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Description of document: Department of Interior Memo regarding July 11, 2018 Ethics Discussion with Secretary Ryan Zinke 2018

Requested date: 17-February-2022

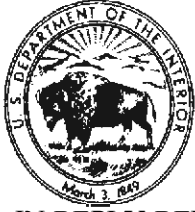
Release date: 29-November-2022

Posted date: 16-December-2024

Source of document: FOIA Request
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United States Department of the Interior
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240



IN REPLY REFER TO:

SOL-2022-002209

November 29, 2022

Via email

On February 17, 2022, the U.S. Department of the Interior, Office of the Solicitor received your Freedom of Information Act (FOIA) request. In your request, you specifically ask for:

“A copy of each Memorandum for the Record (MFR) written by the Interior Department Designated Agency Ethics Officer (DAEO) regarding ethics discussions with Interior Secretary Ryan Zinke during 2017 and 2018. I was informed that these types of records are most likely located in the Office of the Solicitor.”

In processing your request, the Office of the Solicitor found 8 pages of responsive documents. Upon review 8 pages are being released in full. Please see the attached responsive documents.

Lance Purvis, FOIA Officer, Office of the Solicitor, is responsible for making this decision. You may contact the FOIA Officer at sol.foia@sol.doi.gov for further assistance and to discuss any aspect of your request.

This concludes the Office of the Solicitor’s response to your request. The fee incurred in responding to your request is less than \$50 and is not being charged in accordance with 43 CFR 2.16(b)(2).

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

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8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
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Telephone: 202-741-5770
Fax: 202-741-5769
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If you consider this response to be a denial of your request, you may appeal this response to the Department's FOIA Appeals Officer. If you choose to appeal, the FOIA Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

FOIA Appeals Officer
U.S. Department of the Interior
1849 C Street, N.W., MS 6556
Washington, D.C. 20240
Phone: 202-208-5339
Fax: 202-208-6677
Email: FOIA.Appeals@sol.doi.gov

You must include with your appeal copies of all correspondence between you and the Office of the Solicitor concerning your FOIA request, including a copy of your original FOIA request and your denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. All communications concerning your appeal, including envelopes, should be clearly marked with the words "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the Office of the Solicitor's response is in error. For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at 43 C.F.R. Part 2, Subpart H.

Sincerely,



Lance Purvis
Office of the Solicitor, FOIA Officer

United States Department of the Interior

OFFICE OF THE SOLICITOR

Washington, D.C. 20240

August 5, 2018

MEMORANDUM FOR RECORD

FROM: Scott A. de la Vega, Director, Departmental Ethics Office

SUBJECT: Interview with Secretary Zinke Regarding Ethics Matters

On July 11, 2018 at 1:30 pm I met with Secretary Zinke in his office. In addition to the Secretary, the following individuals were present at the meeting: Dan Jorjani, Principal Deputy Solicitor; Scott Hommel, Chief of Staff, Downey Magallanes, Deputy Chief of Staff. The meeting was a regularly scheduled weekly ethics check-in meeting with the Secretary. The primary purpose of these check-in meetings is to discuss important ethics matters at the Department that the Secretary should be aware of and to address any ethics issues or concerns that directly involve the Secretary. The meetings generally last for 20 to 30 minutes, however, the July 11 meeting lasted for just over one (1) hour.

After initial greetings, I asked the Secretary how his comments to the Hunting and Shooting Sports Conservation Council went [he had just returned from that meeting]. He responded positively and we briefly discussed the substance of my ethics presentation to the same Council earlier in the day. He asked what type of ethics matters were involved with such a Council and we discussed how Council members, even though they were not Federal employees, might have potential financial conflicts of interest between their personal financial interests and that of their employers and their duties on the Council.

I then asked the Secretary if he had any questions about our last meeting together, wherein we met with the leadership of the U.S. Office of Special Counsel (OSC) in regards to an incident where the Secretary wore certain socks at an official event that were later photographed and posted on the official DOI Twitter account. I had previously counseled the Secretary regarding that matter, however, the OSC had requested a meeting to personally discuss the matter with him as well. I informed the Secretary that the OSC had received several Hatch Act complaints about the matter and that it was their legal obligation to investigate further and that they may have specific questions in the following weeks. The Secretary indicated that he will cooperate in every way and reiterated his previous apology about the incident.

Upon concluding discussion of the above issues, I informed the Secretary that I needed to discuss a few matters that came to my attention as a result of recent newspaper articles. Specifically, I told him that the June 19, 2018 POLITICO article titled "*Zinke linked to real estate deal with Haliburton Chairman*" was of great concern if there was any substance to the allegations made in the article. I explained that the role of my office in regards to the many allegations in the article was different than the role of the Office of the Inspector General (OIG). I informed him

that the Departmental Ethics Office (DEO) had an affirmative responsibility to follow-up on the allegations in the article that might impact his reporting requirements on his Public Financial Disclosure Report (OGE 278) and his obligations under the Ethics Agreement he signed on January 10, 2017. The Secretary said that he understood and that he would answer any questions I asked.

I asked the Secretary the following questions to confirm the accuracy of his Annual 278 submitted on May 15, 2018:

1. QUESTION: “Did you or your spouse receive any compensation or other payments from the Great Northern Veterans Peace Park (GNVPP) Foundation in CY 2017?”

ANSWER: “No. Since the Park was created in 2007, no member of the board has ever received any compensation or salary from GNVPP Foundation.”

2. QUESTION: “Other than the \$15,000 - \$50,000 of rent or royalties income reported on your Annual 278, did you or your spouse receive any salary or other payments or disbursements from Continental Divide International, LLC in CY 2017?”

ANSWER: “No, Continental Divide International’s only income is rental property.”

3. QUESTION: “Other than the \$5,000 - \$15,000 of rent or royalties income reported on your Annual 278, did you or your spouse receive any salary or other payments or disbursements from Double Tap, LLC in CY 2017?”

ANSWER: “No, Double Tap’s only income is rent and no member of the board receives a salary or other payments.”

4. QUESTION: “Please confirm that the only income that your spouse received in CY 2017 was from the services she provided to the Family Trust (Property Management).”

ANSWER: “Correct, the only income Lolita received in CY 2017 was from the Family Trust.”

5. QUESTION: “And confirm no income or compensation from GNVPP.”

The Secretary answered: “That’s correct, no income, salary, or compensation has ever been received by myself or Lolita. GNVPP is a 501(c) (3) created by myself and Lolita in 2007 to provide a children’s sledding park and community open space.” The Secretary went on to state that since its creation, the park, that was formerly an unusable gravel pit, had been reclaimed to “create safe sledding hills, a skating pond, a trail system, and a multiple-use community open space.” He said that “the park additionally funds educational opportunities to children as we can afford. The Zinke family grooms the

hills, conducts maintenance, and pays for snow plowing. Consistent with previous years, in 2017 the only source of revenue in the form of donations was from the Zinke family.”

I explained to the Secretary that the other issue we needed to address was whether he had violated his Ethics Agreement in regards to his commitments relating to not participating “personally and substantially in any particular matter involving specific parties” in which he knows that the Great Northern Veterans Peace Park Foundation (GNVPPF), Continental Divide International, LLC, or Double Tap, LLC are a party or represents a party.

1. The Secretary was asked how much time, if any, he spent on work or activities related to the GNVPPF since his resignation in March 2017 and he responded that, “In my private capacity, I helped Lolita with the taxes. *De Minimis*. We filed the taxes in April 2017. I resigned as President and a board member from the GNVPP twice in writing and once during a board meeting in February.”
2. The Secretary was asked how much time, if any, he spent on work or activities related to Continental Divide International, LLC since his resignation in March 2017 and he responded that, “CDI is an LLC that consists of our family house and adjacent buildings that have been in our family for generations. When in Whitefish on leave, I perform routine maintenance on the property to include cleaning gutters, raking leaves, mowing the lawn, trimming trees, and other home maintenance tasks. Per the ethics agreement, I resigned as managing partner and no longer manage the rental business of CDI.” He further stated that, “The main house on the property was approved to be a Bed and Breakfast but per the ethics agreement, the Bed and Breakfast business was suspended and all properties are residential rental properties.”
3. The Secretary was asked how much time, if any, he spent on work or activities related to Double Tap, LLC since his resignation in March 2017 and he responded that, “I spent a few hours each year on maintenance, as required. Last year was shoveling snow off the roof as well as in January of this year.” He further stated that, “Per the ethics agreement, I remain a partner but resigned as the managing partner. Double Tap is a residential rental property.”
4. The Secretary was asked about his meeting on August 3, 2017 at 4:30 pm in his MIB office with Mr. David Lesar, Mr. John Lesar, and Mr. Malmquist. I asked him why he met with them, what was discussed, and how long the meeting lasted. During this portion of the conversation the Secretary informed me of the following:
 - He met Mr. David Lesar while Mr. Lesar was in his personal capacity (not acting on behalf of any company or employer or any other entity) before the Secretary was elected to Congress and that Lesar may be a campaign contributor. Mr. Lesar has a home in Whitefish, Montana and they meet socially on occasion when they are both in town and they have many friends in common. The Secretary knows who Mr. Malmquist is but stated that he had no previous relationship with him.

- Lesar and Malmquist were in Washington and wanted to meet with him on a purely social basis and it was arranged to meet in his MIB office. The Secretary was firm on the point that only social matters were discussed. The Secretary stated, “We had a short discussion on TR Roosevelt’s philosophy on the American Conservation Ethic and the art collection in the office. We later went on a tour of the Lincoln Monument.”
- Later in the evening, after the meeting in the Secretary’s office and after the Lincoln tour, the four men went to the Biergarten Haus restaurant in Washington and had dinner together for approximately 90 minutes.
- The Secretary explained that because Whitefish is his home, he has a unique history with the Park. He stated that the adjacent property was purchased by Mr. Malmquist and Mr. Lesar (in his personal capacity) and that the two men are partners in the purchase. The Secretary further explained that he “grew up next to the property and has first-hand knowledge of the former Idaho Timber property and the GNVPP property to include locations of sawdust piles, holding ponds, watersheds, springs, drainage and trash piles and that some have been covered over time.”
- The Secretary was previously a member of the City of Whitefish Highway 93 Corridor Study (that included both the Idaho Timber property and the GNVPP properties) and participated in “all of the meetings on zoning, approved uses, city planning considerations, and citizens’ interests heard during the public hearings.”
- The Secretary explained that, as the founder of the GNVPP, he negotiated the terms and conditions of the transfer of the GNVPP property from the Burlington Northern Railroad and held multiple neighborhood listening sessions “to determine neighborhood interests and desired use.” The Secretary said that no other person has such unique knowledge on the background of the neighborhood.
- While having dinner at the restaurant, the issue of the GNVPP was raised. The Secretary and the Lesars and Malmquist discussed the mission and background of the GNVPP property for approximately 30 minutes. The Secretary stated that, “At the outset, I made it clear that I had resigned from the board and no longer represent GNVPP in any capacity. I would be glad to discuss the background of the park and previous planning efforts, but ongoing park business was no longer my business. As such, the conversation was limited to the background of the park, how it came to be, and the planning process and recommendations of the City of Whitefish Corridor Study. I provided general background information about the neighborhood and identified some challenges that I earlier experienced with the city with some of the neighbors and outside interests.”

- In reference to the conversation about the GNVPP at the restaurant, the Secretary stated that “the topics included historical easements, boundary encroachment, parking, earlier land swamp efforts with the previous owners to provide access and align the fence with the property boundary. I also shared my concern about the presence of hazardous materials on both properties and talked about the drainage issues. As a citizen and former State and Federal representative, I was glad to provide my historical perspective and knowledge of the neighborhood and made it clear that I was no longer a member of the board and did not represent the board in any capacity and that any and all proposals would have to be submitted to the President and voted on by the board. I also said that I would be happy to introduce them to Lolita when she is in Whitefish.”
- The Secretary further stated that Mr. Malmquist had attempted to contact him regarding the GNVPP project at other times, both before and after the August 3, 2017 meeting, and each time he confirmed that Mr. Malmquist understood that he no longer could speak for the GNVPP and any proposal or negotiation involving the GNVPP would have to be referred to Lolita. He said that contact was infrequent and any that information he provided was in the context of providing the recommendations of the previous City of Whitefish Corridor Study, personal experience with the City of Whitefish planning process, and public hearing comments. The Secretary reiterated: “All information relevant to future planning efforts I referred to Lolita.” When asked about the context of the September 13, 2017 email that Malmquist sent to his personal email account in which Malmquist states that he wants to “continue to move forward with an honest and open dialogue to make this a legacy project for Whitefish,” the Secretary said this was one of those instances where he referred him to Lolita.
- In November of 2017, while on personal leave in Whitefish Montana, the Secretary was asked by Lolita to accompany her to meet Mr. Malmquist at the park property for a tour of the park. He reported that Lolita had not met Mr. Malmquist before in person. The Secretary stated that he accompanied Lolita to meet Mr. Malmquist and since he was there, provided a tour of the park property that included the sledding slopes, skating pond, draining system, parking lots, fence line, property boundaries, and trail systems. He reported that the tour was about 20 minutes and was limited to the park property. The Secretary stated that he once again reiterated to all parties that he had resigned from the board and “no longer could have any role in the representation or any decision of GNVPP.” He informed them that all proposals pertaining to 93 Karrow LLC would be directed to Lolita and the board.
- The Secretary was asked if he provided input or feedback on the design of the parking, micro-brewery, multiple use path, fence, and other supporting elements

of the 95 Karrow project on GNVPP property or the Letter of Intent. The secretary stated, “Any and all information provided was based upon the recommendations of the City of Whitefish Highway 93 Corridor study and earlier neighborhood listening sessions. I had unique knowledge based on my experience as a member of the City of Whitefish Highway 93 Corridor Study, former President and founder of the GNVPP, and kid who grew up in the neighborhood. I provided background on the Parks mission, trail systems, parking lots, previous initiatives to adjust property boundaries to remedy encroachment issues, and historical access. At no time did I represent GNVPP in any capacity and specifically stated that any proposal would have to be submitted to Lolita and voted on by the board for approval.”

- The Secretary further stated, “ The design that was mailed to me and forwarded to Lolita looked to be consistent with previous city approved planning studies and reflected city zoning and uses. It contained a shared parking lot on GNVPP property in the same location as the existing park parking lot and incorporated the same trail systems as outlined in the City of Whitefish Corridor Study. I simply provided unique background information that was consistent with previous public planning efforts and shared my history with the property. At all times I made it clear that I no longer represented the GNVPP in any capacity and any specific proposal would have to be forwarded to Lolita for board consideration. Neither Lolita or I have any financial interest in any activity of 93 Karrow LLC. ”
- When asked whether he believed the development proposed by 95 Karrow LLC would financially benefit Double Tap, LLC, Continental Divide International, LLC, or GNVPPF, the Secretary stated “No, I don’t. First, it appears the development followed all previously approved city zoning and use guidance contained in the City of Whitefish Corridor study. It is more likely that any market gain or loss would have been realized at the time of the Corridor Study was approved in 2012.” The Secretary explained that he didn’t think that it was “predictable whether any specific property would receive any benefit and it is just as likely that residential property values would decline as a result of being near a commercial development.”
- As we were concluding the interview, the Secretary explained, “the development does not change the city zoning, planning, or use of any of the properties I have an interest in. Also, Lolita signed a letter of intent to work with the developers in concept to share a parking lot on the property to benefit community access to the park. To my knowledge, no agreement has even been proposed let alone signed and any proposal would have to be presented to the Park President for board consideration and approval. Neither the letter of intent to share a parking lot or the development itself is likely to result in a predictable loss or gain on any interest that Lolita and I have. The letter of intent mentions a micro-brewery.

The micro-brewery is located on the development property adjacent to the shared parking lot. A micro-brewery is an authorized use per the City of Whitefish Corridor Study on the development property owned by 923 Karrow LLC. Neither the park nor Lolita or I have any financial interest or involvement in the building or operation of the micro-brewery or any other facility within the 93 Karrow development.”

I finished taking notes and asked a few questions to clarify or confirm some of the above information and the meeting concluded and I wished the Secretary good luck on his knee surgery that was scheduled for the following day. The Secretary explained a little about the type of surgery he was undergoing and we said goodbye.



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

June 29, 2018

Memorandum

To: Ryan Zinke, Secretary

From: Scott de la Vega, Designated Agency Ethics Official

Subject: Hatch Act Compliance

Earlier this week, while conducting official business at a meeting of the Western Governors' Association at Mount Rushmore National Memorial, it appears that you engaged in prohibited political activity. Specifically, you wore socks depicting an animated picture of President Trump and the message "Make America Great Again." A federal employee on official duty photographed the socks and posted the image on the official DOI Twitter account. The U.S. Office of Special Counsel (OSC) may consider these actions to be political activity in violation of the Hatch Act, 5 U.S.C. §§ 7321-7326.

The Hatch Act governs the political activity of federal civilian executive branch employees and prohibits the use of official authority or influence for the purpose of interfering with or affecting the result of an election. 5 U.S.C. § 7323(a)(1). As we have previously discussed, as DOI Secretary, you are subject to the Hatch Act. For purposes of the Act, political activity is defined as activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office. An incumbent President is considered a "candidate" for purposes of the Hatch Act when, as President Trump did earlier this year, he officially announces his candidacy for reelection.

In March 2018, OSC opined that while on duty or in the workplace, employees may not wear, display, or distribute items with the slogan "Make America Great Again" or any other materials from President Trump's 2016 or 2020 campaigns or display non-official pictures of President Trump. This advice was consistent with their April 2011 opinion prohibiting non-official pictures of President Obama in the federal workplace once he became a candidate for reelection.

DOI employees, from park rangers protecting the sculptures of Washington and Lincoln at Mount Rushmore to safety engineers on oil rigs off our coasts, work for *all* Americans and they must not engage in partisan political activity while at work. On a daily basis, the Department's ethics officials across the nation enforce Hatch Act compliance, but we cannot be successful in this effort without your commitment and assistance. As Secretary, you are responsible for exercising personal leadership in maintaining an effective agency ethics program and fostering an ethical culture, including compliance with the Hatch Act.