



Gina Proctor <gproctor@utah.gov>

EXPEDITED APPEAL to SRC-I'm denied certain surety penal bonds & oaths of Ogden City public officers

1 message

Brady Eames <ibuncle@yahoo.com>

Sun, Nov 18, 2018 at 12:45 AM

To: Gina Proctor <gproctor@utah.gov>

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EXPEDITED APPEAL

To the governmental entity: Utah Department of Administrative Services

Attn: State Records Committee (SRC)

Appellant:

BRADY EAMES

Appellees:

Ogden City Municipal Corporation (OCMC)

Mike Caldwell-Mayor

Mark Johnson-Chief Administrative Officer

Tracy Hansen-Records Officer

AUTHORITIES

The Utah Municipal Code as amended (UMC)

OCMC Code

UC Title 52-Chapter 1

Public Records Management Act as amended (PRMA)

Government Records Access Management Act as amended (GRAMA)

HISTORY & FACTS

Under UC 10-2-301(2)(b), Ogden City is a second class city.

On September 25, 2018, I furnished to the Recorder/Records Manager of the OCMC named Tracy Hansen (Tracy) a request to access and inspect the public official penal bonds and constitutional oaths of certain elected and appointed officers of the OCMC. (attached)

Albeit OCMC Code 4-5-25 provides for appeals to a three-member "records review board" (RRB), there is only one current member of the RRB according to information documented in the website of the OCMC at <https://www.ogdencity.com/244/Records-Review-Board>.

On October 20, 2018 and in accordance with UC 63G-2-401(1), I appealed to both the Mayor of the OCMC named Mike Caldwell (Mike) and to the Manager of the OCMC named Mark Johnson (Mark) that I had been constructively denied all such bonds and oaths and requested an expedited decision. (attached)

On October 25, 2018, Tracy made a decision to provide me the "Public Official Bond" for Brandee Johnson as the Treasurer, 13 responsive constitutional oaths of certain public officers of the OCMC and a non-responsive insurance document. (forwarded)

BASIS

The United State Constitution-Article VI and the Utah Constitution Article IV-Section 10 together mandate the taking and subscription of oaths by all persons elected or appointed as public officers.

UC 76-8-203 serves clear notice that it's a criminal offense against the administration of government if a person exercises or attempts to exercise any functions of a public office if he/she has not been:

- (1) elected or appointed,
- (2) executed and filed a required bond,
- and
- (3) taken and filed the required oath.

These three prongs establishes whether or not a person may perform the duties of a public office.

UC 10-3-819 unequivocally mandates that all elected officers of the OCMC execute a surety penal bond.

UC 10-3-820 unequivocally mandate that the auditor of the OCMC execute a surety penal bond.

UC 10-3-819 and -821 unequivocally mandate that the treasurer of the OCMC execute a surety penal bond.

UC 10-3-826 serves clear notice that willfully omitting to perform the duty of bonding is official neglect.

UC 51-7-15 unequivocally mandates that the treasurer of the OCMC shall be bonded in accordance with the rules of the State Money Management Council.

OCMC Code 2-5-2 unequivocally prescribes and enumerates those certain public officers of the OCMC who shall execute surety bonds and the sums of such bonds.

APPEAL

Both Mike and Mark have neglected their duty under UC 63G-2-401(5)(a) to provide me an appellate decision and have thereby constructively denied me access to and inspection of the surety penal bonds executed by the following persons elected or appointed as certain public officers of the OCMC:

- (1) Mike Caldwell as Mayor,
- (2) Angela Choberka as Councilwoman-District 1,
- (3) Richard Hyer as Councilman-District 2,
- (4) Doug Stephens as Councilman-District 3,
- (5) Ben Nadoski as Councilman-District 4,
- (6) Marcia White as Councilwoman-At Large Seat A,
- (7) Bart Blair as Councilman-At Large Seat B,
- (8) Luis Lopez as Councilman-At Large Seat C,
- (9) Mark Johnson as Chief Administrative Officer,
- (10) Gary Williams as Attorney,
- (11) Mark Stratford as Assistant Attorney,
- (12) Thomas Christopulos as Community & Economic Development Director,
- (13) Jay Lowder as Public Services Director,
- (14) David Buxton as Management Services Director,
- (15) Ruby Kakita as Purchasing Coordinator,
- (16) Tracy Hansen as Recorder,
- (17) Unknown person as Business License Coordinator,
- (18) Unknown person as Finance Officer,
- (19) Janene-Eller Smith as Executive Director of Council,
- (20) Steven Watt as Police Chief,
- (21) Michael Mathieu as Fire Chief,
- and
- (22) "All other City officers into whose hands any public funds may come in the regular discharge of the duties of their employment".

Both Mike and Mark have neglected their duty under UC 63G-2-401(5)(a) to provide me an appellate decision and have thereby constructively denied me access to and inspection of the constitutional oaths executed by the following persons appointed as certain public officers of the OCMC:

- (1) Mark Johnson as Chief Administrative Officer,
- (2) Mark Stratford as Assistant Attorney,
- (3) Melven Smith as Assistant Attorney,
- (4) Thomas Christopulos as Community & Economic Development Director,
- (5) Jay Lowder as Public Services Director,
- (6) David Buxton as Management Services Director,
- (7) Ruby Kakita as Purchasing Coordinator,
- (8) Unknown person as Business License Coordinator,
- (9) Janene-Eller Smith as Executive Director of Council,
- (10) Steven Watt as Police Chief,
- (13) Michael Mathieu as Fire Chief,
- (14) unknown person as auditor
- and
- (15) "All other City officers into whose hands any public funds may come in the regular discharge of the duties of their employment".

