

Prosecutor's Update

February 7, 2017

2 p.m.

Present: Commissioner Stamper, Commissioner Fund, Commissioner Jackson, Archie Smith, Daleyn Coleman, Becky Butler, Glenn Carter, Mark Scheibmeir, Jonathan Meyer

Guest: Linda Williams, Sharyn Decker, Will Halstead, Larry Hamilton, Mike Hamilton, Pete Caster, Shane O'Rourke, Jerry Graham, Jordon Naillon, Shawn O'Neill, LaVern Haslett, and Jim Haslett

Recorder: Rieva Lester

Jonathan Meyer recapped his concerns about the legality of the Napavine City Council appointments. He said the council meets the third Tuesday of each month, which is in violation of the municipal code.

Jonathan gave an overview of the make-up of the Napavine City Council: Mayor: John Sayers; position 1: Jenifer Slemp; positions 2 and 3: vacant; position 4: Wheeler; position 5: Sullivan.

Jonathan gave an overview of vacancy requirements per RCW, specifically RCW 42.12.070.

Daleyn Coleman left at 2:11 p.m.

Jonathan said the county does not lose the ability to appoint after the 180-day time period.

Jonathan gave the following overview:

Position 2: Vacated Dec. 20, 2016. Haslett had been properly elected in 2013. Resigned Dec. 20, 2016.

Position 3: Vacated by Armondo Galaviz on Dec. 20, 2016. Was appointed June 28, 2016, which is past the city's April 1 appointment deadline.

Position 4: Vacated by James McNelly on June 28, 2016. His replacement, Robert Wheeler, was appointed Dec. 27, 2016, past the Sept. 26 deadline by which the city should have made the appointment.

Position 5: Craig Sullivan appointed July 26, 2016, after the city's deadline of April 1 had passed.

He said the city has been operating with two positions the city wasn't authorized to appoint. He discussed RCW 35A.12.120 and said there is only one property sitting council member: Slemp.

He said the city can appoint someone to position 2.

Jonathan returned to RCW 42.12.070 and said the mayor could be considered a member of the city council.

He said the city has not had a quorum since June 28, 2016. He said the legalities of actions taken may be in question.

He discussed the following options:

- Do nothing
- Work with city to lawfully appoint members
- Exclude the city and proceed with the review and appointment process
- Request the governor to appoint members

Jonathan discussed the governor's office having been involved in something similar in Grays Harbor.

Jonathan said if Sullivan and Wheeler refuse to give up their seats, the PA's office could file a Quo Warranto action to remove the two.

Jonathan said he'd received a letter from the city asking the commissioners to step in. He said all positions aside from the mayor would need to run for re-election in the next election process.

Jonathan said the commissioners could vet the position or they could follow the city's recommendations.

Commissioner Fund said something similar took place in Morton. At that time, commissioners interviewed the applicants before appointing them to the board.

Commissioner Stamper said it would be important to treat cases the same.

Jonathan said the commissioners would need to appoint three positions.

Jonathan said the city probably would want it done sooner rather than later because the city doesn't have a quorum.

The group discussed Feb. 21 as the next scheduled City Council meeting.

Commissioner Jackson asked about the fallout for the city. Jonathan said that rests on the city.

Jonathan said city code says the council meets on the second and fourth Tuesday.

Mark Scheibmeir said the group could meet Feb. 21 and schedule a special meeting for Feb. 28.

Jonathan said the BOCC could appoint someone to the open position and appoint people to the positions held by Sullivan and Wheeler. Mark Scheibmeir said he didn't foresee Sullivan and Wheeler objecting to stepping down. He said they had not yet been talked to about it.

Mark Scheibmeir discussed concurrent authority versus singular authority. Mark said the city had advance conversations

Shane O'Rourke said the proper approach would be to have a process where people can submit applications. He said the mayor's illegal placement of the positions indicate the county should head the process.

Commissioner Stamper said the board should be consistent with what it had done in the past, in Morton.

Commissioner Fund said the voters would then have a say in November.

Jonathan said the BOCC should draft written guidelines for this type of circumstance.

Commissioner Jackson asked if any of the Napavine residents present had heard from anyone interested in applying for the council. He said it needs to be a thorough process. He agreed that it needed to be consistent.

O'Rourke asked if there was a formal application or whether a letter of interest would suffice.

Jonathan said his concern is that according to the city code, the meetings are to be held the second and fourth Tuesday. He said Feb. 28 would be the date at which to do.

Jim Haslett talked about a special meeting held to appoint to a member to the board illegally. He asked if it was legal. Jonathan said he cannot address that. He said that was a specific issue that was not looked at.

Jordan Naillon asked about the applications previously turned in.

Jonathan said the city has the ability to appoint Position 2 only. He said the city could appoint Sullivan or Wheeler to that position. Slemp and Sayers would have to vote, Jonathan said.

Jim Haslett asked how the city got into this mess.

Mike Hamilton asked about the special meetings, during which citizen public comment was not allowed. He asked if Mark Scheibmeir planned to do that again on Feb. 21 and Feb. 28.

The commissioners said the Feb. 28 meeting would be open to the public and the public would be allowed to comment.

LaVern said the mayor is not a vote unless there is a tie. Jonathan said the vacancies clause in RCW 42.12.070 allows the mayor to have a vote. He said the mayor is considered part of the governing body.

The guests left at 2:49 p.m.

Commissioner Stamper, Commissioner Fund, Commissioner Jackson, Jonathan, Glenn, and Will Halstead remained.

At 2:57, the Board went into Executive Session under RCW 42.30.110 for 10 minutes to discuss pending litigation.

Executive Session ended at 3:04 p.m.

No decisions were made.

The board resumed its meeting, with Commissioner Stamper, Commissioner Fund, Commissioner Jackson, Archie Smith, Will Halstead, Sharyn Decker, and Linda Williams in attendance.

Jonathan said the 2016 contracts for criminal attorneys and non-attorney staff are still outstanding.

He said he understands concerns about giving raises. He said his idea is an exchange. He said the DPAs have fallen far behind. He gave examples of talent that left. He said the county needs to do something to attract and retain talent.

He talked about using \$42,750 as a “contract settlement.” He said that would be less than the amount saved in 2016.

He talked about the high costs of law school and the pay for equivalent positions in Thurston County.

Commissioner Stamper said that it would set a bad precedent if the BOCC said yes. He said if the BOCC approved Jonathan’s request, other electeds could turn around and do the same thing.

Jonathan stressed the need to make the pay attractive enough to retain talent. He said he needs to reward those who choose to stay.

Commissioner Stamper said the BOCC hears the same type of concerns across the board. He said he wouldn’t devalue other employees just because these are preferred positions.

Jonathan said this wouldn’t be a raise. He said it would be for a contract that couldn’t be settled in 2016. He said this is a market position. Archie Smith said a handful of market positions exist in Lewis County.

Archie asked for clarification about whether it would apply to civil DPAs. Jonathan said it would apply to criminal DPAs only, because otherwise it would be a gifting of public funds.

Will Halstead talked about the positions requiring an advanced degree. He also discussed the office’s high turnover rate. He said consistency is important. He talked about it being a numbers game and a time game.

Commissioner Stamper asked how many staff members live in Lewis County. Jonathan said a good number of his staff members live in Lewis County.

Commissioner Jackson said the county’s goal is to make sure all of its employees are making a good wage. He said the board understands that turnover is not good. He said the board is not unsympathetic, but he said he agrees with Commissioner Stamper.

Jonathan said he thinks it’s a great precedent to set. He said he could go back to his office and move everyone up a step. He said that’s not how he wants to do it. He said former Commissioner Schulte had said if Jonathan made the move on his own, his future budget would be dinged. He said this is a respect issue and a morale issue. He said “negotiations” is a misnomer.

Jonathan said he has asked for the past six months to have someone other than Archie represent the board.

Commissioner Jackson said to be blunt, Archie Smith is the person the board has hired for that position.

Will said they’re not negotiations. He said it doesn’t feel like good faith. He said it’s presented as “here’s what the county has,” which is nothing, and “here’s what’s being offered,” which is nothing. He said the group doesn’t like the message Archie delivers. Will said the group wants something to show that the board acknowledges that the lawyers are special.

Commissioner Jackson asked if any formal complaints have been made. Jonathan said they hadn’t.

Jonathan said there’s a trust issue because the board said someone else would be at the table.

Jonathan said the feeling portrayed is, "If you don't like it, there's the door." He said the message should be, "We have nothing to offer, but we value your work."

Commissioner Jackson said he understands there needs to be trust established. He said the BOCC is now working at full staff. He said the personality of the commission has radically changed.

Commissioner Jackson said he supports his staff. He said he'd like to see the county walk away from the distrust.

Jonathan said he doesn't have seven or eight months to wait for Commissioner Jackson to become a seasoned veteran.

Commissioner Stamper said he hopes Jonathan has never gotten the vibe that Commissioner Stamper doesn't appreciate ALL county employees. He talked about perception being 99 percent of reality for some people.

Commissioner Stamper clarified that he'd never said – and Commissioner Fund never said – that if Jonathan had spent the money, it would be taken out of his future budget.

Commissioner Fund said Becky Butler had just been in and said the county is deeper in the red than previously thought. She said another county, Kittitas, required some folks to give up "stuff" to be able to afford raises. Commissioner Fund said Lewis County has so many folks who are underpaid.

Jonathan said the money is there. He said there is discretionary spending going on that, if stopped, would allow for raises for nearly everyone.

Jonathan asked for a vote.

At 4 p.m., the board met with Archie privately to discuss union negotiations.

At 4:05 p.m., the board extended its private conversation for 10 more minutes.

At 4:10 p.m., Becky Butler joined the meeting.

At 4:15 p.m., the board extended its private conversation for 10 more minutes.

Daleyn Coleman joined the meeting at 4:15 p.m.

Commissioner Stamper left the meeting at 4:16 p.m. and returned at 4:21 p.m.

At 4:25 p.m., the board ended its private union discussion.

Jonathan, Linda Williams, and Sharyn Decker returned.

Commissioner Stamper said the board is going to look at the criminal market positions. He asked Jonathan for a budget sheet outlining how his budget will absorb any potential increases.

Jonathan said his budget is a little uncertain because of moving parts related to positions.

Becky asked for specifics about budgeting and vacancies.

Commissioner Stamper said he understands the unknowns, but he asked for an idea of what Jonathan's budget will look at.

Commissioner Stamper asked Jonathan to get with Becky to discuss salaries and budget.

Jonathan, Linda, and Sharyn left at 4:39 p.m.

Becky, Archie, and Daleyn left at 4:40 p.m.

Commissioner Jackson said he is interested in exploring moving 911 under Emergency Management, under Steve Mansfield. He said it would have a minimal impact – roughly \$7,000 – annually.

The group discussed Archie's interactions with the Prosecuting Attorney's Office.

The group discussed Jenifer Slemm's term in Napavine.

Meeting adjourned at 5:16 p.m.