

BEFORE THE
MISSOURI ETHICS COMMISSION

Filed
AUG 19 2014
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	
)	
JOHN CALLAHAN,)	Case No. 14E003, 14E008, 14E009,
Fire Chief, Smithville Area Fire Protection)	14E010
District)	
)	
BERRY PARKS,)	
Member, Board of Directors, Smithville)	
Area Fire Protection District)	
)	
GREG ATKINS,)	
Member, Board of Directors, Smithville)	
Area Fire Protection District)	
)	
and)	
)	
MICHAEL SUMMERS,)	
Member, Board of Directors, Smithville)	
Area Fire Protection District)	
)	
)	
Respondents.)	

CONSENT ORDER

The parties having filed a Joint Stipulation of Facts, Waiver of Hearing, and Consent Order with Proposed Findings of Fact and Conclusions of Law (“Joint Stipulation”) with the Missouri Ethics Commission in this matter, the Missouri Ethics Commission hereby accepts as true the facts stipulated and finds that Respondents Callahan, Parks, Atkins and Summers violated Section 115.646, RSMo, as stated in the Joint Stipulation.

The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

1. Respondents shall comply with all relevant sections of Chapter 115, RSMo.
2. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$100 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.
3. Regardless of the stay in paragraph 2 above, if any Respondent commits any further violation of the use of public funds laws at Chapter 115.646, RSMo, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that such Respondent has committed such a violation.
4. Respondents Callahan, Parks, Atkins and Summers shall be jointly and severally liable for all fees imposed under this order, subject to the terms in paragraph 3 above.

SO ORDERED this 19th day of August,
2014

By: 
Charles Weedman, Chair
Missouri Ethics Commission

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Member, Board of Directors, Smithville)
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Respondents.)

**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE MISSOURI ETHICS COMMISSION, AND
CONSENT ORDER WITH JOINT PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Callahan, Parks, Atkins and Summers, acknowledge that they have received and reviewed a copy of the Complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondents further acknowledge that they are aware of the various rights and privileges afforded by law, including but not limited to: the right to appear and be represented by counsel; the right to have all charges against Respondents be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondents; the right to present evidence on Respondents' behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of these rights provided to Respondents by operation of law, the undersigned Respondents knowingly and voluntarily waive each and every one of these rights and freely enter into this Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agree to abide by the terms of this document.

This Joint Stipulation may be executed by the parties in counterparts which, taken together, shall constitute a single agreement and may not be altered or amended except in the manner provided herein.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondents jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

JOINT PROPOSED FINDINGS OF FACT

1. The Missouri Ethics Commission is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapter 115.646, RSMo.

2. Respondent Callahan is, and was at all times relevant to this complaint, the Fire Chief for the Smithville Area Fire Protection District.

3. Respondent Parks is, and was at all times relevant to this complaint, a member of the Board of Directors for the Smithville Area Fire Protection District.

4. Respondent Atkins is, and was at all times relevant to this complaint, a member of the Board of Directors for the Smithville Area Fire Protection District.

5. Respondent Summers is, and was at all times relevant to this complaint, a member of the Board of Directors for the Smithville Area Fire Protection District.

6. The Smithville Area Fire Protection District is a political subdivision of the State of Missouri. § 321.010, RSMo.

7. The Board of Directors of the Smithville Area Fire Protection District are elected “in the same manner and in all respects as in elections for state and county officers.” § 321.010.3, RSMo.

8. In November 2012, the Smithville Area Fire Protection District referred two ballot measures to voters: the first, a bond measure, was to raise funds to build a new fire station in the district; the second, a tax levy, was to raise funds to open and operate that fire station. The first measure passed, but the second did not.

9. The Smithville Area Fire Protection District then placed another ballot measure, a tax levy to open and operate a second fire station, on the August 6, 2013, ballot.

10. On or about August 1, 2013, Respondents, acting individually and in concert with one another, caused the funds of the Smithville Area Fire Protection District to be used to distribute a mailer, attached hereto and incorporated by reference as Exhibit 1, to the residents and voters of the Smithville Area Fire Protection District.

11. The Smithville Area Fire Protection District expended approximately \$250 at Office Max for copying, and approximately \$350 for postage.

12. The first two pages of the mailer recite facts about the Smithville Area Fire Protection District and the ballot measure; however, the third page of the mailer contains the following statements:

We know that a tax increase has an impact on your budget; however, it is a small price to pay for improved response times and the overall safety of your family and the community.

...

It has been brought to our attention that influences outside of our community have been trying to downplay the importance of this issue to our citizens We are now asking for your support to enhance our resources and abilities to provide the quality service the community deserves. Please don't listen to outside influences who don't know the facts and who do not suffer from inadequate emergency services or who are not affected by public safety services in our community.

Exhibit 1.

13. The mailers were researched and written by Respondent Callahan.

14. The mailers were signed by Respondents Parks, Atkins, and Summers.

15. Pursuant to Section 105.961, RSMo, the Commission's staff has investigated a complaint filed with the Commission and reported the investigation's findings to the Commission.

16. Based on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

JOINT PROPOSED CONCLUSIONS OF LAW

17. "No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. This section shall not be construed to prohibit any public official of a political subdivision from making public appearances or from issuing press releases concerning any such ballot measure." § 115.646, RSMo.

18. There is probable cause to believe that Respondents Callahan, Parks, Atkins, and Summers violated Section 115.646, RSMo, by making an expenditure of public funds to advocate and support a ballot measure in the August 6, 2013, election.

II.

Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party:

1. The parties to this Joint Stipulation understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.

2. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.

a. Respondents shall comply with all relevant sections of Chapter 115, RSMo.

b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$100 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

c. Regardless of the stay in paragraph 2.b above, if any Respondent commits any further violation of the use of public funds laws at Chapter 115.646, RSMo, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that such Respondent has committed such a violation.

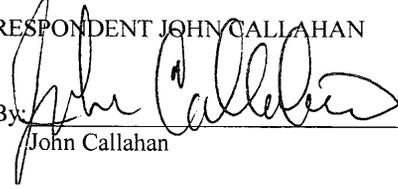
d. Respondents Callahan, Parks, Atkins and Summers shall be jointly and severally liable for all fees imposed under this order, subject to the terms in subparagraph c above.

3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.

4. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondents or Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

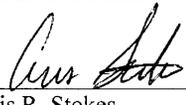
SO AGREED:

RESPONDENT JOHN CALLAHAN

By:  7/22/14
John Callahan Date

PETITIONER MISSOURI ETHICS
COMMISSION

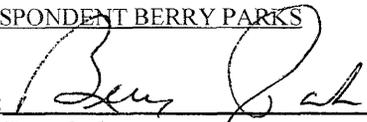
By:  8/18/14
James Klahr Date
Executive Director

By:  8/18/14
Curtis R. Stokes Date
Attorney for Petitioner

SO AGREED:

RESPONDENT BERRY PARKS

By:



Barry Parks

Date

BERRY 7/22/14

SO AGREED:

RESPONDENT GREG ATKINS

By:  072214
Greg Atkins Date

SO AGREED:

RESPONDENT MICHAEL SUMMERS

By: Michael W Summers 7/22/14
Michael Summers Date

Smithville Area Fire Protection District



341 Park Drive
Smithville, Missouri 64089

Office 816-532-4902
Fax 816-532-4547

August 1, 2013

Dear Patrons of the Smithville Area Fire Protection District:

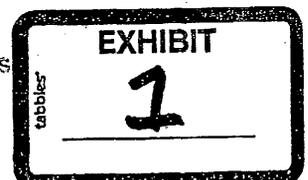
We, the Board of Directors of the Smithville Area Fire Protection District (SAFPD) would like to bring to your attention current issues impacting our District's ability to provide emergency services and ask you to become fully informed before the August 2013 election. The following issues have a major effect on your Fire District's service capabilities: Increasing Numbers of Emergency Calls, Increasing Back to Back Calls, Increasing Home Owner's Insurance Costs and Increasing Risk to Citizens and Firefighters.

Increasing Numbers of Emergency Calls:

Over the last five years, the numbers of calls to the Fire District for emergency services have greatly increased. The following are the total calls for service we ran by year for the last five years, 2008 - 721, 2009 - 821, 2010 - 852, 2011 - 1028 and 2012 - 1166. **In just five years emergency calls have increased over 38%.** Additionally, the population of Smithville has more than doubled in the last ten years (www.city-data.com). The School District reports that the student population continues to grow, up 100 in 2012 alone (Dr. Todd Schuetz, September meeting of the Smithville Chamber of Commerce). The number of building permits issued in Smithville rose in 2012 and continues to rise in 2013. As our community has grown so has the demand for emergency services.

The Fire District covers 112 square miles from one station located in the southwest corner of the district. In this station we staff one fire truck we three firefighters. When the fire truck leaves on an emergency call it is committed to that call. This leaves the rest of the Fire District without coverage until that truck can return to service. Example, if we respond to an emergency call at Camp Branch and another call comes in for an emergency downtown Smithville we are out of service and with no available resources to respond to the call downtown. Even though the downtown area is less than 5 miles from the fire station a response will be delayed due to minimal Fire District resources being available. The increased volume of calls has greatly challenged our ability to provide the quality and timely service you and our entire community expects and deserves. We simply do not have the resources to meet the demand that will continue to grow in the foreseeable future. **It is important to note that Smithville's population has increased 52.8% in the last decade (www.city-data.com) but no Fire District resources have been added to keep up with the service demand.**

Miss



Increasing Back to Back Emergency Calls:

In 2012 there were 110 back to back calls for service. While Firefighters are away on one call we cannot leave that location until we have mitigated the situation or we have been released by a higher authority at the scene. Until one of these two happen we cannot respond to another call for service. This means that the citizens calling for help must wait for us to respond to their emergency; this happened 110 times last year. Also, **due to this situation, we had 9 emergency calls in 2012 that we were not able to respond to.** When you call 911 you want help right then, you don't want to wait for an unknown period of time or not have anyone from your fire department respond to your needs.

Increasing Home Owner's Insurance Costs:

Over the last two years we have received 5 to 10 calls a week from home owners in our community complaining about their **home owners insurance going up.** Our Insurance Service Office (ISO) rating is currently a 6/9. The only thing we can do to improve this rating is to add personnel and stations. By building a new station in the northeast area of our district we can help all home owners in the Fire District with some relief on their home owners insurance. The home owners in the north end of the Fire District can potentially **save hundreds of dollars annually on insurance.** This station will be located on Collins road in the Paradise area. All home owners within 5 miles of the station location will benefit significantly this includes the neighborhoods of Harbor Lake, Wildflower, Lake Meadows and Diamond Crest (the 5 mile rule is a major factor most insurance companies use to calculate home owners insurance). Adding a station in this northeast area will not only aid with insurance rates, it will also double Fire District resources, reduce our response times and allow us to have additional units to send on emergency calls for service when back to back emergency calls occur. This will benefit everyone in the Fire District!

Increasing Risk to Firefighters and Citizens:

With the current level of resources, the Fire District is able to respond with two or three firefighters to the scene of a fire; this is a high risk situation. The National Fire Protection Association (a national standard) recommends a minimum of six firefighters on the scene of a fire initially for the safety of the victims as well as the firefighters and the successful management of the many different functions that need to be completed to mitigate the situation. Having minimal staffing at the scene increases the safety risk for everyone involved. Expecting one firefighter to perform the functions that would normally be done by two or three firefighters can have serious negative results.

A New Station and the Resources Needed to Run It:

In November 2012, the Fire District received tax payer support to issue general obligation bonds to build a new fire station. Unfortunately, a tax levy increase of .30 cents per \$100 of assessed valuation was not fully supported; which meant that the Fire District couldn't build a new station

because we would not have the operating funds to open and operate it. The proposed tax levy is estimated to cost a home owner with a home valued at \$100,000 an additional \$57 per year; a \$200,000 home an additional \$114 per year and a \$250,000 home an additional \$142.50 per year. We know that a tax increase has an impact on your budget; however, it is a small price to pay for improved response times and the overall safety of your family and the community. We are hopeful that with improved ISO ratings a potential decrease in your home owner's insurance costs would help to offset the tax increase.

It has been brought to our attention that influences outside of our community have been trying to downplay the importance of this issue to our citizens. As the officials elected to look out for your best interest and oversee the Smithville Area Fire Protection District, it is our responsibility to inform you of the current limitations of our delivery of emergency services. **The Fire District is charged with the responsibility of protecting every structure, road way, every piece of land, water, vehicle and most importantly every person to include you and your loved ones.** We have always taken these responsibilities very seriously and will continue to do so. We are now asking for your support to enhance our resources and abilities to provide the quality service the community deserves. Please don't listen to outside influences who don't know the facts and who do not suffer from inadequate emergency services or who are not affected by public safety services in our community.

Please don't hesitate to contact us or the Fire Chief, John Callahan at 816-532-4902 with any questions you may have. Please make an educated choice when you vote on August 6, 2013!
Thank you!

Respectfully,



Berry Parks, President,
Board of Directors



Greg Atkins, Secretary/Treasurer,
Board of Directors



Michael "Mickey" Summers, Member,
Board of Directors