

## Commissioners

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**From:** Ndjlaw@aol.com  
**Sent:** Saturday, January 25, 2014 3:29 PM  
**To:** Commissioners  
**Subject:** Website Email -  
**Attachments:** COMMISSION FINAL JAN 25.pdf

TO THE COMMISSION: I am taking the liberty of attaching hereto a memo that I have prepared concerning the Stamey matter. It is a rather lengthy analysis but I hope you will review it. I furnish it because I believe there is a manner of going forward with this, including suspending Ms. Stamey without pay and removing her from office, without expending large sums of County money on a "broad based" inquiry by a private investigative firm. I believe that the facts upon which an action may be brought in District Court for Stamey's suspension without pay and subsequent removal are already known and are readily available to be furnished in support of an Information in District Court charging official misconduct. Further, as explained in the memo, Stamey's allegations of corruption in the Treasurer's office and on the Commission are, when carefully analyzed, sufficiently unfounded and frivolous that large sums of County money should not be wasted on an outside investigation. Finally, the disclosures concerning Stamey in the Bitterroot Star are, in my view, now moot and require no expenditure of official funds for further investigation as was promised at the Thursday meeting. Thank you for your efforts. Norman James

Corvallis

## TO THE COMMISSION:

I attended the morning and afternoon meetings on Thursday, and commend you for moving forward toward a resolution of the present crisis. I believe that you made the right decision in placing Stamey on administrative leave with pay, so long as that is followed up with a prompt determination as to whether there exists a factual and legal basis to permanently remove her from office.

However, I am writing now because of reservations I have over the Commission's perhaps overly hasty decision to yield to the County Attorney—and by him to independent persons and entities—most of the responsibility for investigating the various aspects of this unfortunate affair. There are actually a number of wholly separate matters to be dealt with, and they do not all require the broad based investigation promised by the County Attorney. Indeed, in my view, some do not require any independent investigation at all.

First and foremost is, of course, the need to get the Treasurer's Office running up to speed with accounts and reports brought current which is something you are working on now by placing Stamey on administrative leave and seeking an interim Treasurer. This is, in my opinion, the only *urgent* item pertaining to this situation and it requires no investigation other than a search for a qualified interim treasurer.

The second matter is the removal of Stamey from office and off the payroll. I do not believe that that should require a lengthy or costly investigation or, for that matter, even an independent outside investigator. The facts with respect to her performance in office, or lack thereof, are clear, are presently known to the Commissioners and are readily evidenced by other County officials and employees as well as officials associated with government entities that rely on the Treasurer's Office to stay afloat financially. I would urge the Commission to ask the County Attorney, pursuant to MCA §7-4-2711(2), to provide an opinion in writing whether the known facts constitute "official misconduct" under §45-7-401. Subparagraph (1)(a) of that section provides that official misconduct includes "purposely or negligently [failing] to perform *any mandatory duty* as required by law. . ." Section 7-6-612(2)(a) *mandates* that "[t]he county treasurer *shall* make a detailed monthly report to the governing body of the county of all receipts, disbursements, debt, and other proceedings in the treasurer's office." (emphasis added). These duties are not discretionary, they are mandatory. Indeed, as if to lay emphasis on this, §7-6-2113 provides for the forfeiture by the treasurer of \$500 for each failure or refusal to "settle or report as required in 7-6-612." This section further mandates that "[t]he board of county commissioners *shall* institute suits for the recovery of that sum."

Under this statutory scheme, it is difficult to conceive how a failure of the Treasurer to submit timely reports over a period of months, a failure that automatically provides for forfeiture of pay and a requirement that the Commission seek recovery, would *not* constitute “official misconduct” within the meaning of §45-7-401. Importantly, there are no reported decisions in the Montana courts, or Attorney General Opinions, to the contrary. To put it another way, nothing in the present law *precludes* the County from formally alleging official misconduct on this ground.

Moreover, in addition to failing to provide reports, Stamey has willfully failed to make required appearances before the Commission to furnish updates on the state of affairs in her office. That also may constitute “official misconduct.” Other things she has done or not done may also qualify, but the failure to furnish written reports as required by statute should be sufficient to seek removal from office.

In any event the County Attorney’s Office is perfectly competent to make such inquiry and conduct such research as might be necessary to furnish a reasoned written opinion to the Commission. This Commission even has subpoena power under §7-5-2127 if *you* want to compel the attendance of anyone for testimony or production of records should you wish clarification of any facts pertaining to Stamey’s failure of performance in office. You would then be in a position to move forward in the District Court pursuant to §45-7-401 and §7-6-2103 and suspend Stamey without pay “pending final judgment” formally removing her from office. In my opinion, there is no reason why this cannot be accomplished promptly and without incurring unnecessary expenditures for an independent investigation.

That brings me to a third separate issue or matter to be dealt with, namely the necessity and scope of an independent investigation into the Stamey allegations as well as the so-called Bitterroot Star allegations. I think all of us, including most particularly the Commission and County Attorney, need to take a deep breath, step back, and carefully examine what needs to be done here. I fear that because of the urgency of the financial crisis, a sort of panic has set in. The financial crisis is being put to rest, relieving us of any need for excessive agitation over far-flung, unspecific, unsupported, and often nearly incoherent allegations leveled by Ms. Stamey.

Mr. Fulbright’s letter proposes to retain “individuals and firms” to conduct “an investigation into all allegations made by Ms. Stamey” during her public appearance on Tuesday, January 21. However, in response to questions from the Commission as well as the press, it sounded to me as if the scope of Mr. Fulbright’s independent investigation has been expanded to include Ms. Stamey’s

troubled background as discussed in the Bitterroot Star as well as her accusations against numerous past and present employees of the treasurer's office as well as three out of five of our Commissioners. Prior to handing all of this off to an independent investigation, I urge the Commission and County Attorney to give careful consideration to the extent to which further investigation is necessary, as well as the specific scope of any such investigation.

I believe that the extent of any further investigation, other than an audit, requires scrutiny and defined limits. Although I understand the public pressure brought to bear on the County Attorney, I am troubled by a report in the Missoulian on Friday that in an interview with Mr. Fulbright he said he "will give *free rein* to outside investigators to use Stamey's accusations as a springboard to take a hard look at the treasurer's office *and other county entities.*" As I recall, Mr. Fulbright stressed at the meeting Thursday that the investigation will be "very broad." To be frank, one need not use his imagination to understand what it will cost the taxpayers of this County if a professional investigative firm is given "free rein" to essentially examine our entire county government. This will be regarded as piece of red meat by investigators, an annuity, a blank check. There are few engagements more lucrative for law firms or investigators than that of working for a government entity, knowing that you will be paid, and especially if you are given "free rein" to determine the breadth of your efforts. In this instance, a carefully constructed set of guidelines is needed from the client, the County, with regard to precisely what is required in this inquiry.

### **The Stamey Allegations**

As with proceedings against Ms. Stamey herself, I believe that determining the scope of the investigation of her far ranging allegations should begin with a careful analysis by the Commission and County as to what specific fact based questions and concerns exist. Looking at Ms. Stamey's written statement, we find the following:

**1) A "vile campaign" to destroy her character "to protect corrupt county commissioner J.R. Iman."**

In support of this, Stamey alleges that Commissioner Iman "threatened her" to stop her "from asking question [sic] and not talk to others as [she] attempted to merely gain access to the accounts of the Treasury Office at First Interstate Bank." Without specifying how, she alleges that she was deprived of personal access to the accounts for three weeks and that Commissioner Iman "prohibited [her] from

knowing the combination to the Treasurer's safe." This is followed with the invitation to ask "why a man *who stole county property*" should be involved in the Treasurer's office. What county property was stolen by Mr. Iman is left to our imagination.

This bit of nonsense should be put to rest quickly and inexpensively. Unless Ms. Stamey comes forth with specific facts demonstrating possible "corruption," an interview with Mr. Iman should suffice. He has already explained that he met with Stamey once following his assignment by the Commission to act as liason in an effort to obtain information about upcoming deadlines. Stamey complained, no doubt not feeling particularly friendly toward Mr. Iman, who voted against her appointment. This then, is the full nature and extent of Stamey's assertion of Mr. Iman's corrupt practices. Not only does this not require recusal by Mr. Iman, it most certainly does not compel this Commission to run away from dealing directly with Stamey and possible problems in the Treasurer's Office.

**2) Commissioner Chilcott knew of J.R. Iman's corrupt tendencies, and his, Chilcott's, "clandestine actions" against her last Friday "are as corrupt."**

Again we are left to imagine what these nefarious "clandestine actions" were and precisely what "corrupt tendencies" Commissioner Chilcott was aware of. The only support for this outlandish and absurd allegation (if it even qualifies as an allegation) is an obscene laced statement that Stamey purports to have overheard Mr. Chilcott make to Mr. Iman. Mr. Chilcott's firm denial is already of record.

This is pap and nonsense and clearly does not amount to a serious allegation of corruption or wrong-doing that requires a broad based investigation and expenditure of a large sum of County money. If a private investigative firm is retained to look into this, I urge you to give specific direction as to what is required of them: An interview of Stamey and Mr. Chilcott should suffice.

**3) Stamey's pleas to Commissioners Chilcott and Burrows "to do something about it" fell on deaf ears.**

To do something about what? By the time we get to the end of the first page of Stamey's rant, we have yet to be favored with a clue as to what the "it" is. Unless the predicate "it" can be identified, there is no need for any investigation of this allegation.

**4) It is clear that numerous records of receipts and deposits have been removed from the Treasurer's Office. These missing files "contained receipts and documentation including expenditures of Federal monies, and to hide the illegal selling of tax liens by Linda Isaacs and Mary Borden."**

The allegations concerning purportedly missing files appears to be founded on Stamey's assertion that the method by which the Treasurer's Office deals with tax liens is "illegal." As Mr. Recht explained to the Commission on Thursday, the case Stamey sites furnishes no support for this, and he knows of no support for this proposition. One may easily conclude that this "allegation" springs from a general opinion by Stamey (and probably others with whom she is affiliated) that the policies and procedures utilized by this County in connection with enforcement of property tax liens is, or rather should be, illegal or unconstitutional. That is a legal issue, if it is anything, and has nothing to do with "corruption" in the Treasurer's office.

As for missing files, that would be a serious allegation if there were any specifics or substance furnished in support of it. Laying this to rest shouldn't be difficult. Stamey claims that Klarryse Murphy said that the files were removed for an audit. Murphy has already stated categorically that that is patently false, that she never said that to Stamey, and that she is unaware of any missing files. An unidentified "tax clerk" purportedly "volunteered" that JoAnne Johnson had taken files to "to protect us" from Mary Hudson Smith. Why they purportedly needed protection from Smith is not identified. And, finally, Bonnie Dugan "intimated an employee" who was attempting to catalogue "the extent of the files that are missing."

No one but Ms. Stamey seems to have any knowledge of missing files. Unless Stamey can furnish more specifics as to what files these are, interviews with Murphy, Johnson, and Dugan, and perhaps Smith should be all that is necessary.

Obviously, if any interviews that are had open the door to the need for further inquiry, that would be required. However, these allegations of Stamey's, unless far more fully fleshed out, simply do not justify an open-ended "free rein" inquiry by an investigative team.

### **The Bitterroot Star Allegations**

We should be grateful to Mr. Howell for his efforts to disclose the extent of the woeful inadequacy of the County's procedures for vetting applicants for important positions in County government. I am fully convinced that this

Commission “gets that.” Future review and modifications have been promised, but that has nothing to do with putting out the present fire.

Ms. Stamey has been placed on administrative leave, and an effort will now be made to remove her due to official misconduct *while in office*. I suggest that questions concerning her background, before her appointment and assumption of official duties, are now moot. Unless, that is, something in her background such as the South Carolina judgment should and could be used as a basis for removal. I do not believe that to be so. Had these various facts been known to the Commission, it is highly unlikely that she would have been appointed. But, she wasn't asked about them, and they were not discovered by the Human Resources Department. They are, therefore, not relevant to the Commission's further proceedings on this matter. Accordingly, to the extent that the “Bitterroot Star Allegations” are confined, as I believe they are, to Ms. Stamey's background, they require absolutely no expenditure of County funds for further investigation or examination.