



State of Washington

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908

(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

July 22, 2020

Sent electronically to Mark Barber, Olympia City Attorney

Subject: Five complaints filed against City of Olympia Mayor/City Council members; PDC Case 59039

Mr. Barber:

Below is a copy of an electronic letter sent to Robert Shirley, Glen Morgan, John Wissler, Edwin Pole II, and Charles Eakins concerning the complaints all five individuals filed with the Public Disclosure Commission (PDC) against the City of Olympia Mayor, Cheryl Selby, and the members of the Olympia City Council. The complaint alleged that the City of Olympia Mayor and City Council violated RCW 42.17A.555 by using by using city resources to produce and distribute a mailer providing information about I-976 and urging recipients to “Vote No on I-976 in several sections.

As noted in the letter sent to the five complainants, the PDC will not be taking enforcement action in this matter.

PDC staff is reminding the Mayor Selby and the Olympia City Council about the prohibitions of using city employees and facilities to support or oppose any candidate or ballot proposition, especially the inclusion of “Vote No” or “Vote Yes” statements and other promotional or oppositional appeals in publications produced and distributed concerning a ballot measure. In addition, staff is also encouraging Mayor Selby and the Olympia City Council to review the guidelines found in PDC Interpretation #04-02 to ensure compliance with RCW 42.17A.555.

The PDC has dismissed this portion of the complaint in accordance with RCW 42.17A.755(1). If you have any questions, please contact PDC staff member Kurt Young by email.

Sincerely,

Endorsed by:

s/ _____
Electronically Signed Kurt Young
PDC Compliance Officer

s/ _____
Electronically Signed BG Sandahl, Deputy Director
For Peter Lavalley, Executive Director

cc: Jeff Myers, legal counsel; Michael Young, Deputy City Attorney



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Sent electronically to Robert Shirley, Glen Morgan, John Wissler, Edwin Pole II, and Charles Eakins

Subject: Five complaints filed against City of Olympia Mayor/City Council members; PDC Case 59039

Mssrs. Shirley, Morgan, Wissler, Pole II and Eakins

The Public Disclosure Commission (PDC) has completed its investigation of the complaints each of you filed against the City of Olympia Mayor Cheryl Selby, and all of the City Council members. Your complaints alleged that Olympia city officials violated RCW 42.17A.555 by using City of Olympia resources to produce and distribute a mailer providing information about I-976, a statewide ballot proposition in 2019, and urging recipients to “Vote No on I-976” in several sections.

PDC staff reviewed the allegations listed in each of the five complaints including attachments, the statute, rules, and PDC Interpretation 04-02 “Guidelines for Local Government Agencies in Election Campaigns,” and the responses from Mark Barber, City Attorney for the City of Olympia, and Michael Young, Deputy City Attorney for the City of Olympia. Based on staff’s review, we found the following:

- On October 8, 2019, the City of Olympia City Council held a regularly scheduled meeting and the Council agenda listed a special public hearing on a resolution expressing City Council opposition to Initiative 976 (I-976), a statewide ballot proposition would limit annual license fees for vehicles to \$30 and remove the \$40 car tab fee for the city’s Transportation Benefit District which raises funds for the city’s specific transportation and street repairs.
- On November 1, 2019, PDC staff opened a formal investigation and conducted an Initial Hearing with Peter Lavalley, Executive Director as Presiding Officer concerning the complaints filed against the City of Olympia for producing and distributing the I-976 mailer.
- On November 12, 2019, Michael Young submitted a response on behalf of the City of Olympia stating that neither Mayor Selby nor any member of the Olympia City Council authorized or directed Steve Hall, City Manager for the City of Olympia to produce the mailer.
- Mr. Young stated the City of Olympia utilizes a "Council-Manager" form of government in which the Mayor serves as a member of the Olympia City council and the Council “hires and directs the city manager.”

- Mr. Young stated the City Manager serves as the City of Olympia’s “chief administrative officer and is responsible for the day-to-day administration of the city.” He stated that Mr. Hall is the sole employee hired by the Council, and that the content for the mailer was developed and designed by City of Olympia staff at the direction of Mr. Hall.
- During his interview, Mr. Hall stated the Mayor/Council hired him to run the day-to-day operations of the City of Olympia, that all city department heads report to him including the Police and Fire Chiefs, and his office oversees all city services that are provided to residents. He stated that he did not have any discussions with Mayor Selby, Mayor Pro-Tem or any City Council members concerning the content of the mailer, including the “Vote No on I-976” message, and they were not involved at all in the decision making process.
- Mr. Hall further stated during his interview that he did not consider that type of activity to be the Mayor or Council’s job but was instead his responsibility as City Manager. He stated the I-976 mailer was the City of Olympia staff’s job, so he would not have involved either the Mayor or City Council in that type of discussion.
- Finally, Mr. Hall stated that City of Olympia management, staff and employees were responsible for the design, content, and review of the mailer. He reiterated that neither the Mayor or any city councilmembers were involved with the mailer, and stated that he mostly worked with Rich Hoey, City of Olympia Public Works Director, and Kellie Braseth, City of Olympia Strategic Communications Director. Mr. Hoey and Ms. Braseth also verified during their interviews with staff that neither Mayor Selby nor any City Council members were involved with the content or layout of the mailer, including the “Vote No on I-976” message.
- During her interview, Mayor Selby stated she became aware that the City of Olympia produced and distributed a mailer concerning I-976 when she received it in the mail. She stated Mr. Hall oversaw the City of Olympia Communications, and she was not involved in any way with the development or content of the mailer, including the Vote No on I-976 statements.

Based on these findings, staff has determined that in this instance, no evidence supports a finding of a violation or the taking of any enforcement action. However, PDC staff is reminding the Mayor and Olympia City Council concerning the prohibitions of using city employees and facilities to support or oppose any candidate or ballot proposition, especially the inclusion of “Vote No” or “Vote Yes” statements and other promotional or oppositional appeals in publications produced and distributed using public funds concerning a ballot measure. In addition, staff is also encouraging Mayor Selby and the Olympia City Council to review the guidelines found in PDC Interpretation #04-02 to ensure compliance with RCW 42.17A.555 concerning all future publications involving a ballot measure.

The PDC has dismissed this complaint in accordance with RCW 42.17A.755(1). If you have any questions, please contact PDC staff member Kurt Young by email.

Sincerely,

Endorsed by:

s/ _____
 Electronically Signed Kurt Young
 PDC Compliance Officer

s/ _____
 Electronically Signed BG Sandahl, Deputy Director
 For Peter Lavallee, Executive Director

cc: Mark Barber, City Attorney; Jeff Myers, legal counsel; Michael Young, Deputy City Attorney