**From:** Ron Whalen
**To:** Corcoran, Elizabeth (SAO)
**Subject:** 2nd installment
**Date:** Friday, June 16, 2023 10:02:54 AM

External Email

Elizabeth,

This is the 2nd installment concerning misrepresentation.

**Issues for inclusion to 2023 audit of San Juan County**

Questions of compliance of code, misrepresentation, ethics violations, and conflict of interest

Misrepresentation

The premise for an allegation of misrepresentation lies in RCW 9A.76.175

**RCW 9A.76.175**

**Making a false or misleading statement to a public servant.**

**A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.**

While there was suspicion of misrepresentations it took some time to connect events that illustrate the claim.

Creation of the San Juan County Conservation Land Bank (LB) in 1990 authorized the acquisition of properties for conservation purposes. The acquisition process is outlined in county code 2.120.100 (*copy attached*). In November of 2015 three county council meetings were held to discuss a proposed LB acquisition known as Zylstra Lake. The three meetings were held on November 10th, 24th, and 30th. Public meetings videos are made for public record. The following are links to each of the three county council meetings;

Nov. 10th https://media.avcaptureall.cloud/meeting/734b9dfb-787c-476b-b2a0-5c5f4404239c

Nov. 24th https://media.avcaptureall.cloud/meeting/e15cc72f-9ff2-4870-8bd2-338bde65c183

Nov. 30th https://media.avcaptureall.cloud/meeting/d2a369c8-8d56-43e0-82ce-62622e2c89ca

Review of these meetings illustrates concerns for compliance of the prescribed acquisition

process. The chairman of the county council repeatedly brought this to attention in all 3 meetings.

In the meeting of November 10th at 2:10:24 the council chairman opens discussion on the amended LB acquisition plan. At 2:10:46 he voices concern the LB purchase plan came to the county council late and "*according to the ordinance they're supposed to work off their approved purchase plan*". The council chairman voices his angst. Between 2:21:35 and 2:22:45 the council chairman expounds on his concerns.

In the meeting of November 24th the LB director makes a presentation on the proposed Zylstra Lake acquisition. At 1:01:28 Council chairman notes that during the Nov 10th council meeting there was a lot of discussion on possible partners that really were not partners leading to misinformation that upset our town council. At 1:02:49 Council chairman states his concerns and states "*I'm extremely disappointed this didn't come before the council in any executive session before this even got started*". At 1:17:08 the LB director notes there is no appraisal for the proposed acquisition. Council members make no comment as to the requirement for appraisal required in county code 2.120.050.

In the meeting of November 30th from 9:01 to 12:32 public comments are made to the proposed Zylstra Lake acquisition. Concerns are voiced regarding sufficient notice for the proposed acquisition, sufficient opportunity for public comment, lack of communication with property owners adjacent to the proposed acquisition, concerns for questions of land use planning and compatibility with zoning regulations. At 3:21:27 the LB director starts a presentation of the purchase sale agreement for the proposed Zylstra Lake acquisition. The next 13.5 minutes are marked by confusion and at 3:35:04 a council member states "*your numbers don't make any sense".* At 3:57:57 council chairman restates his disappointment on how all of this is coming before the county council and how there wasn't better communication with the LB and the council. At 4:04:09 the county council moves to approve the resolution for acquisition and the measure is approved.

During the three November county council meetings Land Bank director Lincoln Bormann and chair of the commission of the Land Bank Jim Skoog make statements relative to a competing offer for the subject acquisition property. At 1:04:11 in the November 24th county council meeting Land Bank Director Lincoln Bormann states;

"***the competing offer from a developer was there plan was to put 25 units around the lake"***

At 4:00:40 in the November 30th county council meeting Land Bank chair of commission Jim Skoog makes comment of the council chairman's repeated concerns for compliance of the acquisition process and states;

"***I just wanted to address chairman Jarman's concerns about the timing" "I think the overwhelming motivation here was to not have a developer come in and take hold of this property, this iconic property and the parties involved here had to move pretty quickly to put this whole thing together and once a purchase and sale agreement is is out there then everybody else seems to know about it"***

At the end of Land Bank chair of commission (Jim Skoog's) comments at 4:01:37 council chairman Jarman responds;

"*to bring that into perspective we had four meetings between the time that you guys knew about this and had already taken action on it. We had four meetings where we could have had closed door sessions to talk about land purchases and you never came forward with those points either. You could have had any time for executive sessions to talk about land purchases and that never happened.*

Fast forward just over 5 years to a Land Bank meeting January 17,2020. The management plan for the Zylstra Lake acquisition is being discussed. The issue of "*the competing offer of a developer*" noted as reasoning to push through the Zylstra Lake acquisition in 2015 comes up. It's noted there was extensive effort to verify the competing offer and it could never be found. Both LB director Bormann and LB Commission Chair Jim Skoog state they had never actually saw the competing offer. Minutes from the meeting (copy attached) note ;

"*Jim and Lincoln respond that was what the realtors told the Land Bank"*.

**This is note worthy** as an omission of statements both Bormann and Skoog made in county council meetings in November of 2015. Neither Land Bank director Bormann or Land Bank chair of commission make reference that they never saw a competing offer. No effort was made to verify their reference to a developer and a competing offer. 5 years after making statements to county council in a public meeting as argument and reasoning for urgency to win the council approval for acquisition we learn (*by their own words*) neither LB director Lincoln Bormann or LB Committee chairman Jim Skoog had any verification of *the developer competing offer* they reference to the elected officials in the county council. Their statements to the elected county officials were presented as material fact and reasoning for urgency to rush a resolution to approve the acquisition. Here then is illustrated misleading material statements to a public servants likely to be relied upon in the discharge of their official powers or duties.

The above statements are central to an allegation of misrepresentation and provisions of RCW 9A.76.175.

I then direct the following question to Washington State Auditor's office in association with the Washington State Attorney Generals office;

Was their misrepresentation pertinent to RCW 9A.76.175 as described above.