



Edit Referral

H-22-312 Referral Information

Hotline ID: H-22-312

Date of Submission: 8/31/2022

Entity Type: Local

Entity Category Type: County

Entity: Jefferson County

Sub Entity Name:

Category:

1-2 sentence description of concern: Conflict of Interest contracting and public spending by Commissioner

Report Issued: No

Reporting Type: Verbal Resolution

Report Number:

Investigation Contracted: No

Contract Number:

Contract Name:

Billing Time Code:

Costs:

Public Records Request: Yes

Flag For Annual Report: No

Substantiated: No

ARRA: No

Action: Referred to Audit Team - Consider Next Audit

Audit Team: Port Orchard

Audit Team Contact: strzalkaa@sao.wa.gov

cc:

Referral Date: 8/31/2022

Action Taken: No

Response Date:

Report Date:

Follow Up Date:

Date Closed: 11/15/2023

H-22-312 Contact Information

Hotline ID: H-22-312 **Date of Submission:** 8/31/2022

Submission Method: Letter **Date of Letter:** 8/25/2022

Submission Type: Citizen **Staff:** gillisj

Author(Last, First): McCauley , Mark

Address: 1820 Jefferson Street

City: Port Townsend **State:** WA **Zip:** 98368

Home Phone:

Work Phone:

Mobile Phone:

Email:

Contact Preference: Regular Mail

Waived Confidentiality: No

H-22-312 Referral Details

Hotline ID:

H-22-312

What state or local organization is involved?

Jefferson County

Please identify the specific concerns you are hoping the audit will address.

Conflict of Interest contracting and public spending by Commissioner

Please provide a detailed description of the assertion or outstanding achievement, including who, when, where, what, how and how much.

How did this issue come to your attention?

**What employee(s), contractors, etc., were involved in the assertion or achievement?
Please include employee titles if possible.**

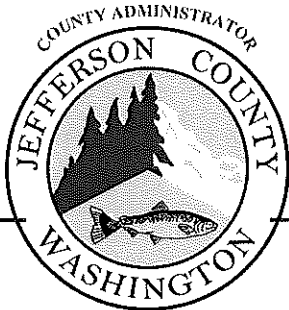
Please provide the names of any witnesses to the assertion or achievement, if possible.

Please provide any additional details or comments that would help us understand your assertion or achievement.

H-22-312
Activity
Log

Hotline ID: H-22-312

Entry Date ▼	Log Entry
04/10/2025	Referral updated by 'JEANA Gillis (gillisj)'.
02/01/2024	Referral updated by 'AMY Strzalka (strzalkaa)'.
02/01/2024	Jeana - not sure why this one just got tasked to me again. We completed the work and sent it for close-out 11/15/23. Thanks! --strzalkaa
01/31/2024	Referral updated by 'JEANA Gillis (gillisj)'.
11/15/2023	Referral updated by 'JEANA Gillis (gillisj)'.
11/15/2023	Referral updated by 'AMY Strzalka (strzalkaa)'.
11/15/2023	Referral updated by 'AMY Strzalka (strzalkaa)'.
11/15/2023	Emailed the County audit liaison and cc'd the County Administrator (who submitted this hotline) to provide the County with copies of both citizen letters issued as a result of the audit (with citizen info removed). This hotline was actually a letter written by the County in response to concerns raised by the public, which were addressed in H-22-298. Email with letters attached is included in supporting documents. --strzalkaa
11/15/2023	Also communicated the results of our review verbally in the exit conference held 11/15/2023. The submitter of the County's letter (Mark McCauley, County Administrator) was in attendance. --strzalkaa
09/09/2022	Received voicemail from citizen on 9/6 because he got the letter and was confused because he hadn't submitted a hotline. Spoke with him on the phone 9/8 and explained the hotline process and that the letter he sent to the state auditor got entered into the hotline system (unfortunately at the time I sent him the original letter, I did not see his letter and sent the letter based on the description in the details section). I let him know we'd be looking into this matter in our next audit and would take his letter into consideration at that time, and then communicate the results. --strzalkaa
08/31/2022	Referral updated by 'AMY Strzalka (strzalkaa)'.
08/31/2022	Referral updated by 'JEANA Gillis (gillisj)'.
08/31/2022	Task assigned to 'strzalkaa@sao.wa.gov'. Team notification email sent to: strzalkaa@sao.wa.gov
08/31/2022	Referral updated by 'JEANA Gillis (gillisj)'. Action changed from (not set) to Referred to Audit Team - Consider Next Audit.
08/31/2022	Mailed letter to citizen letting him know we'd consider his concern during next accountability audit of the County (summer 2023). Letter attached in supporting documents. --strzalkaa



Mark McCauley
1820 Jefferson Street
PO Box 1220
Port Townsend, WA 98368

Kate Dean, District 1 Heidi Eisenhour, District 2 Greg Brotherton, District 3

August 25, 2022

Ms. Pat McCarthy, Washington State Auditor
Insurance Building, P.O. Box 40021
Olympia, WA 98504-0021

RE: Conflict of Interest Contracting and Public Spending by Jefferson County
Commissioner Greg Brotherton in Violation of RCW Chapter 42.23

Dear Ms. McCarthy:

I am writing in response to the complaint, subject as above, submitted to your office on August 17, 2022 by Rosemary Schurman, who says she is an attorney at law and concerned citizen.

Ms. Schurman erroneously asserts that Commissioner Greg Brotherton violated state statute, namely Chapter 42.23 RCW, through his participation as a county commissioner on the board of the non-profit Olympic Community Action Programs (OlyCAP). I am writing on behalf of Jefferson County because the potential consequences of Ms. Schurman's claim are significant. Under RCW 42.23.050 contracts entered in violation of Chapter 42.23 are void. Considering these consequences, we asked our Chief Civil Deputy Prosecuting Attorney to make a presentation to the Board of County Commissioners. The presentation is attached.

This letter demonstrates that Ms. Schurman's complaint lacks merit.

As background:

- Commissioners are assigned to serve on the boards of governmental entities and non-profits.
- These assignments are made in open public meetings.
- Commissioners receive no financial compensation from the entities to which they are assigned.
- The list of assignments can be viewed on the County's web site.
- Mr. Brotherton was assigned to be on the Board of OlyCAP by the Board of County Commissioners.

The thrust of Ms. Schurman's complaint is that Greg Brotherton was "beneficially interested" in the contracts Jefferson County was awarding to OlyCAP to provide housing, homeless and other services to Jefferson County. Case law will help us understand that Greg Brotherton did not have a "beneficial interest" in any of these contracts.


Barry v. Johns, 82 Wn. App. 865, 920 P.2d 222 (1996) is controlling law on the meaning of "beneficial interest." the Court held that RCW does not define "beneficial interest." 82 Wn. App. at 868, 920 P.2d at 223. However, the court held that "beneficial interest" under the statute requires that the contract involve business transactions, employment matters and other financial interests. Specifically, it said:

"Because the exceptions to the general rule prohibiting a municipal officer from having a beneficial interest in certain municipal contracts all involve business transactions or employment matters, we conclude the Legislature intended the term beneficial interest under the general rule to encompass the same thing." *Id.*

-and-

"RCW 42.23.030 applies only to municipal contracts involving business transactions, employment matters and other financial interests and cannot be read to apply to the contract here, which conferred no financial benefit." *Id.*

None of the contracts Greg Brotherton voted as a member of the Board of County Commissioners to award to OlyCAP involved business transactions, employment matters or other financial interests of Commissioner Brotherton. Therefore, there was no beneficial interest and hence, no conflict of interest under Chapter 42.23 RCW. Please reject this baseless claim.



Mark McCauley
County Administrator
Jefferson County, Washington

Attachment

Cc: Rosemary Schurman

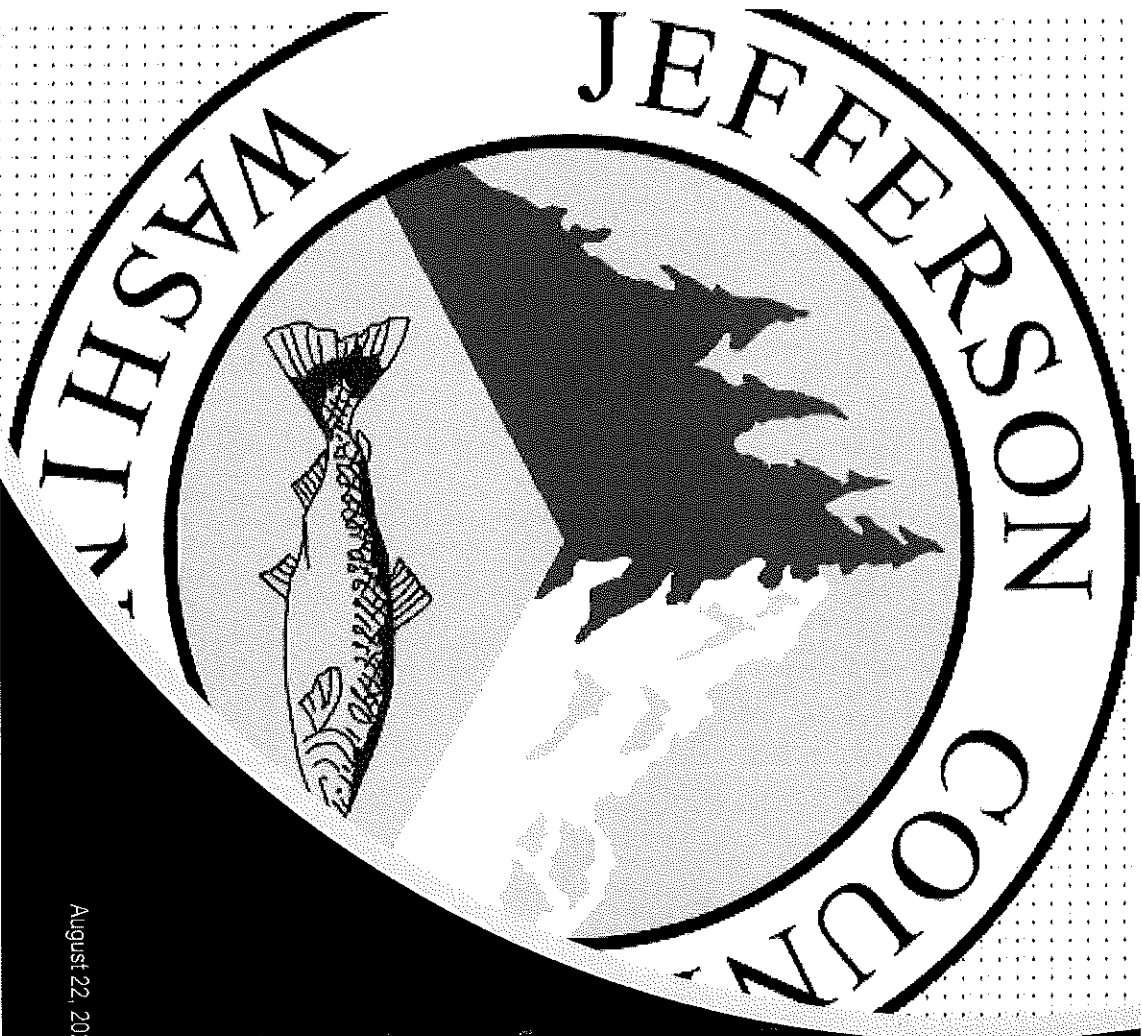


August 22, 2022

CONFLICT OF INTEREST PRESENTATION August 22, 2022

Philip C. Hunsucker, Chief Civil DPA

CONFLICT OF INTEREST PRESENTATION



Background

August 22, 2022

CONFLICT OF INTEREST PRESENTATION

Background



Commissioners are assigned to serve on the boards of various governmental entities or nonprofits.

Assignments are made in an open public meeting.

Commissioners Receive No Financial Compensation from the Assigned Entity.

The is a list of assignments that can be viewed on the County web site.

Background



Post to Web	BOARD & COMMITTEE ASSIGNMENTS GROUP/ORGANIZATION	Vot ng	BOARD REP 2022	CA *as needed	SCHED / FREQ OF MTGS	PTS
BOCC	BOCC Chair	YES	HEIDI	X*	1 st Four Mondays, 9AM	3
PH	Behavioral Health Advisory Committee (Chair)	YES	HEIDI	X*	E/O 1 st Tues, 3:30PM	2
PH	Behavioral Health Consortium		GREG		2 nd Thurs, 3-4PM	1
AUD	Budget Committee	YES	BOARD	X	Each last Wed, 5:30PM	1
BOCC	Canvassing Board	YES	HEIDI		TBD	1
AGENCY	Chimacum Drainage District					
PH	Community Health Improvement Plan (CHIP) – subcommittees					
	• Youth Advisory Board		KATE			1
	• Working age band		GREG			1
	• Senior age band		HEIDI			1
AGENCY	Climate Action Committee	YES	KATE		Every other Tues, 3-5PM	1
INTERNAL -	COVID-19 RESPONSE: County Coordination Meeting	NO	KATE	X	Every other Fri, 10:30	1
Make Agenda	Policy Management Group		KATE		Every Weds @ Noon	1
BOCC	Elected Official/Department Council (EDC) Team Jefferson		KATE		Each 1 st Thur, 9-11AM	1
BOCC	Elected Official/Department Director Quarterly Meeting	NO	BOARD	X	1 st Wed, 4 th Mon, Noon	1
AGENCY	Empowered Teens Coalition	YES	KATE		4 th Tues, 3:30 – 5 (PT)	1
	• Port Townsend		HEIDI		3 rd Weds, 3:30 – 5 (CH)	
	• Chimacum		GREG		TBD	
	• Quilcene					
INTERNAL	Finance Committee (BOCC Chair Automatically Serves)	YES	HEIDI	X	1 st Wed, 4 th Tue, 8:30AM	1
AGENCY	Fort Worden Advisory Committee (Attend if County Issue)	NO	KATE		Each 3 rd Thur, Noon – 1	1
PROJECT	Hadlock Sewer (Project Lead)	NO	HEIDI		As Scheduled	2
PH	Board of Health	YES	BOARD	X*	3 rd Thurs, 2:30-4:30PM	1
AGENCY	Hood Canal Coordinating Council (HCCC)	YES	BOARD (KATE LD)		3 rd Weds, 12:30-3:30PM	2 KD
BOCC	Housing Fund Board (County and City rotate chairing meetings)	YES	GREG	X*	Each 4 th Weds, 2PM	2
PH	Intellectual/Developmental Disability Advisory Board (I/D)	YES	GREG		Each 4 th Tues, 3 – 5PM	1
BOCC	Intergovernmental Collaborative Group (ICG)	YES	BOARD	X	1 st Wed, 8 as scheduled	1
BOCC	JC Disability Board (LEOFF 3)	YES	GREG		2 nd Tues April/October	1
AGENCY	JeffCom 911 Administrative Board	YES	GREG (CA ALT)	X	Each 4 th Thurs, 8:30AM	2
AGENCY	Jefferson Broadband Action Team and Executive Board (JBAT)	NO	GREG		Fridays at 8:30 a.m.	2
EH	Jefferson County Clean Water District	YES	GREG		Quarterly, As Snd.	1
AGENCY	Jefferson Peninsula Regional Emergency Planning Comm. (JPREP)	NO	BOARD (GREG LD)	X	1 st Wed, 10-12 Noon	1
AGENCY	Jefferson Transit Authority Board	YES	BOARD (HEIDI)		E/O 3 rd Tues, 1:30-3:30P	1
			VICE CHAIR			
AGENCY	Jefferson Transit Authority Finance Committee – Vice-Chair	YES	GREG		1 st Tuesday, 1:00PM	1
BOCC	Lodging Tax Advisory Committee (LTAC) SPECIAL (Chair)	YES	HEIDI		As Sched./Special Mtg	2
WSU	Marine Resources Committee (MRC)	NO	HEIDI		1 st Tuesday 6:00PM	1

CONFLICT OF INTEREST PRESENTATION

August 22, 2022

Background



Post to Web	BOARD & COMMITTEE ASSIGNMENTS GROUP/ORGANIZATION	Vot ng	BOARD REP 2022	CA *as needed	SCHED / FREQ OF MTGS	PTS
AGENCY	Marine Health Field Response Team	NO	HEIDI		As Scheduled	1
AGENCY	National Association of Counties (NACo) Federal Issues/Funding	YES	KATE			1
AGENCY	North Olympic Development Council (NODC)	YES	KATE	X*	4 th Thurs 1:30-3:30PM	1
AGENCY	North Olympic Legislative Alliance (NOLA)	YES	KATE	X*		1
AGENCY	Olympic Area Agency on Aging (O3A)	YES	GREG		1 st Thurs, 10AM-Noon	1
AGENCY	Olympic Coast National Marine Sanctuary Advisory Board	YES	KATE		Quarterly (West End)	2
AGENCY	Olympic Community Action Program (OYCAP) Board	YES	GREG		2 nd Weds, 5:30 p.m.	3
AGENCY	Olympic Consortium Board (OCB)	NO	HEIDI		As Sch. 8-8x Yr, Fri, 9AM	1
AGENCY	Olympic Discovery Trail (Project Lead)	YES	GREG		2 nd Weds, 8:30PM	2
AGENCY	Olympic Region Clean Air Agency (ORCAA)	NO	GREG		1 st Weds @ 11AM-1PM	1
PW	Parks and Recreation Advisory Board (PRAB)	YES	KATE		E/O 3rd Fri, 10AM	1
AGENCY	Peninsula Regional Transportation Planning Organization (PRTPO)	NO	GREG	X*	1 st Thurs @ 5:00PM	1
AGENCY	Public Infrastructure Fund Board (PIF)	YES	HEIDI	X*	As Scheduled	2
AGENCY	Salish Behavioral Health Administrative Services Organization	YES	GREG		4 th Fri, 10-2 quarterly	2
PW	Solid Waste Advisory Committee (SWAC)	NO	GREG		E/O mo, Fri, 9AM	1
AGENCY	Tourism Coordinating Council (TCC)	YES	KATE		2 nd Tuesday, 10:00AM	1
BOCC/SPECIAL	WSAC Coastal Caucus Sub-Committee	YES	KATE		As Scheduled	1
BOCC/SPECIAL	WSAC Legislative Steering Committee	YES	KATE (HEIDI ALT)		1 st /3 rd Thurs, 5AM-Noon	3
BOCC/SPECIAL	WSAC Timber Counties Sub-Committee	YES	GREG		As Scheduled	1
X	Water Utility Coordinating Council (WUCC)	YES	Not Active	X	As Scheduled	1

Special Assignments:

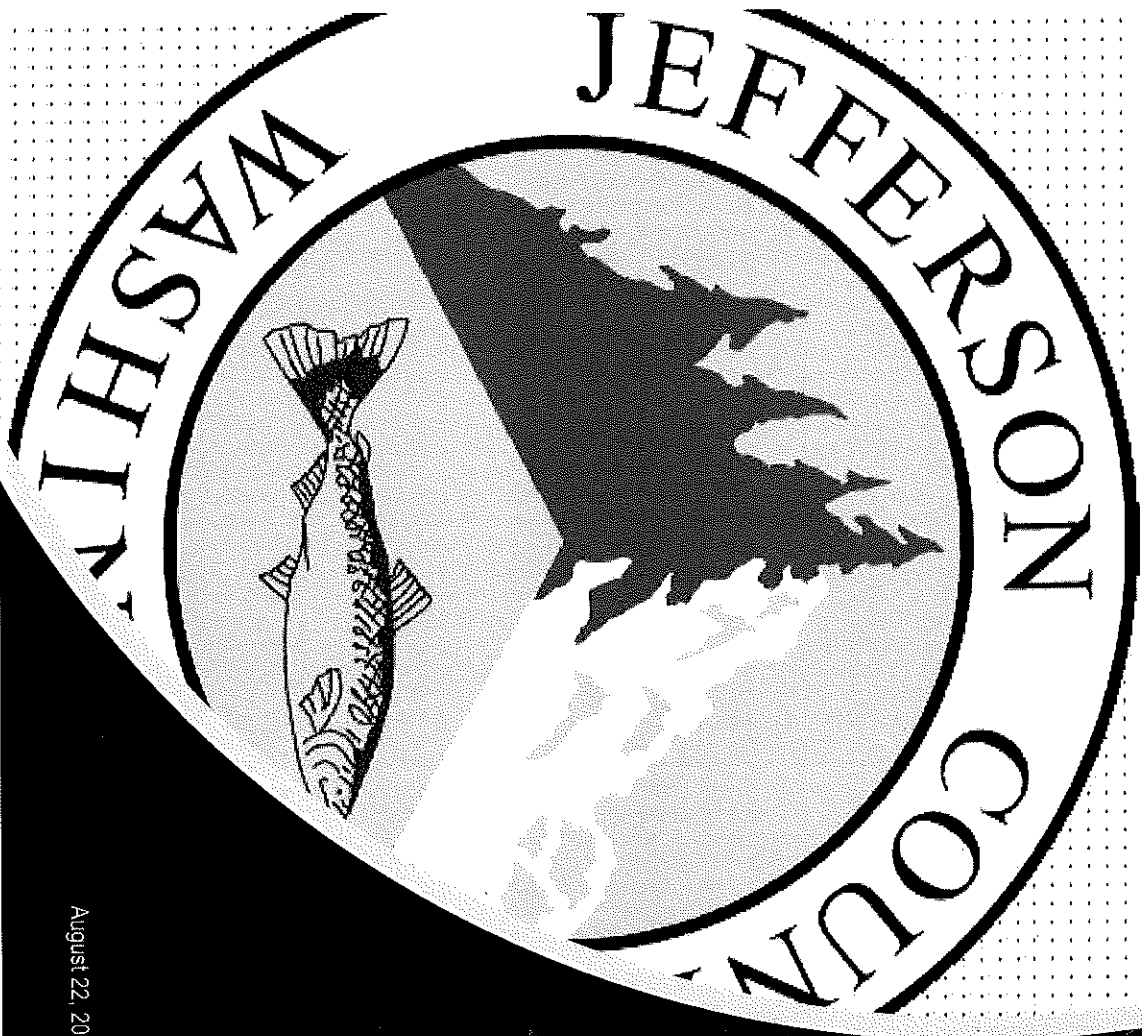
AGENCY	Department of Natural Resources (DNR) Trust Land Transfer Work Group	YES	HEIDI		As Scheduled	1
AGENCY	Municipal Research and Services Center MRSC	YES	KATE		Quarterly, As Sched.	1
AGENCY	Shorelines Hearing Board (WSAC REP - ALTERNATE)	YES	HEIDI		As Scheduled	1
AGENCY	Puget Sound Partnership Leadership Council	YES	KATE		Quarterly	1
AGENCY	Housing Finance Commission (WSAC REP)	YES	GREG		If Appointed	1
AGENCY	Maritime WA National Heritage Area Steering Committee	YES	KATE		As Scheduled	1

Greg = 29th, Kate = 29th, Heidi = 28th

Updated 06.29.22

CONFLICT OF INTEREST PRESENTATION

August 22, 2022



Chapter 42.23 RCW

August 22, 2022

CONFLICT OF INTEREST PRESENTATION

Three Possible Consequences of a Violation—RCW 42.23.050



“Any contract made in violation of the provisions of this chapter is void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality.”

“Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law.”

“In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office.”

What is Prohibited? RCW 42.23.030



RCW 42.23.030

Interest in contracts prohibited—Exceptions.

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(6)(a) The letting of any other contract in which the total amount received under the contract or contracts by the municipal officer or the municipal officer's business does not exceed one thousand five hundred dollars in any calendar month. A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract.

Three Possible Consequences of a Violation—RCW 42.23.050



RCW 42.23.050

Prohibited contracts void—Penalties for violation of chapter.

Any contract made in violation of the provisions of this chapter is void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law.

In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office.

Barry v. Johns, 82 Wn. App. 865, 920 P.2d 222 (1996)



"RCW ch. 42.23 does not define beneficial interest." 82 Wn. App. at 868, 920 P.2d at 223.

"Because the exceptions to the general rule prohibiting a municipal officer from having a beneficial interest in certain municipal contracts all involve business transactions or employment matters, we conclude the Legislature intended the term beneficial interest under the general rule to encompass the same thing." *Id.*

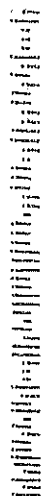
"RCW 42.23.030 applies only to municipal contracts involving business transactions, employment matters and other financial interests and cannot be read to apply to the contract here, which conferred no financial benefit." *Id.*



Board

P.O. Box 1440

Port Townsend, WA 98368



State Auditor's Office

AUG 29 2022

RECEIVED

Ms. Pat McCarthy, Washington State Auditor
P.O. Box 40021, Insurance Building,
Olympia, WA 98504-0021



USPS
ZIP 98368 \$ 001.05
0000375022 AUG 29 2022



**Office of the Washington State Auditor
Pat McCarthy**

August 31, 2022

Mark McCauley
1820 Jefferson Street
Port Townsend, WA 98368

Dear Mr. McCauley:

Thank you for contacting the State Auditor's Office Citizen Hotline with your concerns regarding Jefferson County.

We will consider your concerns during our next accountability audit of the County, planned for summer 2023.

Sincerely,

Amy Strzalka, CPA, Audit Manager
Team Port Orchard

H-22-312

From: [Strzalka, Amy \(SAO\)](#)
To: [Judy Shepherd](#)
Cc: [Mark McCauley](#)
Subject: Citizen Hotline Letters - Jefferson County
Date: Wednesday, November 15, 2023 11:58:00 AM
Attachments: [image001.png](#)
[Hotline Letter H-22-157 - Citizen Info Removed.pdf](#)
[Hotline Letter H-22-298 - Citizen Info Removed.pdf](#)

Hi Judy,

As part of our audit of Jefferson County this year, we addressed a couple different hotline concerns. We did not identify any issues as a result of our review. Attached are copies of the letters we sent to the citizens (with citizen information removed) so the County is aware of the specific responses given.

I have copied Mark on this email since H-22-298 pertains to a matter that Mark submitted a formal letter to our Office about when the concerns were originally raised.

Best,



[Amy Strzalka, CPA](#)

Team Port Orchard Audit Manager, Fire Protection District Program Manager

[Office of the Washington State Auditor](#)

(360) 845-1476 | Pronouns: she/her/hers

We are hiring! Go to sao.wa.gov/jobs to see our openings.