversations. He tried to draw a line between his respective roles by indicating that Wray-Keene should contact him at different addresses, depending on the purpose of the communication. He copied the email to his Port account because it partially concerned Port business.

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I was told that Lahmann regularly attends local City Council, County Commission, and Mayors' Association meetings, and in doing so identifies himself as a Port of Centralia Commissioner.

Disruption and tension at the Port

There is considerable tension between Commissioner Lahmann and his fellow Commissioners and Port staff. A Facebook group has been formed that is critical of the Port and supportive of Commissioner Lahmann. Union leaders and community members routinely attend Commission meetings as a show of force in favor of Lahmann and against perceived wrongdoing by the Port. Individuals and groups associated with Lahmann have attacked the Executive Director's contract and compensation package as well as the Port's handling of public meetings and records requests.

WDVA investigation

On February 23 and March 1, 2023, Graber received phone calls from CJ Webb, an employee in the human resources department at WDVA. Webb, who was calling to check on the public records request she had made to the Port, told Graber she was investigating Lahmann for workplace conduct related to his activities as a Port Commissioner. While Webb did not disclose the details of the investigation, she gave the impression that Lahmann may have performed Port Commission work on WDVA time and/or used his WDVA email account or other resources for non-WDVA purposes.

While the timing is coincidental, the WDVA investigation presents a separate question from my investigation. As Lahmann's employer, WDVA has a right to ensure that he follows WDVA policies concerning use of work time and resources. As an elected official, Lahmann has more leeway, and the Port has less control, over his political activity and use of time.

POLICIES CONSIDERED

The Washington State Ethics Code for Municipal Officers, Chap. 42.23 RCW, does not prohibit "quid pro quo" arrangements, except to the extent such arrangements violate statutory prohibitions on financial interests and special privileges. RCW 42.23.030 prohibits elected officials from having a "beneficial interest" in "any contract which may be made by, through or under the supervision of such officer." RCW 42.23.070 prohibits elected officials from using their position "to secure special privileges or exemptions for himself, herself, or others."

The Port of Centralia's Code of Ethics, adopted via resolution in 2005, states in pertinent part:

No Port Commissioner shall attend a meeting as a representative of a Port without prior approval from the other commissioners. When a Commissioner is pre-authorized to be a representative of the Port, the Commissioner in attendance shall present only the general ideas and positions of the Port Commission, and make no commitments or representations which have not been previously adopted by the commission in a properly convened open public meeting.

The Open Public Meetings Act (“OPMA”), Chap. 42.30 RCW, requires the governing body of a public agency to take “action,” including discussion, in a properly convened public meeting. Court decisions have held that a *de facto* meeting occurs when a quorum of an elected body meets, in person or virtually, to discuss agency business. Discussing agency business as a quorum outside of a public meeting violates the OPMA.

The Washington law concerning the preservation of public records (Chap. 40.14 RCW) requires public agencies to retain records, including the correspondence of elected officials, for the applicable time period contained in the retention schedules adopted by the Secretary of State. In general, emails to and from elected officials concerning agency business must be retained for three years.

CONCLUSIONS

State Ethics Code

The evidence does not establish that Commissioner Lahmann had an illegal financial interest in a contract in violation of RCW 42.23.030. The Port has no contractual relationship with an employer or organization Lahmann is affiliated with. His work with apprenticeship programs is on salary or volunteer, and he receives no bonus or additional compensation for connecting workers with apprenticeship opportunities.

The evidence does not establish that Commissioner Lahmann used his position to secure a special privilege or exemption in violation of RCW 42.23.070. Public officials are elected to adopt policies of general application. Apprenticeship standards are general in nature; moreover, they are a fair policy to advocate because port districts have statutory authority to create economic and workforce development programs.

The State Ethics Code does not prohibit “quid pro quo” arrangements. There were no reports from Port tenants that Lahmann unduly pressured, coerced, or influenced them to utilize apprenticeships. Lahmann claimed that Port business and apprenticeships came up naturally in the same conversation, and I lack evidence to contradict that. Bringing constituents’ concerns to the Port Commission, however those concerns arise, is within Lahmann’s role as an elected official.

Port Ethics Code

Political activity is free speech protected under the First Amendment of the U.S. Constitution and the Washington State Constitution. This includes the freedom to advocate for policies, represent constituent interests, and associate with individuals and groups. The Port Ethics Code must be applied in light of these protections.

The Code should be interpreted to prohibit unauthorized public appearances that cause articulable harm to the Port. Harm could result from Commissioners misrepresenting their own opinions as official Port policy. Harm could result from Commissioners making unauthorized promises that could cause the Port to incur litigation risk or financial liability. Harm could result if a quorum attends the same public meeting in violation of the OPMA. Finally, harm could result by a Commissioner going “off script” about a high risk matter like litigation.

Considering the above parameters, there is insufficient evidence that Commissioner Lahmann violated the Port Ethics Code. I do not have evidence that he dishonestly represented his own opinions as the Port’s official position; made unauthorized promises; obligated the Port to a course of action that was counter to official policy; caused an OPMA violation; or made statements that were detrimental to the Port’s litigation position.

With that said, Commissioner Lahmann’s conduct can still create problems even if it does not violate the Ethics Code. When he represents himself, or allows others to represent him, as a Port Commissioner at public appearances, this blurs lines, creates distrust and discord among the staff and other Commissioners, and calls into question Lahmann’s commitment to the collaborative process. This is especially true because Lahmann does not always disclose his appearances, and he often disagrees with his colleagues on policy matters.

Closing assessment

Through a re-drafted ethics code, the Commission could implement clear and defensible limits on Commissioner conduct, which could help prevent some of the issues seen in this case. These parameters may include the following:

- A requirement to ensure that the Port does not incur liability under the OPMA by giving the Commission and/or administration advance notice of public appearances and not attending events when doing so could create a quorum.
- A requirement to state when they are giving their own opinion and not speaking on behalf of the Port.

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- A prohibition on making promises that are not supported by official Port policy.
- Prescribed talking points for high-risk matters, such as ongoing litigation.
- A requirement to conduct oneself with reasonable decorum and refrain from attacking staff.
- Formal committee and liaison assignments, as long as Commissioners remain reasonably free to participate in additional activities of their choosing.

The Commission could also adopt a process for determining whether a member has violated the Code as well as remedies, such as censure or removal from special assignments. For now, the Commissioners should find ways to treat each other with fairness and function as a collaborative and effective body. Voluntary cooperation with the above-listed guidelines could be a good place to start.

If you have any questions or need additional information, please let me know.

Sincerely,

HAGGARD & GANSON LLP



Kathleen Haggard