



## State of Washington

### PUBLIC DISCLOSURE COMMISSION

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#### BEFORE THE PUBLIC DISCLOSURE COMMISSION OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH  
RCW 42.17A

Steve Hall, former City Manager for  
the City of Olympia

Respondent.

PDC Case 59039

Report of Investigation

#### I.

#### **Background, Complaint and Allegations**

- 1.1 Initiative 976 (I-976) , is a Washington statewide ballot proposition that qualified for the November 5, 2019 general election ballot, that if approved the measure would limit annual license fees for vehicles weighing under 10,000 pounds at \$30 except for voter-approved charges; base vehicle taxes on the Kelley Blue Book value rather than 85% of the manufacturer's base suggested retail price; and repeal authorization for certain regional transit authorities, such as Sound Transit, to impose motor vehicle excise taxes.
- 1.2 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.
- 1.3 On October 22, 2019, Charles Eakins and Glen Morgan filed complaints with the Public Disclosure Commission (PDC) against the City of Olympia alleging that city officials violated RCW 42.17A.555. The complaints alleged city resources were used to produce and distribute a mailer providing information about I-976 urging recipients to "Vote No on I-976 in several sections, and that the City of Olympia targeted the mailer to be sent to only registered voters within the City of Olympia. **Exhibit #1.**
- 1.4 On October 23, 2019, John Wissler filed a complaint with the PDC alleging that the City of Olympia published information urging a "NO" vote on I-976, which "is a clear violation of PDC laws and rules. **Exhibit #2.**

- 1.5 On November 17, 2019, Edwin Pole II filed a complaint with the PDC alleging that the City of Olympia Officials produced and distributed information urging a “NO” vote on I-976, and that he received a copy of the mailer despite living outside of the City of Olympia’s boundaries. **Exhibit #2.**
- 1.6 On November 21, 2019, Robert Shirley filed a complaint with the PDC alleging that the City of Olympia including Mayor Shelby, all seven City Council members, Mark Barber, City Attorney, and other City of Olympia officials and staff produced and distributed a mailer urging a “NO” vote on I-976 in violation of RCW 42.17A.555. **Exhibit #2.**
- 1.7 On November 1, 2019, PDC staff opened a formal investigation and conducted an Initial Hearing (Case Status Review) 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.

## **II.**

### **Findings**

- 2.1 **RCW 42.17A.555** states, in part: “No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.
- 2.2 **WAC 390-05-271** states that RCW 42.17A.555 “does not prevent a public office or agency, including the City of Olympia, from making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.”
- 2.3 **PDC Interpretation No. 04-02** was adopted by the Commission and has been amended, and states that public agencies may expend public funds to produce information about the maintenance and operations of the agency and how a ballot proposition would affect those operations provided that the information is a fair and objective presentation of the facts. The interpretation states that “it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies.
- 2.4 **Interpretation 04-02** states that public agencies, including cities, are permitted to inform the community of the needs of the agency that the citizens may not be aware of or realize they exist. The interpretation states local governments may expend funds for this purpose including for the preparation and distribution of factual information about a ballot proposition provided that the information is not distributed for the purpose of influencing the outcome of an election. In addition, the interpretation states: (1) an agency, including a city may provide an objective and fair presentation of facts to the public concerning how a ballot measure would impact a cities maintenance and operational needs; (2) an agency may produce and distribute a presentation of the facts, even for a ballot measure that is not offered directly by the jurisdiction, and may be considered part of the normal and regular conduct of the city; and (3) an agency shall not produce and distributed information that supports or opposes a candidate or ballot measure.

## The City of Olympia No on I-976 Mailer:

2.5 The two-page mailer stated “Vote NO Initiative 976” in a larger font size in the upper left portion at the top of the first page of the mailing indicia inside of a blue banner, followed by the statement “Repairing Olympia streets with your \$40 car tab fee. On page 2 of the mailer, the content included the following statements and information:

- A “**Vote NO Initiative 976**” statement was included in the upper left ½ of the first page of the mailer inside of a blue banner. That was followed by the statement “The Olympia City Council urges a “**NO**” vote on I -976” at the upper right half of the page inside of an orange banner.
- A “**Why Vote No?**” statement was included followed by three bullet points providing information about if I-976 was approved the City of Olympia would lose significant funding for street repairs and improvements if I-976 is approved. The statements discussed that currently planned projects including street paving and repairs would suffer and/or not be completed if the measure was approved, and that the city’s transportation safety and performance would be “at risk.”
- The mailer stated “Loss of funding from car tab fees limits our ability to repair streets like the examples below” and shows four photographs of presumably City of Olympia roads that include potholes, cracks, exposed bricks, and weathered pavement, and then featured a nice avenue just below that stating “The purpose of the \$40 car tab fee is to raise funds at the local level to address our community’s specific street repair needs.”
- The mailer provided a brief description of “What is Initiative 976” followed by the statements “**Street repair is the single largest transportation expense in our City.** Your \$40 car tab fee makes up nearly half of the City’s street reconstruction and repair budget” and then a pie chart listing the sources of revenue for the “**Typical Total Street Repair Budget.**” At the very bottom of the page the information stated “Every dollar counts. Thank you for doing your part to fix our streets. **Vote NO on Initiative 976.**”

2.6 Based on the information and invoices provided by the City of Olympia, staff determined the total cost for the mailer was \$9,932.82, that included \$7,183 to print and mail the publication, and \$2,749.82 in City of Olympia staff time. **Exhibit #3** The city staff time included developing the content and design of the mailer, selecting photographs to include, editing, review and approval of the content. The city estimated that it took between 66-70 hours of City of Olympia staff time to produce and distribute the mailer. Those staff hours were broken down as follows:

- Steve Hall, City Manager: 5 hours to approve the general approach for the mailer and the final product.
- Mark Barber, City Attorney: 1.5 - 2 hours to provide legal advice on the mailer and to review the content.
- Rich Hoey, Olympia Public Works Director: 1-2 hours to coordinate approval from Mr. Hall and to review content.
- Mark Russell, Deputy Director, Olympia Public Works: 2-3 hours coordinating development and review of the content of the mailer.

- Kellie Braseth, Strategic Communications Director: 1.5 - 2 hours to review the content and to facilitate obtaining registered voter mailing address labels.
- Kristin Gilkerson, Program Specialist for City of Olympia Public Works Transportation Program: 25 hours developing content in coordination with the Leadership Team, provide photos, work on design in collaboration with Jessi Turner.
- Jessi Turner, Program Specialist: 30 hours to provide graphic design for the mailer, consulted on the formatting of the design work and collaborating with Ms. Gilkerson.
- Sophie Stimson, Transportation Planning Supervisor: 3-4 hours to review and edit the mailer.
- Andrew Beagle, Transportation Engineering Supervisor: 2 hours to review and make suggested edits and additions to the content of the mailer.

### **Initial City of Olympia Response (October 29, 2019)**

- 2.7 On October 29, 2019, Mark Barber, City Attorney for the City of Olympia submitted a response on behalf of the city to the complaints filed against the City of Olympia. **Exhibit #4.** Mr. Barber stated the agenda for the October 8, 2019, Olympia City Council meeting listed “a special public hearing” concerning a proposed resolution expressing the Olympia City Council’s opposition to I-976. He stated that the public hearing by the City Council offered “the public an opportunity to speak for or against the proposed Council resolution”.
- 2.8 The October 8, 2019 meeting minutes indicated Mayor Cheryl Selby opened the public hearing and that one person signed up and spoke in opposition to I-976. Mayor Selby closed the public hearing concerning discussions of I-976, and Councilmember Parshley moved to adopt the resolution expressing the Olympia City Councils opposition to I-976, which was seconded by Councilmember Jim Cooper. The vote to adopt the resolution in opposition to I-976 was unanimously approved. Following the action taken by the Olympia City Council, City of Olympia staff prepared a “jurisdiction-wide objective and fair presentation of the facts relating to the impact of I-976 if approved by voters and informing Olympia voters that the Olympia City Council urged a "no" vote on I-976.”
- 2.9 Mr. Barber stated that Olympia's position is that the I-976 mailer was appropriate and in keeping with PDC Interpretation No. 04-02. "the PDC has advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate." He stated that the PDC presumes that “every agency may distribute throughout its jurisdiction an objective and fair presentation of the facts for each ballot measure”, and that the “facts stated in Olympia's I-976 mailer are true, including informing voters that the Olympia City Council urged a "no" vote on I-976.” In addition, he stated the mailer was the City of Olympia’s “one jurisdiction-wide mailer” and was part of the cities “normal and regular conduct to inform City voters of the implications posed by passage of I-976 and that measure's impact on funding for street repair and maintenance.”

### **Supplemental City of Olympia Response (November 12, 2019)**

- 2.10 On November 12, 2019, Michael M. Young, Deputy City Attorney, submitted the response on behalf of the City of Olympia to PDC staff’s questions. **Exhibit #5.** Mr. Young stated that neither Mayor Selby nor any member of the Olympia City Council authorized or directed Steve Hall to produce the mailer.

- 2.11 Mr. Young stated the content for the mailer was developed and designed by City of Olympia staff, and that “In Resolution M-2055, the Olympia City Council explained the fiscal impacts of I-976 on the City's maintenance of its transportation infrastructure and, based on those impacts, expressed its opposition to I-976. In drafting the mailer, City staff felt that the Council's expression of opposition to I-976 was logically equivalent to urging a "no" vote on I-976...”
- 2.12 Mr. Young stated that since the Olympia City Council expressed its opposition to I-976 at the October public meeting, city staff felt that the Council's opposition to I-976 was the logical equivalent “to the Council urging a "no" vote on I-976. And because the Council had expressed its opposition to I-976, which staff viewed as being equivalent to the Council urging a "no" vote, staff felt the mailer fairly and objectively reported the fact of the Council urging a "no" vote.”
- 2.13 Mr. Young stated that in the past the City of Olympia has produced and distributed information concerning ballot propositions that is mailed to a list of registered voters. He stated that consistent with that past “practice, the City obtained the list of registered voters within the City of Olympia from the Thurston County Auditor's Office, Elections Division and mailed the mailer to addresses on that list.” The mailing list ordered from the Auditor’s Office included all registered voters within the City of Olympia boundaries.
- 2.14 Mr. Young stated in response to staff's question concerning the timing of the mailer, that the city mailed it “so that it would arrive in the mail generally around the time voters received their 2019 general election ballots; i.e. just before, the same day as, or just after ballots were received in the mail.” Mr. Young stated that the City of Olympia “typically” communicates information to its citizens in many ways that includes:
- The city website and social media accounts.
  - Through the use of posters, banners, and other publications (i.e. for Arts Walk).
  - City-wide mailings such as for Olympia Parks, an Arts & Recreation brochure for classes offered to citizen, programs, and other activities.
  - Mailed public notices on a particular issue or matter.
  - Electronic city newsletters sent to recipients who have signed up to receive those notifications.
  - Mailing inserts in sent to City utility customers in their billing statements.
  - Mailers regarding ballot measures.
- 2.15 Mr. Young stated the City of Olympia did not send any additional mailers regarding other election-related resolutions that were adopted by the City Council in 2019. He stated that “unlike I-976, Thurston County Proposition 1 and Referendum 88 did not have as direct and substantial an impact on this City's essential services.”

#### **City of Olympia Response to additional PDC staff questions (December 6, 2019)**

- 2.16 On December 6, 2019, Mr. Young submitted an additional response on behalf of the City of Olympia to PDC staff's additional questions. **Exhibit #6.** Mr. Young stated that Steve Hall retired from the position of Olympia City Manager on November 7, 2019, a position he held dating back to September 1, 2003.

- 2.17 Mr. Young stated that the City of Olympia utilizes a "Council-Manager" form of government in accordance with RCW 35A.13. In the Council-Manager form of government, the mayor serves as a member of the Olympia City council and the City Council "hires and directs the city manager, who serves as chief administrative officer and is responsible for the day-to-day administration of the city." He stated that Mr. Hall typically attended each meeting of the Olympia City Council and would interact with members of the City Council, including the Mayor, at such meetings.
- 2.18 Mr. Young stated that during most weeks, Mr. Hall met with the Mayor, the Mayor Pro-Tem, and City Council members on a rotating basis to set the agenda for the upcoming City Council meeting, and he typically conducted weekly one-on-one meetings or calls with members of the City Council. He stated that there were some Olympia City Council members who recalled being "generally made aware that a mailer regarding I-976 was to be prepared and sent out" and some Council members indicated that Mr. Hall had also mentioned it at an Olympia City Council meeting.
- 2.19 Mr. Young stated there were a few Olympia City Council members that indicated they had discussed the "I-976 mailer generally in one-on-one meetings with Mr. Hall. And one member of the Council recalls that Mr. Hall mentioned an I-976 mailer at a weekly agenda setting meeting." He stated no other Olympia Council members "were consulted about or made aware of the content of the mailer. As best as can be determined, no communications between Mr. Hall and members of the Council regarding the mailer were in writing."
- 2.20 In addition, Mr. Young stated that "members of the Council do not recall that there was any discussion amongst Council members about an I-976 mailer." He stated that Mr. Hall consulted with Mr. Barber, and then discussed the matter with the city Public Works Director Rich Hoey and "concluded that the Council's resolution was the equivalent of urging a no vote." In response to staff's questions about the previous mailings provided by the city, Mr. Young stated the "content and design of those prior mailings would have occurred at the staff level. Mr. Hall's role would have been limited to approving the sending of a mailer generally and perhaps reviewing and approving the final product before it was printed for mailing and mailed."

#### **Interview of Steve Hall, former City Manager for City of Olympia (January 8, 2020)**

- 2.21 On January 8, 2020, PDC staff conducted an Investigative Interview with Steve Hall at the PDC Offices, that included Jeff Myers, an attorney with Law, Lyman, Daniel, Kamerrer & Bogdanovich, PS. Mr. Myers stated on the record he was representing the City of Olympia in this matter, and that his involvement was to be sure the city's attorney client privilege is not waived by Mr. Hall, since Mr. Hall is no longer with the city. PDC staff summarized the Investigative Interview with Mr. Hall in a memorandum. **Exhibit #7.**
- 2.22 Mr. Hall stated he served as City Manager for the City of Olympia for 16 years, and that he just recently retired November 7, 2019. He stated prior to that he served as Assistant City Manager for the City of Olympia for several years, and before that he served as Assistant to City Manager for the City of Boulder. He stated as City Manager he is the Chief Executive Officer for the City of Olympia, that he was appointed City Manager by the mayor and the City Council, and he is their sole employee.

- 2.23 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 works with the Mayor and City Council on the annual budget, he frequently meets one-on-one with the Mayor, and Mayor Pro-Tem, and he typically meets weekly with most of the Council members on an individual basis. He stated those meetings concern a variety of city issues and that he provides them with information and guidance on developing the cities goals, and the policies that can be implemented to achieve those goals and objectives.
- 2.24 Mr. Hall stated that he began having discussions with the City of Olympia's Public Works Department (PWD) concerning I-976 in June of July of 2019, involving city transportation issues such as road construction projects, road maintenance issues, and transportation projects under the Transportation Benefit District (TBD).
- 2.25 Mr. Hall stated the city's estimated projection was that the passage of I-976 would cut about one-half of the annual budget for the city's road maintenance and repair program, or about \$1.7 million out of a total \$3.5 million budget. He indicated that approving I-976 would have a big impact on the city, and the city had a lot of internal conversations concerning I-976 leading up to the resolution being adopted by the City Council. He stated those discussions included what the city's options were if I-976 was approved, what the city can and should do, and how to get information to citizens about the projected impacts of I-976 if the measure is approved by voters.
- 2.26 Mr. Hall stated the city was in the process of updating the Capital Facilities plan which is a six-year plan, and those discussions included the need to update the plan to reflect the potential passage of I-976 and how that would impact the city. He noted that those discussions involved what projects were going to have to be modified or scaled back, what projects are likely to be delayed or even cancelled, particularly during the last three years of the current plan.
- 2.27 Mr. Hall stated those early discussions included how the city should communicate with its citizens concerning the impacts of I-976 on city transportation and infrastructure issues, and how that information may be provided to them, such as in a mailer. He stated that once the city held an open public meeting and adopted a resolution in opposition to I-976, the city would produce and distribute information concerning the resolution once it was approved. He stated once the City Council scheduled a public hearing concerning I-976 providing citizens with the opportunity to "weigh in" on the proposed ballot measure, he had discussions with staff about how best to communicate information to citizens.
- 2.28 Mr. Hall stated that the I-976 information would reference the resolution adopted by the Olympia City Council including their opposition to I-976. He added that since not everyone is attending Council meetings or watching live and aware of the action being taken by the city, the city needed to communicate that information somehow, likely through a mailer.

Content of mailer, including vote no language:

- 2.29 Mr. Hall stated that he did not have any discussions with the Mayor, Mayor Pro-Tem or City Council members concerning the content of the mailer, including the "Vote No on I-976" message.

- 2.30 Mr. Hall stated 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 would be the City of Olympia staff's job, so he would not have involved either the Mayor or City Council in that type of discussion. He stated that he did not recall receiving any feedback or offer any input, but reiterated that in general, that would not have been the type of discussion he would have had with them.
- 2.31 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, Olympia PWD, and Kellie Braseth, Olympia Strategic Communications Director. He stated Mr. Hoey and Ms. Braseth both reported to him directly as department heads and that he met frequently with both of them throughout the year on a variety of issues, and not solely on I-976 ballot proposition or the I-976 mailer.
- 2.32 Mr. Hall stated that prior to the Council adopting the resolution, he spoke with Mr. Hoey about ideas for the content of the mailer such as what the mailer would like and information to include in the mailer. He stated that early in the drafting Mr. Hoey provided him with photographs of streets in good condition and of streets in bad conditions around the city of Olympia. They discussed and agreed to include photographs showing citizens the contrasting conditions of the streets in the city and likened it to the eye doctor visit and the better/worse vision questions.
- 2.33 Mr. Hall stated that he did not review the mailers first, second or third draft, or and he did not make additional changes or tweaks to the mailer. He stated that was not his typical practice and added he had already spoken with staff and provided his input and they were on board and working on following his earlier feedback. He stated there was no need for him to have any further discussions or involvement with the content of the mailer, and he added that the Communications department is very competent, and is constantly communicating with citizens and updating information about Council action and issues affecting the city. He stated that the next time he saw the mailer was when he received it in the mail at his house.
- 2.34 Mr. Hall stated that Ms. Braseth was very knowledgeable about the I-976 issue, and familiar with the action taken by the Council, so she knew the message to get out once the resolution had been adopted. He stated that he traditionally left the messaging to Ms. Braseth and the Communications department, and he confirmed that he did that in this instance. He stated that he did not get into the details or specifics concerning the content during the drafting of the mailer or what the mailer would eventually look like. He stated the mailer would include the fiscal impacts that the passage of I-976 would have on the city concerning road projects and maintenance. He added that the message would reflect what the council said in the resolution in opposition to the ballot proposition, and would also include the good streets/bad streets photographs that he previously discussed with Mr. Hoey.
- 2.35 Mr. Hall stated that in addition to him, Mr. Hoey and Ms. Braseth were both present at the City Council meeting where the council members adopted the resolution and the Council was clear in their unanimous opposition to I-976.

- 2.36 When asked if he discussed the “Vote No” language with Mr. Hoey or Ms. Braseth, Mr. Hall stated there was no specific direction from him to include the Vote No on I-976 statement five times in the mailer (staff corrected the record and indicated it appeared three times). He stated the mailer reflected the city council action and the language in the resolution stating that I-976 was bad for City of Olympia and the community, and the Council urged the citizens of Olympia to vote no on I-976. He stated that the content of the mailer accurately reflected the resolution that was approved by the council.
- 2.37 Mr. Hall stated that the City of Olympia produced a one-time “factsheet” on several occasions for City of Olympia sponsored ballot measures such as The Home Fund and the Public Safety initiative. He stated that the city also previously adopted resolutions in support of the Olympia School District bond or levy measures in the past, as well as support for statewide ballot propositions such as Referendum 88. However, he noted that none of those measures had the direct impact on the City of Olympia, its citizens and city services that the passage of I-976 would, and he reiterated that if I-976 was approved, the City of Olympia’s transportation budget would be cut in half.
- 2.38 PDC staff noted that the prior City of Olympia mailings provided as part of the City of Olympia’s response for both The Home Fund and the Public Safety initiative, included the statement **“FOR INFORMATION PURPOSES ONLY. Not intended to support or oppose the Proposition.”**
- 2.39 Mr. Hall stated that the two City of Olympia mailers included the **“FOR INFORMATION PURPOSES ONLY** disclaimer, and the I-976 mailer did not include that statement. He stated the two mailer containing the disclaimer for the information provided by the city were different in that those were for City of Olympia ballot propositions in which something was being added new for the citizens to consider. He stated the resolutions concerning the Home Fund or Public Safety Initiative were about the City of Olympia “making a pitch to its citizens, that this measure is good, is offering something better for the community and providing information to the citizens to consider when determining if they should approve the measure.”
- 2.40 When asked why that disclaimer did not appear on the I-976 mailing, Mr. Hall stated there was never really any discussion about including that statement in the mailer, due to the vote no language. He stated that in the case of I-976, the ballot proposition was proposing to “take something away” which felt very different to him and city staff than the message concerning the two other city sponsored ballot propositions. He stated that he felt the city had to be very clear about “if you don’t want to lose this, you need to vote no on I-976.”
- 2.41 Mr. Hall stated that he did not sit there and compare the prior publications with the proposed mailer, and then say let’s include the Vote No on I-976 statement xx number of times in the mailer. He stated that he did not recall having any discussions with city staff about omitting or not including the Vote No language in the mailer. He added that he did not discuss with the Mayor or any council members about including the Vote No language.

Mailing to only registered voters:

- 2.42 When asked about mailing the I-976 publication to only registered voters, Mr. Hall he stated that he did not have any conversations or discussions with any City of Olympia council members, management or staff about mailing to only registered voters.

- 2.43 Mr. Hall stated that he only found out after the mailer was sent out that it had only been sent to registered voters, the issue came up after the publication had been mailed in a conversation he had with Ms. Braseth. He stated that he couldn't recall if it was part of the allegations listed in the complaints filed with the PDC, or was from feedback the city was receiving from its citizenry, social media and the media concerning the mailing. He stated they talked about what list the city had used for the mailer, and he was informed the mailer was only sent to registered voters in the City of Olympia.
- 2.44 Mr. Hall stated the registered voter mailing list was the mailing list the City of Olympia typically used to communicate with citizens, that the mailing list was easy to obtain since it was maintained by Thurston County, and was regularly updated. He stated his discussions with Ms. Braseth included the perception of only mailing the publication to registered voters, and not to everybody, and based on those discussions, the city changed its mailing practice and would no longer be using a registered voter mailing list to communicate with citizens. He noted that the city also has a utility billing list which includes every mailing address in the city that has a utility, and the discussion included the possibility of using that list or a list that included all households.

#### Prohibitions in RCW 42.17A.555

- 2.45 When asked, Mr. Hall stated that he and the city were aware of the prohibitions in RCW 42.17A.555 concerning the use of city facilities to support or oppose candidates or ballot propositions. He stated that the City of Olympia was careful in trying to keep politics out of city government and to not cross that line. He stated that even when the City of Olympia had placed a local measure on the ballot such as the Home Fund, he did not go out on city time concerning those measures.
- 2.46 Mr. Hall stated that there was one publication produced and distributed by the City of Olympia concerning a city ballot proposition that he spent more time reviewing the facts and details prior to distribution which was the 2016 Public Safety ballot proposition. He stated that he spent more time assisting with the drafting and reviewing of that publication, since the proposed ballot proposition would provide very specific services to the citizens addressing public safety issues. He stated those specific issues included mental health services, social service intervention, alternative sentencing, and services for addiction and homeless citizens. He stated that he spent quite a bit of time with the City of Olympia Police Chief discussing and reviewing information for that ballot proposition prior to be distributed as a fact sheet.
- 2.47 Mr. Hall stated that he has been around this business for a long time and he has seen how the PDC has interacted with other agencies, and the city of Olympia has been in contact with PDC staff on several occasions over the past few years. He stated he thought that the mailer "passed the test" and was okay since the public hearing was held providing an opportunity for citizens to weigh in on the matter, and the City Council had taken a clear vote in opposition to I-976.
- 2.48 Mr. Hall stated that after 30(+) years of doing this, and without reviewing the final version of the mailer, he thought based on his experience the mailer accurately reflected the Council action and met the test with regards to the PDC statutes/rules.

- 2.49 Mr. Hall stated that he was surprised about the public responses concerning the mailer, but noted that after the complaints were filed and in hindsight, he saw the objections being raised and while the Council urged a no vote in the resolution, the city was directly urging citizens to vote no in the mailer. He said he got it, and that the mailer was different than the resolution adopted by the city council.

**Interview of Rich Hoey, Public Works Director City of Olympia (February 26, 2020)**

- 2.50 On February 26, 2020, PDC staff conducted an Investigative Interview with Rich Hoey, City of Olympia Public Works Director at the PDC Offices, that included Mr. Myers representing the City of Olympia in this matter. PDC staff summarized the Investigative Interview with Mr. Hoey in a memorandum. **Exhibit #8.**
- 2.51 Mr. Hoey stated that he has worked for the City of Olympia for 15 years, has been the City of Olympia Public Works Director (OPW) since being appointed to that position in 2011, and was permanently hired to the Director position in March of 2012 by Steve Hall. Prior to that, he served as Director of the City of Olympia Water Resources. He stated OPW consists of five divisions: (1) Transportation; (2) Water Resources; (3) Solid Waste; (4) Engineering; and (5) General services which includes all city facilities and fleet services, and allowing for seasonal hiring fluctuations, there are roughly 160-170 OPW employees.
- 2.52 Mr. Hoey stated he reported directly to Mr. Hall, and that he would meet with him one on one on a weekly basis and would provide him with updates on what was going on that week in OPW. He stated they would also discuss matters that would be going before the City Council in an upcoming or future meeting, OPW personnel matters, and a variety of other topics related to City of Olympia public works and transportation.
- 2.53 Mr. Hoey stated that he began having discussions with Mr. Hall and city staff concerning the impacts that I-976 would have on the City of Olympia in the summer of 2019. He stated those discussions involved the serious financial impacts that approval of I-976 would have on the city and specifically its impact on the city's transportation funding and budget. He stated he met frequently with transportation and other OPW staff that included Mr. Hall along with other city staff, and noted that I-976 drew a lot of media attention, requiring the city to provide additional information about the measure and raising concerns about its impacts on the city.
- 2.54 Mr. Hoey stated that the Olympia City Council established a Transportation Benefit District (TBD) which was authorized to charge residents and businesses vehicle license tab fees. The tab fee revenue generated for the TBD were accounted for separately in a dedicated account and spent solely for transportation improvement projects around the city. He stated based on the city's projections, if I-976 were to be approved it would eliminate all of the funding for the TBD, which depending upon the year would mean somewhere between 40-50% of the cities Capitol Budget for Street repair and construction.
- 2.55 Mr. Hoey stated as those projections indicated, approval of I-976 would have a sizeable impact on the city's ability to adequately maintain its transportation infrastructure and make road and street repairs as needed. He stated I-976 was discussed at the weekly City Council agenda meetings and concerned having the Council conduct a public hearing about I-976, and to take an official position on the proposed ballot measure.

- 2.56 Specifically, Mr. Hoey stated those discussions focused on what needed to be done by staff to prepare for the upcoming city council meeting in which a resolution concerning opposition to I-976 would be heard and ultimately approved by council.

Opposition to I-976, content of the mailer including vote no language:

- 2.57 Mr. Hoey stated Mark Russell, as Deputy Director of Public Works would meet with Mr. Hall when he was not available or on vacation, or when he was making a presentation. He stated that Mr. Russell reported directly to him, and he was primarily involved with the public works transportation division, but he would also assist with administrative duties as needed.
- 2.58 Mr. Hoey stated he mostly worked with Mr. Russell on the mailer, that he directed Mr. Russell concerning the ballot measure providing him with instructions, information and the intent of his discussions that he had with Mr. Hall. Mr. Russell then worked with the city communications staff to develop the content and layout of the mailer, along with the transportation staff who all worked on the mailer.
- 2.59 Mr. Hoey stated that he began having discussions with Mr. Hall in late summer of 2019 about the City of Olympia's opposition to I-976, and those discussions involved have the city putting together a mailer or postcard providing information to the citizens about the impacts of I-976. He stated the discussions involved the city communicating to citizens where the TBD dollar were going, how the cities street paving/improvement projects would be impacted by the approval of I-976, and where to get additional information about the proposed ballot measure.
- 2.60 Mr. Hoey stated that Mr. Hall agreed that the city would put together a mailer along those lines, and that he and his staff were to work with the City of Olympia Communications staff to develop the. He stated that the initial draft plan was to not speak directly about the initiative, and he reached out to city's Communications team and spoke with Ms. Braseth to get the process started. He stated the project involved Mr. Russell, and they met with Ms. Braseth to discuss in general terms having the city produce and distribute a mailer concerning I-976 and what that would the content of that mailer would look like.
- 2.61 Mr. Hoey stated that the content of information in the mailer, including the photographs, came from the Public Works Department as part of the cities Capitol Facilities Plan which is frequently updated. He stated that after the City Council took a position in opposition to I-976 at the Council meeting, Mr. Hall directed that the mailer include information about the Council's opposition to I-976 as indicated in the Resolution that was unanimously adopted. He stated that he relayed that information to Mr. Russell and instructed hm to work with city transportation and communications staff to put together the mailer.
- 2.62 Mr. Hoey stated that all of the work done on the mailer was at the direction of and the approval of Mr. Hall. He added that the Vote No language was included at the direction of Mr. Hall who wanted the mailer to reflect the position taken by the City Council to oppose I-976 as stated in the resolution. He stated he would have discussed this issue at a high level with Mr. Hall, but he acknowledged that he did not have any direct discussions with him about including the words "Vote No on I-976" three times in the mailer.

- 2.63 Staff questioned Mr. Hoey concerning his communications with Mr. Hall about how the mailer would reflect the City Council's opposition to I-976 in the resolution and did his conversation with Mr. Hall include the words "Vote No" in the mailer. He stated that he did not recall anything that specific, and when asked exactly what they discussed about the "Vote No" language, he stated that conversation with Mr. Hall also involved the City Attorney.
- 2.64 Mr. Hoey stated Mark Barber, Olympia City Attorney was present at a meeting he was in attendance at that also included Mr. Hall, and at that meeting they discussed the "Vote No" language. At that point, Mr. Myers legal counsel asserted attorney/client privilege stating those conversation were confidential and instructed Mr. Hoey to not elaborate or provide any additional information other than being present for the conversation.
- 2.65 After that meeting, Mr. Hoey stated that he communicated to Mr. Russell that the City Manager made the decision to include the City Council's position in opposition to I-976. When asked if his conversation with Mr. Russell involved discussions about including the "Vote No" language, he stated he did not remember using that exact wording but instead they discussed the Council's opposition to I-976 as stated in the Resolution.
- 2.66 Mr. Hoey did state when Mr. Russell was showing him the final draft version of the mailer as part of the review process, he felt the language in the mailer concerning "Vote No on I-976" was consistent with the City Council's position. He stated he was part of the final review process, and that he shared the final draft with Mr. Hall but stressed to him that the mailer needed to be reviewed by the city attorney's office before it went out. He stated that having the City Attorney's Office review it was important to him and important to Mr. Hall as well.
- 2.67 Mr. Hoey stated that he did not send the final version of the mailer to Mr. Hall. He added that when he reviewed the final version, he thought that the content of the mailer was consistent with his prior discussions with Mr. Hall and accurately reflected councils' position in opposition to I-976.

#### **Additional interviews conducted February 26, 2020**

- 2.68 On February 26, 2020, PDC staff conducted an Investigative Interview with Cheryl Selby, Mayor for the City of Olympia that included Mr. Myers representing the City of Olympia in this matter. Mayor Selby was elected to the Olympia City Council in 2013, ran for Mayor and was elected to that office in 2015, and was subsequently re-elected to office in 2019.
- 2.69 Mayor Selby stated that the City of Olympia is Council/Manager form of government, in which the Mayor and City Council hire the City Manager to run the day-to-day operations of the city. She stated that the City of Olympia would be considered to have a weak Mayor form of government, and that Mr. Hall was the City Manager prior to her being elected to the Council, and he is the City Council's only employee. She stated that she would typically meet weekly with Steve Hall, former City Manager, as he did with most City Council members, and he would be in attendance during the weekly agenda meetings to discuss the upcoming City Council meeting.

- 2.70 Mayor Selby noted that she was involved in a very heated re-election campaign in the summer and fall of 2019, and that much of her free time and focus was devoted to her re-election efforts. She stated that she spent a lot of her personal time doorbelling, and at community events, and added that a lot of her time as Mayor was spent addressing the ongoing homeless issue. She was aware of I-976 being on the ballot and the impact its passage would have on the city's transportation budget, but she did not have any specific discussions with Mr. Hall about the initiative except when it was a topic during the weekly agenda meeting.
- 2.71 Mayor Selby stated she became aware that the City of Olympia produced and distributed a mailer concerning I-976 when she received it. She stated Mr. Hall oversaw the City of Olympia Communications, and she was not involved in any way with the development or content including the Vote No on I-976 statements that appeared in the mailer.
- 2.72 On February 26, 2020, PDC staff conducted an Investigative Interview with Kellie Braseth, Strategic Communications Director for the City of Olympia that included Mr. Myers representing the City of Olympia in this matter. Ms. Braseth stated she has worked for the City of Olympia as Strategic Communications Director since being hired to that position in July of 2015. She stated that her duties as Strategic Communications Director included managing all communications for the City of Olympia which along with her staff includes maintaining and updating the city's website; producing and distributing all city publications; managing and reviewing the content and postings of the city's social media platforms, media inquiries, etc...
- 2.73 Ms. Braseth stated she was hired by Mr. Hall, she reported directly to him and Hall, and that she would meet with him one on one on a weekly basis. She stated at those meetings, she would provide Mr. Hall with updates on her departments work, discuss current issues or ongoing issues such as transportation, public safety and homelessness, requests from other staff concerning city communications efforts, the agenda for upcoming city council meetings, media inquiries and issues in the news.
- 2.74 Ms. Braseth stated the Communications departments would work on publications and mailings with all city departments, and that staff from those other city departments would request a communication through the intake process. She stated that staff members from the department in which the request originated would be the subject matter experts for that communication.
- 2.75 Ms. Braseth stated that in the case of the I-976 mailer, the request came from the City of Olympia Public Works Department (OPW) and that Jesse Turner, a Communications Specialist staff person, was assigned to work with OPW staff for all communications concerning that issue. She stated that Ms. Turner worked on the mailer with OPW staff, which was primarily Mark Russell. She stated she did not do any work on the mailer, but she received frequent updates from Ms. Turner who provided the graphic design work and layout for the mailer. She stated Ms. Turner would update her in general terms concerning the mailer such as how the draft mailer was progressing or using her as a sounding board for things like what pictures to include in the mailer.
- 2.76 Ms. Braseth stated that she did not review or approve the I-976 mailer, and that determination would have come from OPW staff as the project subject matter experts.

- 2.77 Ms. Braseth stated Ms. Turner’s work involved having meetings with OPW staff to discuss the mailer and assist in determining what information to include in the mailing. She stated her staff defers to the subject matter experts concerning the content of the communication, so for the mailer, which was OPW staff. She stated that once OPW staff had determined the content, the Communications department would work on the layout including assisting in deciding what photographs to include, the colors and the tone of the content, how the information is formatted, how the information was presented and was it understandable to the lay person.
- 2.78 Ms. Braseth stated she or any other Communication staff member had no approval authority for the mailer and exercised no direction or control over the content. She stated Ms. Turner’s involvement was limited to messaging issues, formatting, graphic design and photographs to include. She stated she did not know how the “Vote No” language was included in the mailer, and she was not part of any discussions with OPW staff or Mr. Hall concerning the mailer. She added that if anyone had been part of those discussions it would have been Ms. Turner.
- 2.79 Ms. Braseth stated that the Olympia City Manager had ultimate responsibility for approving the content of all communications from the city, including this mailer as well as authorizing the expenditure of public funds to print and mail a publication.

### **III.**

#### **Scope**

- 3.1 PDC staff reviewed the following:
- October 22, 2019, complaints filed against the City of Olympia Officials by Charles Eakins and Glen Morgan alleging violations of RCW 42.17A.555. Staff also reviewed the allegations listed in the additional complaints filed against City of Olympia Officials by complainants John Wissler, Edwin Pole II, and Robert Shirley.
  - October 23, 2019, John Wissler filed a complaint with the PDC alleging that the City of Olympia published information urging a “NO” vote on I-976.
  - November 17, 2019, Edwin Pole II filed a complaint with the PDC alleging that the City of Olympia produced and distributed information urging a “NO” vote on I-976, and that he received a copy of the mailer despite living outside of the City of Olympia’s boundaries.
  - November 21, 2019, Robert Shirley filed a complaint with the PDC alleging that the City of Olympia including Mayor Shelby, all seven City Council members, Mark Barber, City Attorney, and other City of Olympia staff produced and distributed information urging a “NO” vote on I-976.

#### **City of Olympia Correspondence:**

- October 29, 2019, initial response letter with exhibits from Mark Barber, City Attorney for the City of Olympia to the allegations listed in the complaints filed against the City of Olympia.

- November 12, 2019, Michael M. Young, Deputy City Attorney, submitted the response with exhibits on behalf of the City of Olympia to the additional complaints and to PDC staff's additional questions.
- December 6, 2019, Mr. Young submitted a response on behalf of the City of Olympia to PDC staff's additional questions.
- Exchanged emails and telephone calls with Jeff Myers, an attorney with Law, Lyman, Daniel, Kamerrer & Bogdanovich, PS, and legal counsel for the City of Olympia and Steve Hall.

Investigative Interviews Conducted:

- January 8, 2020: PDC staff conducted an Investigative Interview with Steve Hall, former City Manager for City of Olympia at the PDC Offices. Mr. Myers was present as legal counsel for the City of Olympia concerning attorney/client privilege issue.
- February 26, 2020: PDC staff conducted three Investigative Interviews at the PDC Offices. Mr. Myers was present for all three Investigative Interviews representing the following individuals:
  1. Cheryl Selby, Mayor of the City of Olympia.
  2. Kellie Braseth, City of Olympia Strategic Communications Director.
  3. Rich Hoey, Director of City of Olympia Public Works Department.

**IV.**

**Statutes, Rules and PDC Interpretation**

- 4.1 **RCW 42.17A.555** states, in part: "No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities: ... (3) Activities which are part of the normal and regular conduct of the office or agency."
- 4.2 **WAC 390-05-271** General applications of RCW 42.17A.555. (1) RCW 42.17A.555 does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency. (2) RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency

- 4.3 **WAC 390-05-273** defines the “normal and regular conduct” of a public office or agency as “conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.”
- 4.4 **PDC Interpretation 04-02** provides guidance to public agencies concerning election related activities that are permitted and not permitted by cities, counties, etc....and when public may be expended to produce information about the maintenance and operations of the agency, including how a ballot proposition would affect those operations provided that the information being provided is a “fair and objective presentation of the facts.”

Respectfully submitted this 1<sup>st</sup> day of July 2020.

s/\_\_\_\_\_  
Electronically Signed Kurt Young  
PDC Compliance Officer

### **List of Exhibits**

- Exhibit #1**      October 22, 2019, complaints filed against the City of Olympia Officials by Charles Eakins and Glen Morgan alleging violations of RCW 42.17A.555.
- Exhibit #2**      Complaints filed by John Wissler, Edwin Pole, and Robert Shirley alleging that the City of Olympia violated RCW 42.17A.555 by published information urging a “NO” vote on I-976.
- Exhibit #3**      City of Olympia invoices provided to the PDC for the printing and mailing of the I-976 mailer.
- Exhibit #4**      October 29, 2019, City of Olympia submits initial response to the complaints.
- Exhibit #5**      November 12, 2019, Supplemental City of Olympia Response to PDC questions.
- Exhibit #6**      December 6, 2019, City of Olympia Response to additional PDC staff questions.
- Exhibit #7**      Steve Hall investigative interview summary memorandum.
- Exhibit #8**      Rich Hoey investigative interview summary memorandum.

**Exhibit #1: Report of Investigation**

**Complaints filed against the City of Olympia**

**by Glen Morgan and Charles Eakins**

**PDC Case 59039**

## Complaint Description

Glen Morgan (Tue, 22 Oct 2019 at 11:06 PM)

To Whom it may concern,

It has come to my attention and to the attention of apparently every voter in the City of Olympia that the City of Olympia (City Council members Jim Cooper, Nathaniel Jones, Clark Gilman, Lisa Parshley, Renata Rollins, Jessica Batman and Mayor Cheryl Selby as well as City Manager Steve Hall), have clearly violated Washington State's Campaign Finance laws (**RCW 42.17A**).

### **1) Misuse of public resources to create, produce, and send a mailer to voters in the city of Olympia to oppose a ballot initiative (RCW 42.17A.555)**

Copies of this mailer are attached. This is a shocking misuse of public resources, and there is no excuse for this type of illegal activity from the City of Olympia, all the elected officials and the County Manager Steve Hall to commit this violation. These are experienced politicians and Steve Hall is one of the more experienced City Managers in the State of Washington. They've all had PDC complaints filed against them in the past, and many of them have crafted their own PDC complaints to file against others. The PDC's offices are located in the city itself. Most of them can drop by the PDC offices after getting a cup of Starbucks on their way to visit the homeless/addict camps downtown.

Some of these people are even serial violators of the campaign finance laws. For example, Jim Cooper has been fined by the Washington State Attorney General's office for violations he committed during his failed 2016 campaign for the Thurston County Commission (see PDC warning letter and AG judgement attached). He was also fined in Thurston Superior Court for additional campaign finance violations he committed during his 2017 Olympia City Council race (see **Thurston County Superior Court Case #18-2-00523-34**). All of these Councilmembers were very active in the Thurston County Democratic Party when that organization was in active litigation with the AG which resulted in a significant judgement (see attached). Of any collection of politicians in the State of Washington – this is the crew most versed in the nuances of our state's glorious campaign finance laws. What were they thinking? It appears they were thinking they can violate the law with impunity and it won't be applied to them. There is no excuse for this.

According to a quote in the Seattle Times story dated October 22, 2019 "State investigating City of Olympia mailer urging no vote on car-tab initiative 976":

*"Olympia spokeswoman Kellie Purce Braseth confirmed the city sent the mailer to about 15,000 households at a cost of \$7,423 from the city's general fund."*

In addition to the violation of paying for the mailer, the postage, (for which city spokesperson already admits to spending \$7,423), there is the additional costs of producing the artwork, using city computers to do this, using other city employees to pay the vendor, negotiate costs, use mailing lists, use city

email, use city facilities to layout the artwork, edit the copy, produce the original manuscript, etc. There is no grey area in the law here. The City of Olympia is not allowed to “urge a NO vote on...” ANYTHING, not a candidate nor a ballot measure. This was a willful misuse of taxpayer funds to influence an election outcome and it is rare to find any group of elected officials so willfully and with knowledge to blatantly violate the law like this.

This was not done “on the advice of counsel.” Even in a world awash with incompetent attorneys and even allowing for the fact that many of the worst and most incompetent go to work for the government, it isn’t realistic that any attorney gave approval for this mailer and claimed it was legal (or not a violation of **RCW 42.17A.555**). The reality is this quote is falsely made for the city council and senior staff to avoid legal liability (trebling of fines) by pretending they thought what they were doing was legal. They know it wasn’t, however, this is a way to mitigate their personal exposure to the potential liability in case their gamble fails and the PDC (or the AG) actually decides to enforce the law equally in this case.

This may be one of those cases where the PDC has to make a serious decision that actually has a real impact. Elected officials and senior bureaucrats who live near your homes and with whom employees of the PDC may even socialize or know personally have decided to flagrantly and with malice and forethought, chosen to blatantly violate the states campaign finance laws knowing they will never be held accountable. The PDC can either rigorously enforce the statute on these people or decide the law no longer applies.

## **2) Failure to list the top five contributors (Violation of RCW 42.17A.320)**

Obviously, they have failed to list their top 5 contributors. The City spokesperson said they used General Funds. They receive grant funds and funding from various sources, so there is a list of these top “contributors” somewhere and they didn’t list it.

I don’t know how to make this complaint any clearer.

Best Regards,

Glen Morgan

### **What impact does the alleged violation(s) have on the public?**

Taxpayer funded entities like the City of Olympia are not allowed to squander tax dollars attempting to influence political campaigns or send out taxpayer funded mailers telling people to "Vote No" on initiatives. This is a willful, blatant, and intentional violation of the state's campaign finance laws and the council is clearly laughing and mocking the PDC.

### **List of attached evidence or contact information where evidence may be found.**

Attached as referenced

### **List of potential witnesses with contact information to reach them.**

Every single elected official in the city, City manager Steve Hall, all senior staff who participated in this decision and action and who facilitated this illegal mailer. The "legal counsel" who supposedly said it was ok should be identified and disbarred (assuming this is even a true claim).

**Complaint Certification:**

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.



City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

STANDARD  
US POSTAGE PAID  
TACOMA WA  
PERMIT #317

## Vote NO

Initiative 976

Car tab fees help repair our streets.

Repairing Olympia streets  
with your \$40 car tab fee

## Vote NO

Initiative 976

# Vote NO

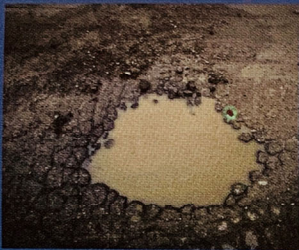
## Initiative 976

*The Olympia City Council urges a "NO" vote on I-976.*

### Why Vote No?

- This measure would result in a major funding loss for City street improvements and repairs.
- Pavement conditions would suffer and planned projects would not be completed.
- The safety and performance of our transportation system would be at risk.

**Loss of funding from car tab fees limits our ability to repair streets like the examples below.**



### Local Funds for Local Streets

The purpose of the \$40 car tab fee is to raise funds at the local level to address our community's specific street repair needs.

### What is Initiative 976?

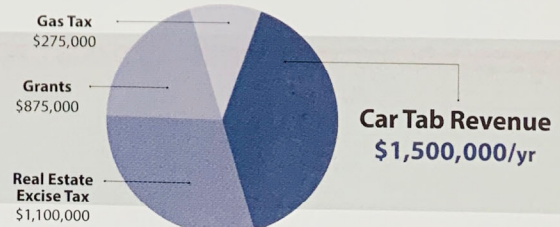
Initiative 976 concerns motor vehicle taxes and fees. If enacted, it would repeal, reduce or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.



**Street repair is the single largest transportation expense in our City.**

Your \$40 car tab fee makes up nearly half the City's street reconstruction and repair budget, about \$1.5M/year. If the measure passes, that funding would go away.

**Typical Total Street Repair Budget:**  
**\$3,750,000/yr**



Every dollar counts. Thank you for doing your part to fix our streets. **Vote NO on Initiative 976.**



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111  
Toll Free 1-877-601-2828 • E-mail: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)

December 16, 2016

[jim@electjimcooper.com](mailto:jim@electjimcooper.com)

Subject: PDC Complaint 8928 - Formal Written Warning

Dear Mr. Cooper:

Enclosed is a copy of a letter sent to Glen Morgan concerning a complaint filed with the Public Disclosure Commission on October 17, 2016. The complaint made fifty allegations that you may have violated RCW 42.17A.205, .235, .240, and .435 by failing to report campaign donations and spending as required by statute, and for illegally donating to a political party from campaign funds during your 2016 race for Thurston County Commission. As noted in the letter to Mr. Morgan, the PDC will not be conducting a more formal investigation into these allegations or taking enforcement action in this matter.

Your campaign appears to have committed a minor violation of RCW 42.17A.235 for failing to report one in-kind contribution of \$46.08, and a technical violation of RCW 42.17A.435 for making prohibited contributions of \$381 to a party organization from campaign funds.

Pursuant to WAC 390-37-060, I am issuing this Formal Written Warning. You have agreed to either have the Thurston County Democratic Central Committee reimburse \$381 to your campaign, or you will reimburse your campaign from personal funds. Please confirm that the campaign reimbursement has been made by February 17, 2017 (approximately 60 days from today).

If you are found to be out of compliance with this agreement after February 17, 2016, letter, and have not made an acceptable arrangement to return the funds, a Hearing Notice will be issued and you will have to appear at a Brief Adjudicative Proceeding before the Chair of the Public Disclosure Commission.

If there are future violations of PDC laws or rule, the Commission will consider this Formal Written Warning in deciding on further Commission action. Should you have questions about PDC

Complaint 8928 you may contact or contact Kurt Young, toll-free at 1-877-601-2828, or by e-mail at [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov).

Sincerely,

  
Evelyn Fielding Lopez  
Executive Director

Enclosure: Letter to Complainant

FILED

JUN 15 2018

Superior Court  
Linda Myhre Enlow  
Thurston County Clerk

☐ EXPEDITE  
☐ No Hearing Set  
☒ Trial is Set  
Date: Monday August 20, 2018  
Time: 8:30 a.m.  
Judge John C. Skinder

STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

NO. 16-2-04960-34

Plaintiff,

STIPULATION AND JUDGMENT

v.

JAMES M. COOPER, JR., individually,  
and FRIENDS OF JIM COOPER, a  
political committee,

EX PARTE

Defendants.

JUDGMENT SUMMARY (RCW 4.64.030)

- A. JUDGMENT CREDITOR: Plaintiff, STATE OF WASHINGTON
- B. JUDGMENT DEBTOR: Defendants JAMES M. COOPER, JR., individually,  
and FRIENDS OF JIM COOPER, a political committee
- C. PRINCIPAL JUDGMENT: \$1,125.00
- D. INTEREST: No prejudgment interest is owed. Principal judgment  
amount(s) due and owing shall not bear interest unless  
the principal judgment is unpaid by the due date specified  
herein
- E. COSTS AND FEES: None
- F. ATTORNEYS FOR JUDGMENT CREDITOR ROBERT W. FERGUSON  
Attorney General  
LINDA A. DALTON, WSBA No. 15467  
Senior Assistant Attorney General
- G. ATTORNEY FOR JUDGMENT DEBTOR JOHN A. KESLER III, WSBA No. 39380  
Bean, Gentry, Wheeler & Peternell PLLC

STIPULATION AND  
AGREED JUDGMENT

1

ATTORNEY GENERAL OF WASHINGTON  
Campaign Finance Unit  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 753-6200

COPY

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### STIPULATION

The parties to this stipulation, Plaintiff, STATE OF WASHINGTON (STATE) and Defendants, JAMES M. COOPER, JR., individually, and FRIENDS OF JIM COOPER, a political committee, desiring to resolve claims arising out of the State's First Amended Complaint and the citizen action notices filed to date regarding Defendants' 2016 election campaign, hereby enter into the following stipulation:

1. Defendants JAMES M. COOPER, JR., individually, and FRIENDS OF JIM COOPER, a political committee, agree to pay an assessed civil penalty in the amount of \$1,125.00 for their violations of RCW 42.17A as alleged in the State's First Amended Complaint including failing to timely file and disclose contributions and expenditures, including debts; failing to disclose the true identity of contributors to a political committee; improperly transferring campaign contributions; and making personal use of campaign funds.
2. Defendants JAMES M. COOPER, JR., individually, and FRIENDS OF JIM COOPER, a political committee, agree to pay the State the civil penalty (\$1,125.00) within 90 days from the date of the entry of the Judgment.

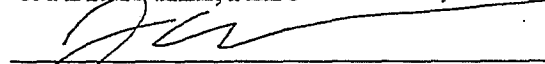
DATED this 12<sup>th</sup> day of June, 2018.

ROBERT W. FERGUSON  
Attorney General



LINDA A. DALTON, WSBA No. 15467  
Senior Assistant Attorney General  
Attorneys for Plaintiff

BEAN, GENTRY, WHEELER  
& PETERNELL, PLLC



JOHN A. KESLER III, WSBA No. 39380  
Attorney at Law  
Attorney for Defendants

### JUDGMENT

THIS MATTER came on regularly before the undersigned judge of the above-entitled Court. Plaintiff, STATE OF WASHINGTON, appearing through its attorneys of record, ROBERT W. FERGUSON, Attorney General, and LINDA A. DALTON, Senior Assistant Attorney General, and Defendants JAMES M. COOPER, JR., individually, and FRIENDS OF

1 JIM COOPER, a political committee, appearing through their attorney, JOHN A. KESLER III,  
2 Attorney at Law, apprised the Court of their agreement to the entry of this judgment for the  
3 purpose of settling and compromising this action brought under RCW 42.17A. The Court,  
4 having reviewed the records and files herein, and having found the settlement to be a just and  
5 proper resolution of this matter, and being otherwise fully advised in the premises, hereby  
6 ORDERS as follows:

7 1. Defendants JAMES M. COOPER, JR., individually, and FRIENDS OF JIM COOPER, a  
8 political committee, are hereby assessed a civil penalty, for their violations of the  
9 provisions of RCW 42.17A as alleged in the State's First Amended Complaint and outlined  
10 in the Stipulation, in the amount of \$1,125.00 payable to the State of Washington.

11 3. Defendants JAMES M. COOPER, JR., individually, and FRIENDS OF JIM COOPER, a  
12 political committee, shall pay the State the civil penalty (\$1,125.00) within 90 days from  
13 the date of the entry of the Judgment.

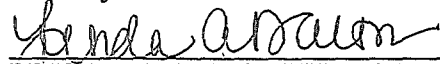
14 DONE IN OPEN COURT this 15 day of June, 2018.

15 **JOHN C. SKINDER**

16 JUDGE JOHN C. SKINDER

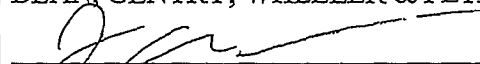
17 PRESENTED BY:

18 ROBERT W. FERGUSON  
19 Attorney General

20   
LINDA A. DALTON, WSBA No. 15467  
21 Senior Assistant Attorney General  
22 Attorneys for Plaintiff State of Washington

23 And:

24 BEAN, GENTRY, WHEELER & PETERNELL, PLLC

25   
JOHN A. KESLER III, WSBA No. 39380  
26 Attorney for Defendants

STIPULATION AND  
AGREED JUDGMENT

3

ATTORNEY GENERAL OF WASHINGTON  
Campaign Finance Unit  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 753-6200

1 ☐ EXPEDITE  
2 ☐ No Hearing Set  
3 ☒ Trial is Set  
4 Date: Monday, July 9, 2018  
5 Time: 8:30 a.m.  
6 Judge Christopher Lanese

**FILED**

JUN 15 2018

Superior Court  
Linda Myhre Ertter  
Thurston County Clerk

7 **STATE OF WASHINGTON**  
8 **THURSTON COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 THURSTON COUNTY  
13 DEMOCRATIC CENTRAL  
COMMITTEE, a Washington nonprofit  
corporation,

14 Defendant.

NO. 17-2-00972-34

STIPULATION AND AGREED  
JUDGMENT

**EX PARTE**

15 **JUDGMENT SUMMARY (RCW 4.64.030)**

- 16 A. JUDGMENT CREDITOR: Plaintiff, STATE OF WASHINGTON
- 17 B. JUDGMENT DEBTOR: THURSTON COUNTY DEMOCRATIC CENTRAL  
18 COMMITTEE, a Washington nonprofit corporation
- 19 C. PRINCIPAL JUDGMENT: \$16,686 with \$8,343 suspended for a period of four years  
20 contingent on no findings of violations of the law  
committed during the period of suspension as described  
in the Stipulation and Judgment below
- 21 D. INTEREST: No prejudgment interest is owed. Principal judgment  
22 amount(s) due and owing shall not bear interest unless  
the principal judgment is unpaid by the due date specified  
23 herein
- 24 E. COSTS AND FEES: \$8,000 as attorneys fees, \$240 as court costs, and \$2,500  
as costs of investigation
- 25 F. ATTORNEYS FOR  
26 JUDGMENT CREDITOR: ROBERT W. FERGUSON  
Attorney General  
LINDA A. DALTON, WSBA No. 15467

STIPULATION AND  
AGREED JUDGMENT

1

ATTORNEY GENERAL OF WASHINGTON  
Campaign Finance Unit  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 753-6200

1 Senior Assistant Attorney General  
2 S. TODD SIPE, WSBA No. 23203  
Assistant Attorney General

3 G. ATTORNEY FOR TAKI FLEVARIS, WSBA No. 42555  
4 JUDGMENT DEBTOR: PACIFICA LAW GROUP LLP

5 **STIPULATION**

6 The parties to this stipulation, Plaintiff, STATE OF WASHINGTON (STATE) and  
7 Defendant, THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
8 Washington nonprofit corporation, desiring to resolve all claims arising out of the State's Third  
9 Amended Complaint and made in citizen action notices received by the Attorney General's  
10 Office since January 3, 2017 to the execution of the Stipulation, hereby enter into the following  
11 stipulation:

- 12 1. Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
13 Washington nonprofit corporation, agrees to pay an assessed civil penalty in the amount of  
14 \$16,686 for the violations of RCW 42.17A outlined in the State's Third Amended  
15 Complaint.
- 16 2. The parties agree that \$8,343 of the assessed civil penalty will be suspended based on the  
17 following terms and conditions:
- 18 a. The suspension will be in effect for four years from the date of execution of the  
19 Judgment. During the period of suspension, Defendant THURSTON COUNTY  
20 DEMOCRATIC CENTRAL COMMITTEE, a Washington nonprofit corporation,  
21 agrees that it will comply with RCW 42.17A.
- 22 b. In the event Defendant THURSTON COUNTY DEMOCRATIC CENTRAL  
23 COMMITTEE, a Washington nonprofit corporation, is found by the Public Disclosure  
24 Commission following an adjudicative proceeding or a court to have committed a  
25 violation of RCW 42.17A during the suspension period, the suspended penalty of  
26

1 \$8,343 will immediately become due and payable within 30 days of such finding  
2 without further intervention of the Court.

3 c. If Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
4 Washington nonprofit corporation, is not found to have committed violations of  
5 RCW 42.17A by the Public Disclosure Commission following an adjudicative  
6 proceeding or a court for conduct during the suspension period, then the suspended  
7 portion of the penalty will be set aside without further intervention of the Court.

8 3. Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
9 Washington nonprofit corporation, agrees to pay the State the total amount of \$10,740 as  
10 reasonable attorneys' fees (\$8,000), court costs (\$240), and costs of investigation (\$2,500)  
11 in this action.


12 4. Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
13 Washington nonprofit corporation, agrees to pay the State the unsuspended portion of the  
14 civil penalty (\$8,343) and fees and costs (\$10,740) as follows: \$5,000 payable by July 15,  
15 and then installments of \$1500 on December 1 and June 1 each year starting on December  
16 1, 2018 until paid in full. In the absence of extenuating circumstances, the failure to timely  
17 make any installment will result in the remainder of the unpaid portion to be due within 30  
18 days of the missed installment.

19 DATED this 14 day of June, 2018.

20 ROBERT W. FERGUSON  
21 Attorney General

PACIFICA LAW GROUP LLP

22 



23 LINDA A. DALTON, WSBA No. 15467  
24 Senior Assistant Attorney General  
25 S. TODD SIPE, WSBA No. 23203  
26 Assistant Attorney General  
Attorneys for Plaintiff

TAKI FLEVARIS, WSBA No. 42555  
Attorneys for Defendants

1 JUDGMENT

2 THIS MATTER came on regularly before the undersigned judge of the above-entitled  
3 Court. Plaintiff, STATE OF WASHINGTON, appearing through its attorneys of record,  
4 ROBERT W. FERGUSON, Attorney General, LINDA A. DALTON, Senior Assistant  
5 Attorney General, and S. TODD SIPE, Assistant Attorney General, and Defendant  
6 THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a Washington nonprofit  
7 corporation, appearing through its attorney, TAKI FLEVARIS of the Pacifica Law Group LLP,  
8 apprised the Court of their agreement to the entry of this judgment for the purpose of settling  
9 and compromising this action brought under RCW 42.17A. The Court, having reviewed the  
10 records and files herein, and having found the settlement to be a just and proper resolution of  
11 this matter, and being otherwise fully advised, hereby ORDERS as follows:

- 12 1. Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
13 Washington nonprofit corporation, is hereby assessed a civil penalty in the amount of  
14 \$16,686 payable to the State of Washington for its violations of the provisions of  
15 RCW 42.17A as outlined in the Stipulation.
- 16 2. The amount of \$8,343 of the assessed penalty is hereby suspended upon Defendant  
17 THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a Washington  
18 nonprofit corporation's compliance with the following court-ordered conditions:
- 19 a. The suspension will be in effect for four years from the date of execution of the  
20 Judgment. During the period of suspension, Defendant THURSTON COUNTY  
21 DEMOCRATIC CENTRAL COMMITTEE, a Washington nonprofit corporation shall  
22 comply with RCW 42.17A.
- 23 b. In the event Defendant THURSTON COUNTY DEMOCRATIC CENTRAL  
24 COMMITTEE, a Washington nonprofit corporation is found by the Public Disclosure  
25 Commission following an adjudicative proceeding or a court to have committed a  
26 violation of RCW 42.17A, the suspended penalty of \$8,343 shall immediately become

1 due and payable within 30 days of such finding without further intervention of the  
2 Court.

3 c. If Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
4 Washington nonprofit corporation is not found to have committed violations of  
5 RCW 42.17A by the Public Disclosure Commission following an adjudicative  
6 proceeding or a court for conduct during the suspension period, then the suspended  
7 portion of the penalty shall be set aside without further intervention of the Court.

8 3. Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
9 Washington nonprofit corporation, shall pay the State the total amount of \$10,740 as  
10 reasonable attorneys' fees (\$8,000), court costs (\$240), and costs of investigation (\$2,500)  
11 in this action.

12 4. Defendant THURSTON COUNTY DEMOCRATIC CENTRAL COMMITTEE, a  
13 Washington nonprofit corporation, shall pay the State the unsuspended portion of the civil  
14 penalty (\$8,343) and fees and costs (\$10,740) as follows: \$5,000 payable by July 15, 2018,  
15 and then installments of \$1,500 on December 1 and June 1 each year starting on December  
16 1, 2018 until paid in full. In the absence of extenuating circumstances, the failure to timely  
17 make any installment shall result in the remainder of the unpaid portion to be due within 30  
18 days of the missed installment.

19 DONE IN OPEN COURT this 15 day of June, 2018.

20 **CHRISTOPHER LANESE**

21 JUDGE CHRISTOPHER LANESE

22 Presented by:

23 ROBERT W. FERGUSON

24 Attorney General

25 Linda A. Dalton  
26 LINDA A. DALTON, WSBA No. 15467

Senior Assistant Attorney General

S. TODD SIPE, WSBA No. 23203

Assistant Attorney General

Attorneys for Plaintiff State of Washington

PACIFICA LAW GROUP LLP

Taki Flevaris

TAKI FLEVARIS, WSBA No. 42555

Attorneys for Defendant

<b>Complaint Description</b>
<p><u>Charles Eakins</u> (Tue, 22 Oct 2019 at 4:22 PM)</p> <p>The city council used tax payer money to send out flyers against I-976 in violation of RCW 42.17A.555.</p>
<b>What impact does the alleged violation(s) have on the public?</b>
The city council used tax payer money to send out flyers against I-976 in violation of RCW 42.17A.555.
<b>List of attached evidence or contact information where evidence may be found.</b>
Photo's of flyers mailed out.
<b>List of potential witnesses with contact information to reach them.</b>
<b>Complaint Certification:</b>
I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.



**City of Olympia**  
PO Box 1967  
Olympia, WA 98507-1967

**Vote NO**  
Initiative 976

---



City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

STANDARD  
US POSTAGE PAID  
TACOMA, WA  
PERMIT #317

**Vote NO**  
Initiative 976



Car tab fees help repair our streets.



Repairing Olympia streets  
with your \$40 car tab fee

**Vote NO**  
Initiative 976

# Vote NO

## Initiative 976

*The Olympia City Council  
urges a "NO" vote on I-976.*

### Why Vote No?

- This measure would result in a major funding loss for City street improvements and repairs.
- Pavement conditions would suffer and planned projects would not be completed.
- The safety and performance of our transportation system would be at risk.

**Loss of funding from car tab fees limits our ability to repair streets like the examples below.**



### Local Funds for Local Streets

The purpose of the \$40 car tab fee is to raise funds at the local level to address our community's specific street repair needs.



### What is Initiative 976?

Initiative 976 concerns motor vehicle taxes and fees. If enacted, it would repeal, reduce or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.

**Street repair is the single largest transportation expense in our City.**

Your \$40 car tab fee makes up nearly half the City's street reconstruction and repair budget, about \$1.5M/year. If the measure passes, that funding would go away.

**Typical Total Street  
Repair Budget:**  
**\$3,750,000/yr**



Every dollar counts. Thank you for doing your part to fix our streets. **Vote NO on Initiative 976.**

# **Exhibit #2: Report of Investigation**

## **Complaints filed against the City of Olympia**

**by John Wissler, Edwin Pole, and Robert Shirley**

**PDC Case 59039**

**Complaint Description**

Jwissler10 (Wed, 23 Oct 2019 at 9:29 AM)

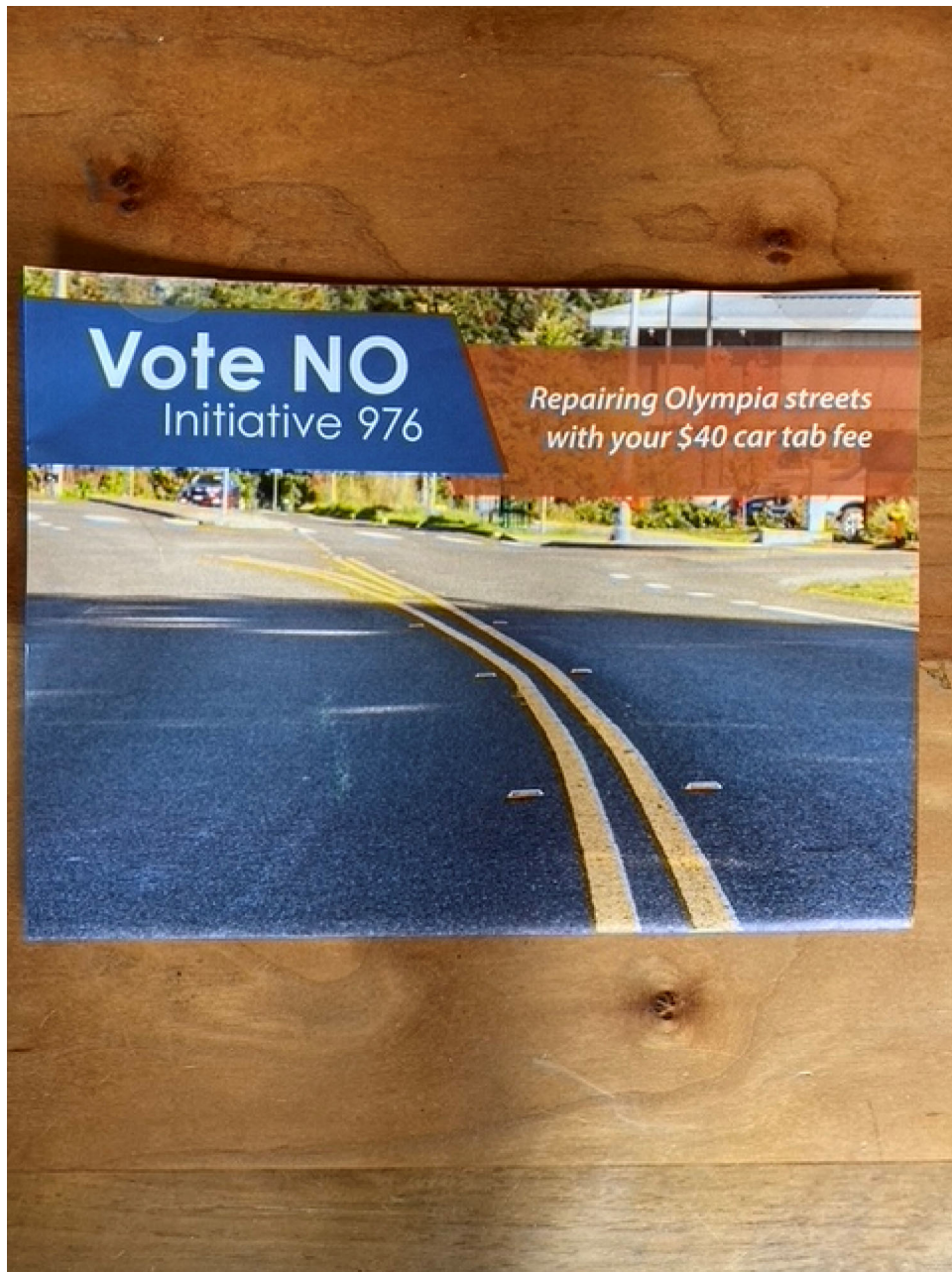
City of Olympia pushing political agenda - publishing a Vote NO on a proposed resolution. This is a clear violation of "Use of public office or agency facilities in campaigns" in that it is a resolution that would reduce funding for the City in proposal and they've sent advertisements stating their opinion out to the public in an attempt to influence votes.

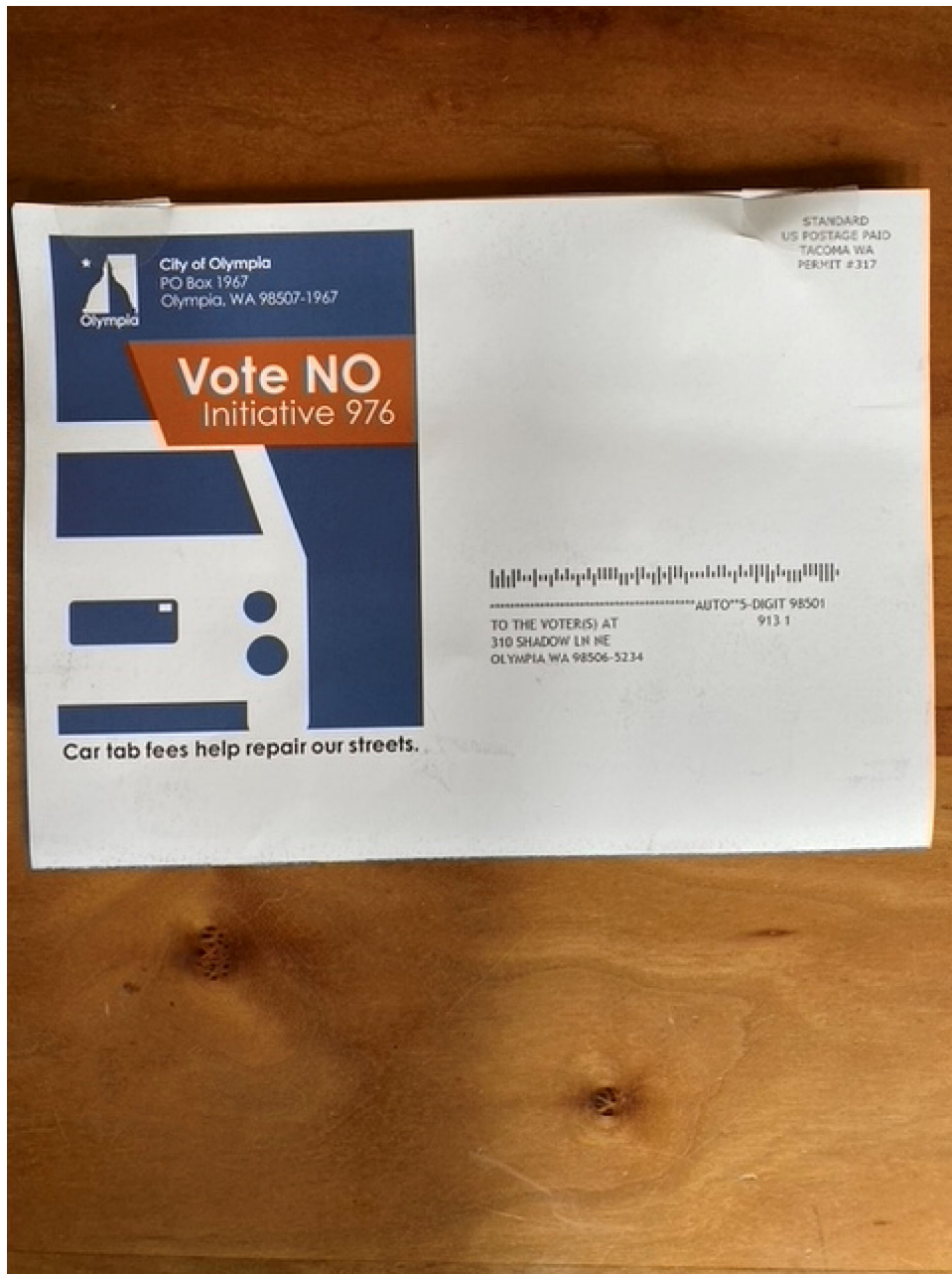
**What impact does the alleged violation(s) have on the public?**

City of Olympia pushing political agenda - publishing a Vote NO on a proposed resolution. This is a clear violation of "Use of public office or agency facilities in campaigns" in that it is a resolution that would reduce funding for the City in proposal and they've sent advertisements stating their opinion out to the public in an attempt to influence votes.

**List of attached evidence or contact information where evidence may be found.****List of potential witnesses with contact information to reach them.****Complaint Certification:**

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.





# Vote NO

## Initiative 976

*The Olympia City Council  
urges a "NO" vote on I-976.*

### Why Vote No?

- This measure would result in a major funding loss for City street improvements and repairs.
- Pavement conditions would suffer and planned projects would not be completed.
- The safety and performance of our transportation system would be at risk.

Loss of funding from car tab fees limits our ability to repair streets like the examples below.



### Local Funds for Local Streets

The purpose of the \$40 car tab fee is to raise funds at the local level to address our community's specific street repair needs.



### What is Initiative 976?

Initiative 976 concerns motor vehicle taxes and fees. If enacted, it would repeal, reduce or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.

**Street repair is the single largest transportation expense in our City.**

Your \$40 car tab fee makes up nearly half the City's street reconstruction and repair budget, about \$1.5M/year. If the measure passes, that funding would go away.

**Typical Total Street  
Repair Budget:**  
\$3,750,000/yr

Gas Tax  
\$275,000  
Grants  
\$875,000  
Real Estate  
Excise Tax  
\$1,500,000



**Car Tab Revenue**  
\$1,500,000/yr

Every dollar counts. Thank you for doing your part to fix our streets. **Vote NO on Initiative 976.**

<b>Respondent Name</b>
City Of Olympia Officials
<b>Complainant Name</b>
Edwin J. Pole II
<b>Complaint Description</b>
<p><u>Ejpoleii</u> reported via the portal Sun, 17 Nov 2019 at 11:51AM</p> <p>This is in reference to:  <b>Case #59039</b>  Respondent name: City of Olympia Officials  Complainant name: Charles Eakins, Glen Morgan, and John Wissler</p> <p>I am prepared to attest that I received a copy of the subject flyer in my mail. I am not a resident of the City of Olympia. I do not have the flyer in my possession as I put it in the trash but I did receive it. I also suspect that many others in my area did as well. This can be proven by looking at the mailing list generated for the flyer which should be available as a public record.</p> <p>While the law MAY allow the City to inform its own residents of the Council position on a referendum, it certainly <b>does not allow it to inform beyond that scope</b>. Personally, I believe that the law allows the City to inform its residents that the Council <b>has taken a position and where to find it</b> in the City records but <b>not</b> to create a flyer advising the recipient on how to vote on the issue.</p> <p>I have submitted and confirmed a request to receive email updates on this case.</p>
<b>What impact does the alleged violation(s) have on the public?</b>
<b>List of attached evidence or contact information where evidence may be found</b>
<b>List of potential witnesses with contact information to reach them</b>
<b>Certification (Complainant)</b>
I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.

## Complaint Description

Robert Shirley (Thu, 21 Nov 2019 at 11:46 AM)

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>[1]</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>[2]</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>[3]</sup>

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>[4]</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

---

[1] See the I-976 flier attached to the Morgan complaint on file with the PDC.

[2] October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

[3] On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

[4] October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

[Robert Shirley](#) (Thu, 21 Nov 2019 at 2:54 PM)

Mx. Blackhorn:

When I followed directions and submitted my complaints on the PDC form I intended to attach a copy of an I-976 flier but failed to do so. I do not know how to add it to the material sent via the PDC portal so I am sending the copy to you and would appreciate it if it can be added to the complaint filing I made this earlier today.

Please let me know if you have any questions.

Thank you.

Robert B. Shirley  
Attorney at Law  
360-556-7205

**What impact does the alleged violation(s) have on the public?**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing. Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.

**List of attached evidence or contact information where evidence may be found.**

The flier urging a "no" vote on Initiative 976 produced and mailed by individuals associated with the City of Olympia.

I will attach a copy of the flier that is poor quality because the image of the flier is cropped and missing one of the statements urging a "no" vote.

The Commission has a better copy of the flier in ODC Docket 59039, Complaints of Morgan et. al.

**List of potential witnesses with contact information to reach them.**

Mark Barber, Unnamed Individual public employees (Jane and John Does), Cheryl Selby, Nathaniel Jones, Jessica Bateman, Jim Cooper, Clark Gilman, Lisa Parshley, Renata Rollins

All can be reached at:  
P.O. Box 1967  
Olympia, WA 98507-1067

**Complaint Certification:**

I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Jessica Bateman  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

---

### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

---

<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Jessica Bateman is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Jessica Bateman violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Jessica Bateman violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

---

<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Jessica Bateman violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

---

<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Mark Barber  
In his Individual Capacity

Complaint for Violation of RCW  
42.17A.255 and RCW 42.17A.550 and  
seeking penalties

---

### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber contends that “**Vote No on Initiative 976**” is a *fact*.

There is no indication a political committee was established to make the \$7,183.00 expenditure necessary to produce and mail the I-976 flier at issue. Expenditures made by other than committees registered with the PDC are an “independent expenditure” and must be reported to the PDC by the person making the independent expenditure. In the absence of a committee through which Attorney Barber was operating, then the value of his legal services was an independent expenditure.

As recently as May 2019 Division Two of the Washington Court of Appeals determined that the value of legal services provided by an attorney for a public agency in support or opposition to a ballot initiative are an expenditure that must be reported to the PDC. Division Two followed Washington Supreme Court precedent established in January 2019.<sup>5</sup>

The election that decided I-976 was held on November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>5</sup> See *State v. Economic Development Board for Tacoma-Pierce County*, 9 Wn. App. 2d 1 (2019) (“Relevant here, our Supreme Court held that the value of legal services in support of a ballot proposition are independent expenditures under RCW 42.17A.255 and that the reporting requirements of RCW 42.17A.255 do not violate the First Amendment. *Evergreen*, 192 Wn.2d at 795-96, 801.”). Note complainant has determined the Evergreen Freedom Foundation filed a petition for Certiorari with the Supreme Court of the United States but complainant was unable to determine the decision on that petition.

production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

### **RCW 42.17A.550**

RCW 42.17A.550 prohibits public employees from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.

Attorney Barber is an employee of a public agency.

In addition to RCW 42.17A.550 with which Attorney Barber would have been aware at the time the flier was produced and mailed, as recently as October 18, 2019 Attorney Barber was copied on a letter that reiterated the essential prohibition in RCW 42.17A.550. See PDC Case 55901, Letter of October 18, 2019 from PDC to James Lazar and copied to City Attorney Mark Barber that stated on page 2: “However, the PDC staff is reminding the City of Olympia about the prohibitions of using city employees and facilities to support or oppose any candidate or ballot proposition...”

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to

RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief complainant alleges Attorney Barber violated RCW 42.17A.255 when he chose to provide legal services related to efforts that resulted in a mailer sent to about 15,000 households at a cost of \$7,183.00 urging Olympia voters to vote “No” on I-976 and failed to report the value of his legal service to the Public Disclosure Commission within five days after the independent expenditure.

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief complainant alleges Attorney Barber violated RCW 42.17A.255 when he sent, prior to election day November 5, 2019, a letter to the PDC that was in furtherance of an effort to influence voters to vote “no” on I-976 and failed to report the value of his legal services used between the date the flier was mailed and October 29, 2019 (see footnote 1).

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief complainant alleges Attorney Barber violated RCW 42.17A.550 when he used public facilities (his salary) by giving legal services related to producing and mailing the I-976 flier.

### **FOURTH ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief complainant alleges Attorney Barber violated RCW

42.17A.550 when he used public facilities (his salary) by giving legal services related to preparing his October 29, 2019 to the PDC with the purpose of furthering the effort, begun with the mid-October flier, to encourage voters to vote ‘no’ on I-976.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing. Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>6</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Jim Cooper  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Jim Cooper is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Jim Cooper violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Jim Cooper violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

### **THIRD ALLEGATION**

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Jim Cooper violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley Against Jane Does and John Does, employees of the City of Olympia Each in their Individual Capacity	Complaint for Violation of RCW 42.17A.320(2)(a) and RCW42.17A.555, and seeking penalties against unnamed individuals
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### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber contends that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

Complainant does not know the names of City of Olympia employees that participated in producing and mailing the I-976 flier.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits **elective officials** from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

The Jane Does and the John Does are employed by a public agency.

### **PDC MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and alleges each individual Doe violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and alleges each individual Doe violated RCW 42.17A.550 by sending about 15,000

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and alleges that each individual Doe has violated RCW 42.17A.255 because no Doe reported an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media rather than the firm.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Clark Gilman  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

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### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Clark Gilman is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Clark Gilman violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Clark Gilman violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Clark Gilman violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

# Vote NO

## Initiative 976

*The Olympia City Council urges a "NO" vote on I-976.*

### Why Vote No?

- This measure would result in a major funding loss for City street improvements and repairs.
- Pavement conditions would suffer and planned projects would not be completed.
- The safety and performance of our transportation system would be at risk.

**Loss of funding from car tab fees limits our ability to repair streets like the examples below.**



### Local Funds for Local Streets

The purpose of the \$40 car tab fee is to raise funds at the local level to address our community's specific street repair needs.

### What is Initiative 976?

Initiative 976 concerns motor vehicle taxes and fees. If enacted, it would repeal, reduce or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.



**Street repair is the single largest transportation expense in our City.**

Your \$40 car tab fee makes up nearly half the City's street reconstruction and repair budget, about \$1.5M/year. If the measure passes, that funding would go away.

**Typical Total Street Repair Budget:**  
**\$3,750,000/yr**





City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

**Vote NO**  
Initiative 976

Car tab fees help repair our streets.



## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Nathaniel Jones  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

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### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Nathaniel Jones is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Nathaniel Jones violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Nathaniel Jones violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Nathaniel Jones violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Lisa Parshley  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Nathaniel Jones is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Lisa Parshley violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Lisa Parshley violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Lisa Parshley violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Renata Rollins  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Renata Rollins is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Renata Rollins violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Renata Rollins violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Renata Rollins violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

## BEFORE THE WASHINGTON PUBLIC DISCLOSURE COMMISSION

Complaint of Robert B. Shirley  
Against  
Cheryl Selby  
In her Individual Capacity

Complaint for Violation of RCW  
42.17A.255, RCW 42.17A.320(2)(a),  
and RCW42.17A.555, and seeking  
penalties

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### PURPOSE OF COMPLAINT

It is the purpose of this complaint to have the Public Disclosure Commission (PDC) penalize elective officials and public employees for campaign advertising, public expenditure, and expense reporting infractions rather than have the PDC levy fines against an institution, the City of Olympia, because the city would pay fines with taxpayer dollars.

### INTRODUCTION

In mid to late October 2019 voters in Olympia Washington received a flier in their mail that urged them to “**Vote No on Initiative 976**” (bold in original).<sup>1</sup> Olympia City Attorney Mark Barber stated to the PDC on October 29, 2019 that the flier urging “**Vote No on Initiative 976**” was sent to approximately 15,000 households.<sup>2</sup> The cost identified by Attorney Barber is \$7,183.00.<sup>3</sup>

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<sup>1</sup> See the I-976 flier attached to the Morgan complaint on file with the PDC.

<sup>2</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

<sup>3</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the value of employee time to produce the mailer, including the value of legal services, and also does not include an estimated amount for the value of employee time spent, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The position expressed by Attorney Barber is that the flier is a “fair presentation of the *facts*”<sup>4</sup> (italics added) about I-976; that is, Attorney Barber has taken the position that “**Vote No on Initiative 976**” is a *fact*.

The election that decided I-976 was November 5, 2019.

#### **RCW 42.17A.255**

RCW 42.17A.255 requires that independent expenditures on campaigns be reported to the PDC. Money expended for production and mailing a flier urging a “yes” or “no” vote on a ballot proposition is an independent expenditure. No one has filed the required forms with the PDC to report the expenditures for the production and mailing of the I-976 flier or any as yet unidentified expenditures including the value of public employee time used to produce and mail the flier or to report the value of public employee time required, for e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

The expenditures must be reported within five days after the independent expenditure.

#### **RCW 42.17A.320(2)(a)**

RCW 42.17A.320(2)(a) requires that a flier like the one received by Olympia voters include “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’” The I-976 flier did not contain that statement.

#### **RCW 42.17A.550**

RCW 42.17A.550 prohibits elective officials from taking certain actions:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of

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<sup>4</sup> October 29, 2019 letter from Olympia City Attorney Mark Barber to the Public Disclosure Commission, page 1.

stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.<sup>5</sup>

Cheryl Selby is an elective official.

### **COMMISSION MAY LEVY FINES**

The PDC has authority to levy fines for violations of RCW 42.17A.

Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

WAC 390-37-182(5).

A reasonable suggestion for determining an appropriate level of total fines would be that the minimum total should at least equal the actual dollar expenditure of \$7,183.00. Circumstances suggest much more is warranted.

### **FIRST ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Cheryl Selby violated RCW 42.17A.550 by sending about 15,000 Olympia households a flier concerning I-976 that included the statement “**Vote No on Initiative 976**” (bold in original).

### **SECOND ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Cheryl Selby violated RCW 42.17A.320(2)(a) by failing to include on the I-976 mailer the required statement “The statement: ‘No candidate authorized this ad. It is paid for by (name, address, city, state).’”

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<sup>5</sup> On information and belief, complainant asserts the \$7,183.00 cost identified by the City Attorney does not include the cost of employee time to produce the mailer and also does not include an estimated amount for the cost of employee time spent cleaning up the mess made by the mailer, e.g., responding to PDC complaints, responding to public records requests, responding to media inquiries.

### **THIRD ALLEGATION**

Complainant incorporates in this allegation the statements made above and on information and belief alleges that Cheryl Selby violated RCW 42.17A.255 because she did not report an independent expenditure to the PDC.

### **DAMAGE TO THE PUBLIC**

The public is damaged when taxpayer funds are used to direct voters to vote for or against a ballot proposition and the expenditure of taxpayer funds used in that effort is not reported to the PDC. People, not cities, design fliers and authorize payment for printing and mailing.<sup>6</sup> Taxpayers are harmed if PDC fines are paid with taxpayer funds rather than funds from those responsible for the illegal activity.<sup>7</sup>

I certify under penalty of perjury under the laws of the State of Washington that information provided in this complaint is true and correct to the best of my knowledge and belief.

Robert B. Shirley: \_\_\_\_\_ November 21, 2019.

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<sup>6</sup> An example of fining individuals rather than, or in addition to, an entity is the Moxie Media case in which the PDC fined the principals of Moxie Media.

<sup>7</sup> In a separate, contemporaneous complaint, complainant alleges that Olympia city Attorney Mark Barber provided legal services to those individuals responsible for producing and mailing the I-976 flier. If Attorney Barber did not provide legal services to those involved in producing and mailing the I-976 flier prior to the time it was mailed, then those persons who were involved in the production and mailing of the I-976 flier cannot plead that they took actions in this matter up to the time the flier was mailed based on the advice of counsel.

# **Exhibit #3: Report of Investigation**

**City of Olympia invoices for the I-976 mailer**

**PDC Case 59039**



109 Columbia St NW  
Olympia, WA 98501  
gc@gcprint.com

# Invoice

No: **46124**

Date: 10/30/19

Customer PO:

Customer No: 68

## Ship To:

Jessi  
City of Olympia  
P.O. Box 1967  
Olympia WA 98507-1967  
Phone: 753-8498  
Fax: 709-2797

Quantity	Description	Amount
15,000	<p>Car Tab Mailer , 8 x 11.75 WHITE 100# TITAN DULL TEXT-SKIDS Sub 100 Dull, printed, 4 colors front 4 colors back</p> <p>CERTIFICATION the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Olympia, and that I am authorized to authenticate and certify said claim.</p> <p><i>[Signature]</i> Department Authorization <u>001.9501.605.49-09</u> BARS Number Commodity Sub-Commodity/Project 7</p>	\$ 1,942.54
<p>The estimate are quoted on the information given to us Digital files must run as provided. Changes or problem files may result in additional charges.</p> <p>Ship Via: Del Oly</p> <p>Wanted: Mon 11/4/19</p> <p>Car Tab Mailer</p>		<p>SUBTOTAL \$ 1,942.54</p> <p>TAX \$ 180.66</p> <p>SHIPPING \$ 0.00</p> <p>TOTAL \$ 2,123.20</p> <p>AMOUNT DUE \$ 2,123.20</p>



Mailing Services, Inc.  
PO Box 7034  
Olympia WA 98507

# Invoice

Date	Invoice #
10/15/2019	42136 rev

CITY OF OLYMPIA  
PO BOX 1967  
OLYMPIA WA 98507

**POSTING**  
(non-posting)

Project		Terms	P O Number	Contact
PUBLIC MEASURE BROCHURE		UPON RECEIPT		KRISTIN
Quantity	Description	Rate	Amount	
1	File From Email	20.00	20.00T	
1	Ace Setup	15.00	15.00T	
35,589	Ace List	0.0075	266.92T	
1	Duplicate Detection Setup	40.00	40.00T	
35,589	Run Duplicate Detection	0.005	177.95T	
1	Presort Setup	15.00	15.00T	
14,876	Presort Standard A	0.0055	81.82T	
14,876	Ink Jet Addresses Created (Machinable File)	0.006	89.26T	
14,876	Barcode Added to Address Block	0.003	44.63T	
	Line Item Subtotals		750.58	
1	Setup Ink Jet	65.00	65.00T	
14,876	Apply Ink Jet to Letter Size Political	0.026	386.78T	
1	Setup Tabbing	50.00	50.00T	
14,876	Tab Online	0.0175	260.33T	
	Line Item Subtotals		762.11	
1	Delivery TO TACOMA	25.00	25.00T	
14,876	Postage ESTIMATED	0.22736	3,382.21	
<p><b>CERTIFICATION</b> I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Olympia, and that I am authorized to authenticate and certify said claim.</p> <p><i>Mark E. Reed</i> Department Authorization 001.8501.1205.42.00 BARS Number Commodity Sub Commodity Project #</p>		<b>Sales Tax (9.3%)</b>		\$143.01
		<b>Total</b>		\$5,062.91
		<b>Credits O/A</b>		\$0.00
		<b>Balance Due</b>		\$5,062.91
<p><b>Thank you for your business.</b></p> <p>Balance due IN OUR OFFICE 15 DAYS from date on Invoice. 1 1/2% per month or \$5.00, whichever is greater, late charge on past due accounts.</p> <p>Customer agrees to pay all attorney's fees and cost of collection.</p>				

Thank you for your business PLEASE PAY FROM THIS INVOICE  
Phone: 360-352-0309 apex1@apexmailing.net Fax: 360 754-2848

# **Exhibit #4: Report of Investigation**

**City of Olympia initial response to the complaints**

**PDC Case 59039**



October 29, 2019

**SENT VIA EMAIL**

Fox Blackhorn  
[cdc@cdc.wa.gov](mailto:cdc@cdc.wa.gov)  
Compliance Coordinator 2  
State of Washington  
Public Disclosure Commission  
P.O. Box 40908  
Olympia, WA 98504-0908

**Subject: PDC Case No. 59039 – City of Olympia Response to consolidated complaints**

Dear Mx. Blackhorn:

The information and exhibits submitted with this letter are in response to PDC consolidated complaints ("Complaints") by Charles Eakins, Glen Morgan, and John Wissler submitted on October 23, 2019. The three consolidated complaints allege violations of either RCW 42.17A.555 and/or RCW 42.17A.320 by the City of Olympia. The City of Olympia appreciates this opportunity to respond to the allegations.

The complaints relate to the City of Olympia's single, one-time jurisdiction-wide mailer of objective and fair presentation of facts relating to I-976. (See, Exhibit A.) The City's mailer was sent to about 15,000 households within Olympia at a cost of \$7,183.

By way of background, the City of Olympia created a transportation benefit district in accord with state law as provided in RCW Chapter 36.73. An annual \$40 car tab fee is collected for the purpose of raising funds to repair and maintain Olympia's street system. This \$40 car tab fee makes up nearly half of the City of Olympia's street reconstruction and repair budget, about \$1.5 million per year. Since I-976 would eliminate, among other things, the City's ability to impose the \$40 car tab fee for street repair and maintenance, loss of this funding is detrimental to the City's efforts to maintain its streets in a reasonably safe condition for the travelling public.

On October 8, 2019, the Olympia City Council had upon its business meeting agenda a special public hearing on a resolution expressing City Council opposition to I-976. (See, Exhibit B.) This hearing was offered to permit the public an opportunity to speak for or against the proposed Council resolution. Meeting Minutes of the Council indicate that Mayor Selby opened the public hearing at 7:10 p.m. (See, Exhibit C.) One person spoke on I-976. Mayor Selby closed the public hearing at 7:12 p.m. Councilmember Parshley moved to adopt the resolution expressing opposition of the Olympia City Council to I-976, which was seconded by Councilmember Cooper. The vote to adopt the resolution was unanimous. (See, Exhibit C.)

Resolution No. M-2055 of the Olympia City Council contained the language of I-976 and its official ballot title. The resolution acknowledged that if passed by voters, I-976 would repeal and eliminate the authority for city transportation benefit districts to impose a car tab fee for the purposes of acquiring, constructing, providing, and

funding transportation improvement and repairs. The resolution further found that I-976, if passed by voters, would eliminate Olympia's authority under its transportation benefit district to impose its annual car tab fee of \$40, resulting in a funding loss of at least \$1.5 million annually. The Olympia City Council resolved that it opposed I-976 and the resolution became effective immediately. (See, Exhibit D.)

Following this action by the Olympia City Council, staff prepared one jurisdiction-wide objective and fair presentation of the facts relating to the impact of I-976 if approved by voters, and informing Olympia voters that the Olympia City Council urged a "no" vote on I-976. (See, Exhibit A.)

Olympia's position is that its I-976 mailer is appropriate and in keeping with PDC Interpretation No. 04-02. "Historically, the PDC has routinely advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate." (See, PDC Interpretation No. 04-02, ¶ 7.a.) In fact, "[t]he PDC will presume that every agency may distribute throughout its jurisdiction an objective and fair presentation of the facts for each ballot measure." (See, Id., ¶ 7.b.) The facts stated in Olympia's I-976 mailer are true, including informing voters that the Olympia City Council urged a "no" vote on I-976.

PDC Interpretation No. 04-02 specifically states that "[p]roviding an objective and fair presentation of facts to the public of ballot measures that directly impact a jurisdiction's maintenance and operation, even though the measure is not offered by the jurisdiction, may be considered part of the normal and regular conduct of the local agency." (See, Id., ¶ 9.) It is Olympia's position that its one jurisdiction-wide mailer was part of its normal and regular conduct to inform City voters of the implications posed by passage of I-976 and that measure's impact on funding for street repair and maintenance.

As a city organized under Washington's Optional Municipal Code (RCW Title 35A), the City of Olympia possesses all the powers possible for cities and towns under the Washington Constitution, unless expressly denied by law. (See, RCW Chapter 35A.11.) RCW 35A.11.020 states in relevant part: "The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition . . . improvement, maintenance, protection, restoration of public ways . . . Those powers include the authority to operate and maintain a street system for the public in reasonably safe condition for the travelling public."

The PDC has expressly recognized that "it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies." (See, PDC Interpretation No. 04-02, ¶ 2.) Olympia submits that this responsibility includes informing voters of the position of their elected legislative body when a ballot measure threatens funding necessary to safely maintain its street system in a reasonably safe condition.

Fox Blackhorn  
Compliance Coordinator 2  
Public Disclosure Commission  
PDC Case No. 59039  
October 29, 2019  
Page 3

Although minds may differ, the City of Olympia believes that its mailer's statement to "Vote No on I-976" is a fair conclusion based on objective facts, keeping with the Olympia City Council's resolution following a properly noticed public hearing.

Thank you for the opportunity to respond to the allegations in the consolidated complaints. The City of Olympia will assist the PDC in its investigation in any possible manner. If you have questions, please contact me at (360) 753-8223 or [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us). I will be out of my office after Monday, November 4, and I will return on Monday, November 18.

Very truly yours,



Mark Barber  
City Attorney

Enclosures: Exhibits A through D  
cc: Olympia City Council  
Steven R. Hall, City Manager  
Jay Burney, Assistant City Manager  
Kellie Purce Braseth, Strategic Communications Director

# Vote NO

## Initiative 976

*The Olympia City Council urges a "NO" vote on I-976.*

### Why Vote No?

- This measure would result in a major funding loss for City street improvements and repairs.
- Pavement conditions would suffer and planned projects would not be completed.
- The safety and performance of our transportation system would be at risk.

**Loss of funding from car tab fees limits our ability to repair streets like the examples below.**



### Local Funds for Local Streets

The purpose of the \$40 car tab fee is to raise funds at the local level to address our community's specific street repair needs.

### What is Initiative 976?

Initiative 976 concerns motor vehicle taxes and fees. If enacted, it would repeal, reduce or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.



**Street repair is the single largest transportation expense in our City.**

Your \$40 car tab fee makes up nearly half the City's street reconstruction and repair budget, about \$1.5M/year. If the measure passes, that funding would go away.

**Typical Total Street Repair Budget:**  
**\$3,750,000/yr**





City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967

**Vote NO**  
Initiative 976

Car tab fees help repair our streets.





## Meeting Agenda

### City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8244

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**Tuesday, October 8, 2019**

**7:00 PM**

**Council Chambers**

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**1. ROLL CALL**

**1.A ANNOUNCEMENTS**

**1.B APPROVAL OF AGENDA**

**2. SPECIAL PUBLIC HEARINGS**

- 2.A**     [19-0899](#)     Public Hearing on a Resolution Expressing City Council Opposition to Initiative Measure No. 976 (I-976) Related to Motor Vehicle Taxes and Fees

Attachments:     [Resolution](#)

*\*\*The public will be given an opportunity to speak for or against this resolution.\*\**

- 2.B**     [19-0902](#)     Public Hearing on a Resolution Expressing City Council Support for the Thurston County 911 Emergency Communications Systems and Facilities Levy

Attachments:     [Resolution](#)

*\*\*The public will be given an opportunity to speak for or against this resolution.\*\**

- 2.C**     [19-0908](#)     Public Hearing on a Resolution Expressing City Council Approval of Referendum No. 88 Concerning Affirmative Action

Attachments:     [Resolution](#)

*\*\*The public will be given an opportunity to speak for or against this resolution.\*\**

**3. SPECIAL RECOGNITION**

- 3.A**     [19-0910](#)     Special Recognition - The Bridge Music Project Partnership

- 3.B**     [19-0913](#)     Special Recognition - Olympia Dragon Mural

- 3.C**     [19-0912](#)     Special Recognition - Proclamation Declaring Support for the Land and Water Conservation Fund

Attachments:     [Proclamation](#)

**4. PUBLIC COMMENT**

*(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)*

## EXHIBIT B

*During this portion of the meeting, citizens may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.*

*Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.*

### COUNCIL RESPONSE TO PUBLIC COMMENT (Optional)

#### 5. CONSENT CALENDAR

*(Items of a Routine Nature)*

- 5.A [19-0916](#) Approval of September 24, 2019 City Council Meeting Minutes  
**Attachments:** [Minutes](#)
- 5.B [19-0816](#) Approval of Annual Comprehensive Plan Amendment Schedule for 2020
- 5.C [19-0757](#) Approval of Bid Award for the 26th Avenue Shared Use Pathway and Water Main Replacement Project  
**Attachments:** [Summary of Bids](#)  
[Vicinity Map](#)
- 5.D [19-0905](#) Approval of Bid Award for LBA Park Field #3 Americans with Disabilities Act Access Project  
**Attachments:** [Summary of Bids](#)

#### 5. SECOND READINGS (Ordinances)

- 5.E [19-0860](#) Approval of an Ordinance Amending Ordinance 7197 (Special Funds)  
**Attachments:** [Ordinance](#)
- 5.F [19-0869](#) Approval of an Ordinance Amending Ordinance 7196 (Capital Budget)  
**Attachments:** [Ordinance](#)
- 5.G [19-0870](#) Approval of an Ordinance Amending Ordinance 7195 (Operating Budget)  
**Attachments:** [Ordinance](#)
- 5.H [19-0871](#) Approval of an Ordinance to Repeal Ordinance 7200 that Imposed the Maximum Sales and Use Tax for Affordable Housing Permitted by SHB

# EXHIBIT B

1406

Attachments: [Ordinance](#)  
[Ordinance 7200](#)

## 5. FIRST READINGS (Ordinances)

- 5.I [19-0818](#) Approval of an Ordinance Amending Multiple Chapters of the Unified Development Code

Attachments: [Ordinance](#)

- 5.J [19-0884](#) Approval of an Ordinance Amending Final Plat Approval Process (per RCW 58.17.100)

Attachments: [Ordinance](#)

## 6. PUBLIC HEARING - None

## 7. OTHER BUSINESS - None

## 8. CONTINUED PUBLIC COMMENT

*(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)*

## 9. REPORTS AND REFERRALS

### 9.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

### 9.B CITY MANAGER'S REPORT AND REFERRALS

## 10. EXECUTIVE SESSION

- 10.A [19-0914](#) Executive Session Pursuant to RCW 42.30.110(1)(b); RCW 42.30.110 (1)(c) - Real Estate Matter

## 10. CLOSED SESSION

- 10.B [19-0915](#) Closed Session Pursuant to RCW 42.30.140 (4)(b) - Labor Negotiations

## 10. ADJOURNMENT

*The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.*



**Meeting Minutes**  
**City Council**

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8244

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**Tuesday, October 8, 2019**

**7:00 PM**

**Council Chambers**

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**1. ROLL CALL**

**Present:** 7 - Mayor Cheryl Selby, Mayor Pro Tem Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Nathaniel Jones, Councilmember Lisa Parshley and Councilmember Renata Rollins

**1.A ANNOUNCEMENTS**

Home Fund Manager Cary Retlin gave an update on City Council efforts to address affordable housing issues.

**1.B APPROVAL OF AGENDA**

**The agenda was approved.**

**2. SPECIAL PUBLIC HEARINGS**

- 2.A**     [19-0899](#)     Public Hearing on a Resolution Expressing City Council Opposition to Initiative Measure No. 976 (I-976) Related to Motor Vehicle Taxes and Fees

Mayor Selby opened the public hearing at 7:10 p.m. Puget Sound Energy representative Kelsey Hulse spoke. Mayor Selby closed the public hearing at 7:12 p.m.

**Councilmember Parshley moved, seconded by Councilmember Cooper, to adopt the resolution expressing City Council opposition to Initiative Measure No. 976 related to motor vehicle taxes and fees. The motion carried by the following vote:**

**Aye:**         7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

- 2.B**     [19-0902](#)     Public Hearing on a Resolution Expressing City Council Support for the Thurston County 911 Emergency Communications Systems and Facilities Levy

Mayor Selby opened the public hearing at 7:13 p.m. Puget Sound Energy representative Kelsey Hulse and Doug Mah spoke. Mayor Selby closed the public hearing at 7:15 p.m.

**Councilmember Gilman moved, seconded by Mayor Pro Tem Bateman, to**

## EXHIBIT C

**adopt the resolution expressing City Council support for Thurston County emergency communications systems and facilities Proposition No. 1 levy.**

**The motion carried by the following vote:**

**Aye:** 7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

- 2.C**     [19-0908](#)     Public Hearing on a Resolution Expressing City Council Approval of Referendum No. 88 Concerning Affirmative Action

Mayor Selby opened the public hearing at 7:16 p.m. The following people spoke: Puget Sound Energy representative Kelsey Hulse, C. Davis, Larry Watkinson, Allison Spector, Tim Eyman, and Emanuel Flores. Mayor Selby closed the public hearing at 7:26 p.m.

**Mayor Pro Tem Bateman moved, seconded by Councilmember Jones, to adopt the resolution expressing City Council approval of Referendum No. 88 concerning Affirmative Action. The motion carried by the following vote:**

**Aye:** 7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

### **3. SPECIAL RECOGNITION**

- 3.A**     [19-0910](#)     Special Recognition - The Bridge Music Project Partnership

Parks Recreation Program Specialist Luke Burns and The Bridge Music Project Executive Director Bobby Williams gave a presentation on The Bridge Music Project.

**The recognition was received.**

- 3.B**     [19-0913](#)     Special Recognition - Olympia Dragon Mural

Former Mayor Doug Mah spoke about the Dragon Mural project and presented the City Council with a limited edition print of the mural as thanks for appreciating Olympia arts and culture.

**The recognition was received.**

- 3.C**     [19-0912](#)     Special Recognition - Proclamation Declaring Support for the Land and Water Conservation Fund

Mayor Selby invited Environment America Representative Joshua Chaney to discuss the Land and Water Conservation Fund. Councilmembers read a proclamation to support the Land and Water Conservation Fund. Mr. Chaney accepted the proclamation.

**The recognition was received.**

### **4. PUBLIC COMMENT**

The following people spoke: Larry Watkinson, Mary Watt, Allison Spector, Callie Owens, Esther Sievert, Becky Hays, Emily Evans, Jennifer Wulf, Danae Rosen, Linda Ann Moniz, Sarah Stockholm, and Jubert Berrios.

**COUNCIL RESPONSE TO PUBLIC COMMENT (Optional)**

Councilmembers thanked people who spoke and discussed the housing crisis. The Land Use and Environment Committee agreed to forward certain rental protections to the full City Council for consideration. Councilmember Jones noted he will bring a referral forward next week for the General Government Committee.

**5. CONSENT CALENDAR**

Mayor Selby noted Item 5J is pulled from this evening's agenda.

- 5.A**     [19-0916](#)            Approval of September 24, 2019 City Council Meeting Minutes

**The minutes were adopted.**

- 5.B**     [19-0816](#)            Approval of Annual Comprehensive Plan Amendment Schedule for 2020

**The decision was adopted.**

- 5.C**     [19-0757](#)            Approval of Bid Award for the 26th Avenue Shared Use Pathway and Water Main Replacement Project

**The contract was adopted.**

- 5.D**     [19-0905](#)            Approval of Bid Award for LBA Park Field #3 Americans with Disabilities Act Access Project

**The contract was adopted.**

**5. SECOND READINGS (Ordinances)**

- 5.E**     [19-0860](#)            Approval of an Ordinance Amending Ordinance 7197 (Special Funds)

**The ordinance was adopted on second reading.**

- 5.F**     [19-0869](#)            Approval of an Ordinance Amending Ordinance 7196 (Capital Budget)

**The ordinance was adopted on second reading.**

- 5.G**     [19-0870](#)            Approval of an Ordinance Amending Ordinance 7195 (Operating Budget)

**The ordinance was adopted on second reading.**

- 5.H**     [19-0871](#)            Approval of an Ordinance to Repeal Ordinance 7200 that Imposed the Maximum Sales and Use Tax for Affordable Housing Permitted by SHB

1406

**The ordinance was adopted on second reading.**

**5. FIRST READINGS (Ordinances)**

- 5.I**     19-0818     Approval of an Ordinance Amending Multiple Chapters of the Unified Development Code

**The ordinance was approved on first reading and moved to second reading.**

**Approval of the Consent Agenda**

**Mayor Pro Tem Bateman moved, seconded by Councilmember Parshley, to adopt the Consent Calendar. The motion carried by the following vote:**

**Aye:**         7 - Mayor Selby, Mayor Pro Tem Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Jones, Councilmember Parshley and Councilmember Rollins

**PULLED FROM CONSENT CALENDAR**

- 5.J**     19-0884     Approval of an Ordinance Amending Final Plat Approval Process

**Item 5J was pulled and will come back for consideration at a future meeting.**

- 6. PUBLIC HEARING - None**

- 7. OTHER BUSINESS - None**

- 8. CONTINUED PUBLIC COMMENT - None**

- 9. REPORTS AND REFERRALS**

- 9.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS**

Councilmembers reported on meetings and events attended.

Councilmember Gilman reported Intercity Transit will be coming to neighboring jurisdictions soon for financial assistance to support the Amtrak Centennial Station.

Councilmember Cooper requested Council consensus for \$25,000 from Council goal money to enter into a contract for a survey to validate Engage Olympia participation. Councilmembers discussed the need for measurable representation from renters from the survey firm. The Council agreed to the expenditure.

**9.B CITY MANAGER'S REPORT AND REFERRALS**

City Manager Steve Hall reported Keylee Marineau will speak to City Council next week about Thurston County's 5-year plan to address homelessness, as well as an update about the Hazardous Weather Task Force.

**10. EXECUTIVE SESSION**

- 10.A**     [19-0914](#)             Executive Session Pursuant to RCW 42.30.110(1)(b); RCW 42.30.110(1)(c) - Real Estate Matter

Following the Closed Session, Mayor Selby recessed the meeting to Executive Session at 9:29 p.m. pursuant to RCW 42.30.110(1)(b) and RCW 42.30.110(1)(c) to discuss a real estate matter, litigation, and potential litigation. She announced no decisions would be made, the meeting was expected to last no longer than 45 minutes, and the Council would adjourn immediately following the Executive Session. The City Attorney was present at the Executive Session.

**The executive session was held and no decisions were made.**

**10. CLOSED SESSION**

- 10.B**     [19-0915](#)             Closed Session Pursuant to RCW 42.30.140 (4)(b) - Labor Negotiations

Mayor Selby recessed the business meeting at 9:14 p.m. pursuant to RCW 42.30.140(4)(b) to discuss labor negotiations. She announced the Council would meet no more than 15 minutes and no decisions would be made. Following the Closed Session the City Council will recess to Executive Session. The City Attorney was present at the Closed Session.

**The Closed Session was held and no decisions were made.**

**10. ADJOURNMENT**

The meeting was adjourned at 10:00 p.m.

## EXHIBIT D

### RESOLUTION NO. M-2055

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, EXPRESSING OPPOSITION TO INITIATIVE MEASURE NO. 976 (I-976) WHICH SEEKS TO REPEAL AUTHORITY TO IMPOSE CERTAIN MOTOR VEHICLE TAXES AND FEES, CHANGE VEHICLE VALUATION LAWS, AND TO LIMIT MOTOR VEHICLE LICENSE FEES TO \$30.00.**

**WHEREAS**, Washington Initiative Measure No. 976 (I-976) will be presented to the voters at the General Election on November 5, 2019, with the following official Ballot title:

Initiative Measure No. 976 concerns motor vehicle taxes and fees.

This measure would repeal, reduce, or remove authority to impose certain vehicle taxes and fees; limit annual motor-vehicle-license fees to \$30, except voter-approved charges; and base vehicle taxes on Kelley Blue Book value.

Should this measure be enacted into law?

- ☐ Yes
- ☐ No

and

**WHEREAS**, I-976 would reduce funding for state and local transportation projects by repealing, reducing, or removing state and local authority to impose certain vehicle taxes and fees; and

**WHEREAS**, the fiscal impact statement for I-976, prepared by the Washington Office of Financial Management, estimates that the initiative would result in a revenue loss to the state of \$1.9 billion and a loss to local governments of \$2.3 billion over the next six years following implementation; and

**WHEREAS**, as provided in Chapter 36.73 RCW, the City of Olympia formed a city-wide transportation benefit district (TBD) in 2009 to protect the City's long-term investments in its street infrastructure, reduce the risk of transportation facility failures and improve safety, continue optimal performance of the street infrastructure over time, and to avoid more expensive street infrastructure replacements or repairs in the future; and

**WHEREAS**, I-976 if passed by the voters at the November 2019 General Election would repeal and eliminate the authority for city transportation benefit districts to impose a car tab fee for the purposes of acquiring, constructing, providing, and funding transportation improvements and repairs; and

EXHIBIT D

**WHEREAS**, if passed by the voters in the November 2019 General Election, I-976 would eliminate the Olympia TBD's authority to impose vehicle license fees and repeal the vehicle license fees already imposed by the Olympia TBD of \$40.00 per year, resulting in a funding loss of at least \$1.5 million annually; and

**WHEREAS**, in addition to the adverse financial impact to the City, I-976 would reduce state transportation funding along with voter-approved funding for Sound Transit; and

**WHEREAS**, RCW 42.17A.555 permits the City Council to take a position on a ballot measure at an open public meeting so long as notice of the meeting includes the ballot title and number of the ballot measure, and that those expressing an opposing view are afforded an approximately equal opportunity to express an opinion at a public hearing prior to action by the City Council;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OLYMPIA, WASHINGTON DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** The Olympia City Council hereby expresses its opposition to Initiative No. 976, concerning the repeal of certain motor vehicle taxes and fees, to be presented to the electorate at the General Election on November 5, 2019.

**Section 2.** This Resolution shall take effect and be in full force immediately upon passage by the City Council.

**PASSED BY THE OLYMPIA CITY COUNCIL** this 8<sup>th</sup> day of October 2019.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

# **Exhibit #5: Report of Investigation**

**City of Olympia November 12, 2019 supplemental  
response to the complaints**

**PDC Case 59039**



November 12, 2019

**SENT VIA EMAIL**

Fox Blackhorn  
[pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov)  
Compliance Coordinator 2  
State of Washington  
Public Disclosure Commission  
P.O. Box 40908  
Olympia, WA 98504-0908

**Subject: PDC Case No. 59039 – City of Olympia Response to consolidated complaints**

Dear Mx. Blackhorn:

This letter responds to your November 1, 2019, email requesting additional information from the City of Olympia related to the PDC's investigation of an alleged violation of RCW 42.17A.555 for misuse of public facilities to oppose a ballot proposition (EY 19; Oct 19).

**Authorizing the Mailer**

1. For the record, did the Mayor or any member of the City Council authorize City Manager Steve Hall to produce the mailer?

No, neither the Mayor nor any other member of the City Council acted to authorize City Manager Steve Hall to produce the mailer.

2. Who designed the mailer, and who was responsible for the content?

City staff developed the content and designed the mailer.

3. The text of Resolution M-2055 does not urge voters to take a position, so how would the "vote no" language objectively reflect the resolution?

In Resolution M-2055, the Olympia City Council explained the fiscal impacts of I-976 on the City's maintenance of its transportation infrastructure and, based on those impacts, expressed its opposition to I-976. In drafting the mailer, City staff felt that the Council's expression of opposition to I-976 was logically equivalent to urging a "no" vote on I-976.

4. Please explain how urging citizens to "Vote no on I-976" is a fair and objective presentation of facts.

Because the Council had expressed its opposition to I-976, City staff felt that the Council's expression of opposition to I-976 was logically equivalent to the Council urging a "no" vote on I-976. And because the Council had expressed its opposition to I-976, which staff viewed as being equivalent to the Council urging a "no" vote, staff felt the mailer fairly and objectively reported the fact of the Council urging a "no" vote.

#### **Distributing the Mailer**

1. Concerning the 15,000 recipients of the mailers, it appears that they were sent to only registered voters, is that correct?

The City has historically used a list of registered voters for mailers regarding ballot propositions. Consistent with this practice, the City obtained the list of registered voters within the City of Olympia from the Thurston County Auditor's Office, Elections Division and mailed the mailer to addresses on that list.

2. What were the demographics of the 15,000 recipients of the mailers (perfect voters, registered voters that voted in the primary, etc...)?

The list the City ordered from the Auditor's Office contained all registered voters within the City of Olympia; the City did not seek a list further refined by voter history or other demographic characteristics.

3. Was the mailer timed to be distributed after the 2019 general election ballots were mailed?

The mailer was mailed so that it would arrive in the mail generally around the time voters received their 2019 general election ballots; i.e. just before, the same day as, or just after ballots were received in the mail. City staff did not intend that the mailer would necessarily arrive in the mail *after* the 2019 general election ballots were mailed.

#### **Normal and Regular Conduct**

1. How does the City of Olympia typically communicate with residents or citizens?

The City typically communicates with members of the public in many ways, including through the following:

- Its internet website
  - Its social media accounts
  - Posters, banners, and other publications (e.g. for community events like Arts Walk)
  - City-wide mailings such as the Olympia Parks, Arts & Recreation brochure for classes programs, and activities
  - Mailed public notices on a particular issue or matter (e.g., a public notice of a proposed development)
  - E-newsletters to recipients who have signed up to receive them
  - Inserts in bills sent to City utility customers ("Five Things")
  - Mailers regarding ballot measures
2. Did the City of Olympia send mailers regarding other Resolutions adopted by the city in 2019 or during prior years?

In 2019, the City did not send mailers regarding other resolutions adopted by the City Council. To the best of City Staff's recollection, the City did not send mailers regarding resolutions adopted by the City Council in any prior year.

Please note that the City has in recent years sent mailers regarding City ballot propositions (see Attachment A, "Proposition 1 Fact Sheet," regarding February, 2018 Proposition 1, the Olympia Home Fund Levy; Attachment B, "Proposition 1 Fact Sheet," regarding November, 2017 Proposition 1, the Olympia Public Safety Levy; Attachment C, "Proposition 1 Fact Sheet," regarding the November, 2015 Proposition 1, establishing the Olympia Metropolitan Park District; and Attachment D, "Parks & Recreation Facilities Funding Measure Fact Sheet" regarding September, 2004 Parks and Recreations Facilities Funding Measure). Each of these ballot propositions was placed on the ballot by City Council action, in the form of either a resolution or an ordinance. Each of these mailers refers to the ballot proposition being placed on the ballot by City Council action. Nevertheless, the City does not consider these mailers to be "regarding other resolutions adopted by the City." These mailers were regarding the ballot propositions.

3. Did the City of Olympia send out mailers concerning Thurston County Proposition 1 and Referendum 88, which the City passed resolutions to support?

No. Unlike I-976, Thurston County Proposition 1 and Referendum 88 did not have as direct and substantial an impact on this City's essential services.

4. How has the City of Olympia publicized resolutions around ballot propositions in the past?

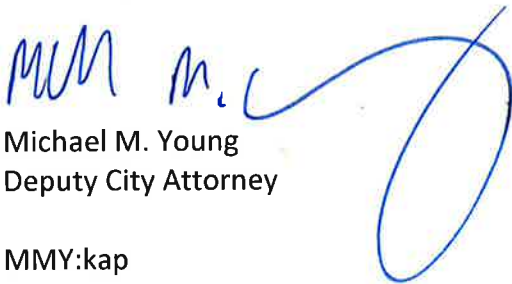
To the best of City Staff's recollection, the City has not publicized City Council resolutions regarding ballot propositions in the past. City Council resolutions regarding ballot propositions are a part of the official record of the City Council's business, which is available to the public, including through the City's website and TCTV.

5. Has the City of Olympia ever sent mailers urging citizens or voters to vote for or against any ballot propositions in the past?

As noted above in response to question 2, the City has in recent years sent mailers regarding City ballot propositions. Copies of those mailers are attached as Attachments A through D.

Thank you for the opportunity to respond to these questions. If you require further information, please do not hesitate to contact us.

Sincerely,



Michael M. Young  
Deputy City Attorney

MMY:kap

Attachments

cc: Olympia City Council  
Jay Burney, Interim City Manager  
Keith Stahley, Interim Assistant City Manager  
Mark Barber, City Attorney  
Kellie Braseth, Strategic Communications Director



FIND OUT  
MORE →



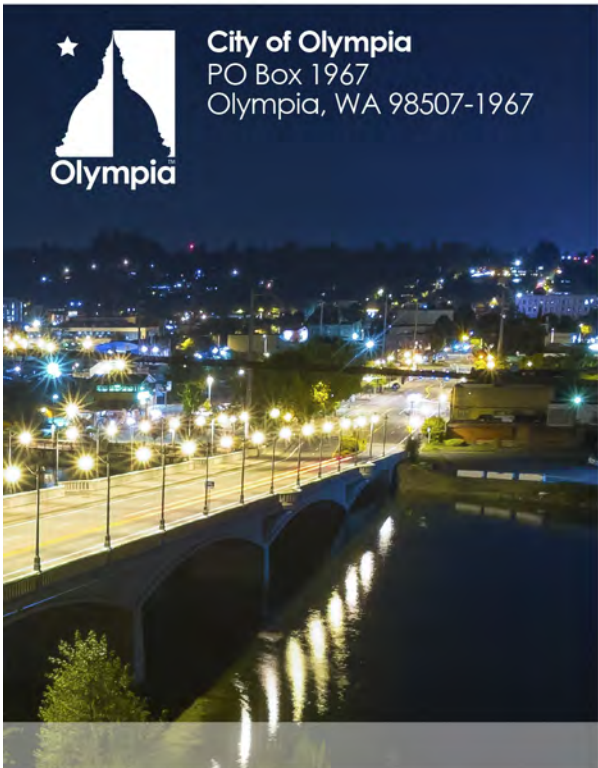
Visit  
[olympiawa.gov](http://olympiawa.gov)



Contact:  
Keith Stahley, Community, Planning & Development Director  
360.753.8227 | [kstahley@ci.olympia.wa.us](mailto:kstahley@ci.olympia.wa.us)



City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967



Information about the  
February 13, 2018 ballot measure

*The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. CS2018*



**FOR INFORMATION PURPOSES ONLY**

Not intended to support or oppose the Proposition



## Proposition 1 Fact Sheet

HOME FUND Measure

### Home Fund — Proposition 1 | Overview & Ballot Language

#### Overview

The City of Olympia Home Fund would help address the growing and urgent impact of homelessness on the community, particularly Olympia's most vulnerable citizens, as well as the need for a sufficient stock of affordable housing for cost-burdened Olympians at risk of being homeless.

#### Ballot Language

A Sales and Use Tax Increase for the City Home Fund

The City Council of the City of Olympia adopted Resolution No. M-1912 concerning a sales and use tax increase pursuant to RCW 82.14.530. If approved, this proposition would authorize the City to impose an additional sales and use tax of 0.1%, as permitted by state law. The City's proceeds shall be used for the Olympia Home Fund to construct affordable and supportive housing and housing-related purposes, including mental and behavioral health-related facilities, and for costs for operations, maintenance, delivery, and evaluation of mental health programs and services, or housing-related services, as allowed by RCW 82.14.530.

Should this proposition be: ☐ Approved ☐ Rejected

# Proposed Home Fund Priorities

## Priority Housing Production

- Provide funds to non-profit and for-profit developers for construction, operation and maintenance of new affordable rental housing.
- Provide funds to non-profit and for-profit developers to acquire land or property for affordable housing development and facilities that provide housing-related services.
- Provide incentives to property owners to convert existing market-rate units into affordable units and facilities providing housing-related services.

## Priority Homeless Prevention

- Provide funds to non-profit service providers to build and operate shelters and supportive housing and to provide services to people who are homeless, at risk of homelessness, are in need of housing-related services, or mental and behavioral health treatment.
- Construction, operation and maintenance of mental and behavioral health-related facilities.

## Priority Housing Preservation

- Provide funds to publicly subsidized projects to ensure continued affordability.

## Priority Implementation Support

- Provide resources to support operation, delivery and evaluation of housing programs and services, including mental and behavioral programs, and to conduct annual monitoring for compliance with state law.





## Home Fund Measure | Frequently Asked Questions

### How much will this cost?

The measure would implement a sales and use tax increase of one-tenth of one percent (One cent for every \$10.00 spent), which would raise approximately \$2,300,000 per year.

### Who will pay for this?

The Olympia Home Fund would be supported by consumers (Olympia residents, visitors, tourists) who make certain purchases and use an array of goods and services in the City of Olympia.

### Will this tax expire?

No. The sales and use tax increase would be a permanent funding source for housing, housing-related services, and mental and behavioral health programs.

### When will the tax go into effect?

Should the Olympia Home Fund measure be approved on Feb. 13, 2018, funds would begin being received in September 2018.

### If the Olympia Home Fund measure passes, will the funds be used for other City of Olympia needs?

No. Taxes collected for the Olympia Home Fund would be held in a dedicated account created by an ordinance that is separate from the City's general fund. By state law, the money may be spent only on eligible uses and cannot be

diverted to cover other City expenses.

### How will the tax revenue be spent?

Funds from the Olympia Home Fund would be targeted at services and facilities designed to serve the most vulnerable persons in our community, whose income is less than 60 percent of the area median income.

A minimum of 60 percent of the funds collected would be used for purposes of:

- Constructing affordable housing and facilities providing housing-related services; or
- Constructing mental and behavioral health-related facilities; or
- Funding the operations and maintenance costs of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers.

The remainder of the funds would be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services.

Overview

Following several years of discussion about public safety needs in Olympia, on July 11, 2017, the City Council voted to place a proposal for a Public Safety Property Tax on the November 7<sup>th</sup> ballot. These funds will be used to address community concerns about Downtown, neighborhoods, vulnerable populations and progressive policing.

Ballot Language — Propostion 1

The Olympia City Council adopted Ordinance No. 7091 concerning property taxes for public safety and law enforcement purposes.

To finance public safety, law enforcement, police training and recruitment, code enforcement, mental health and Community Court services, this proposition would increase the City’s regular property tax levy to a total authorized rate of not to exceed \$2.71 per \$1,000 (an estimated increase of \$0.45 per \$1,000 over the current levy) of assessed valuation for collection beginning 2018 and to use the 2018 levy amount to recalculate subsequent levy limits.

Should this proposition be: ☐ Approved    ☐ Rejected

Proposed Olympia Public Safety Measure Priorities

Priority  
Downtown

The Public Safety Levy can generate revenue to fund a full-time Walking Patrol Team to meet the unique public safety needs of our Downtown core by:

- » Increasing Downtown police patrols in a community policing style;
- » Connecting with people that live, work and visit Downtown;
- » Managing public events and festivals;
- » Keeping attractions like the Farmers Market, Washington Center and Hands On Children’s Museum safe.

Priority  
Neighborhoods

The Public Safety Levy can produce revenue to implement our Community Policing strategies by:

- » Creating a Neighborhood Officer Team to address the public safety needs of our distinct City neighborhoods;
- » Improving communication and problem-solving capabilities with neighborhood associations and Olympia families;
- » Providing additional Code Enforcement and crime prevention strategies to our community.

Priority  
Crisis Services

A Public Safety Levy can fund a partnership between criminal justice and mental health systems to serve the community’s most vulnerable by:

- » Creating a Mental Health Outreach Team of social workers and police officers to provide front-line, direct services to those in need;
- » Diverting those who suffer from mental illnesses from the criminal justice system;
- » Preserving Community Court which allows for alternatives to incarceration.

Priority  
Shaping the Future

A Public Safety Levy can provide resources to ensure the Olympia Police Department remains a leader in community policing by:

- » Maintaining contemporary training practices;
- » Expanding our recruiting to attract high quality and diverse candidates;
- » Improving our safety equipment;
- » Planning for the future public safety needs of our community.





## Olympia Public Safety Measure | Frequently Asked Questions

### Q: How much will this cost?

\$0.45 per every \$1,000 of assessed property value on your property tax bill.

### Q: Who will pay for this?

Property owners within the boundaries of the City of Olympia will pay for this tax.

### Q: Will this tax expire?

The tax will not expire.

### Q: When will the tax go into effect?

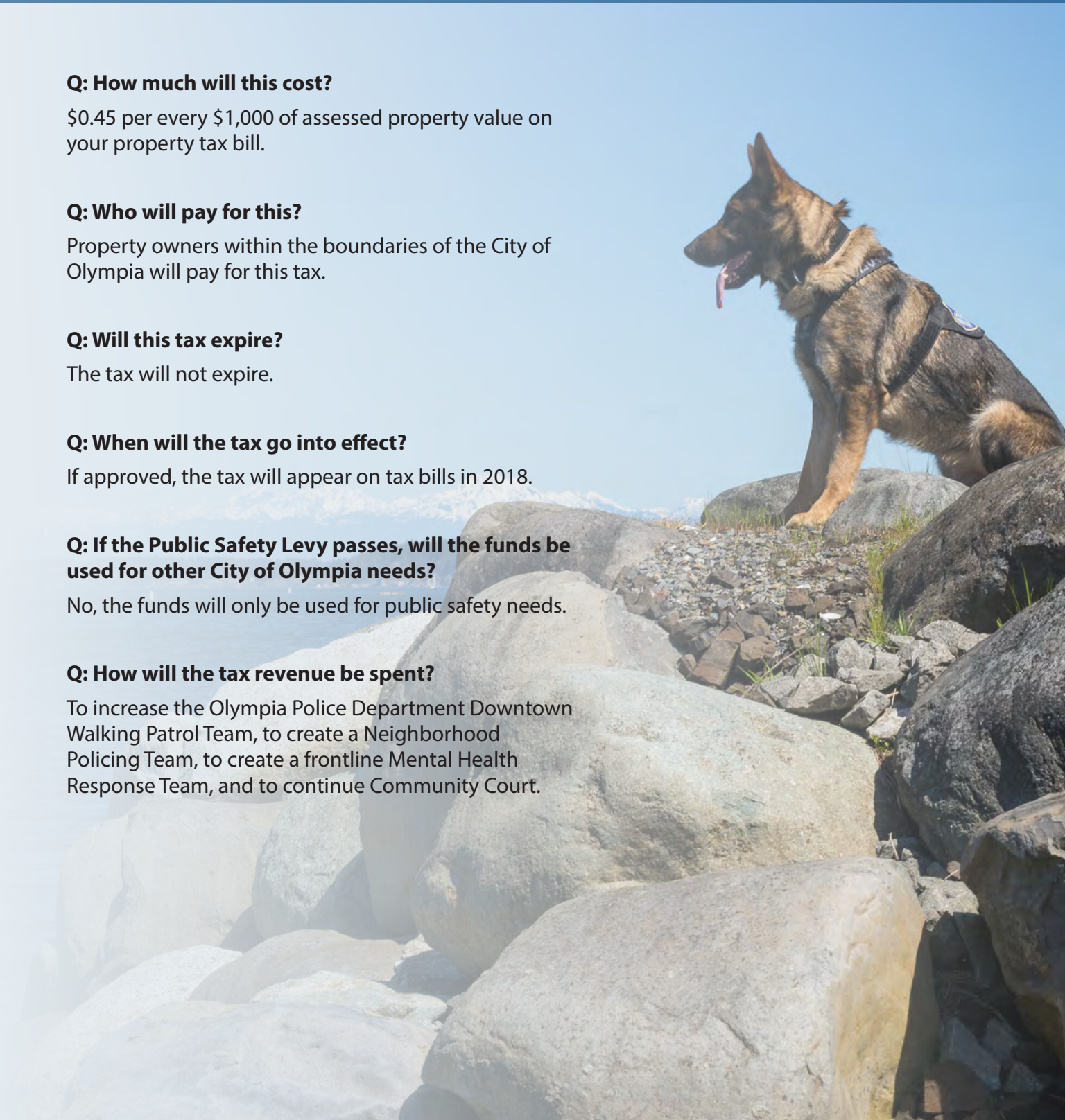
If approved, the tax will appear on tax bills in 2018.

### Q: If the Public Safety Levy passes, will the funds be used for other City of Olympia needs?

No, the funds will only be used for public safety needs.

### Q: How will the tax revenue be spent?

To increase the Olympia Police Department Downtown Walking Patrol Team, to create a Neighborhood Policing Team, to create a frontline Mental Health Response Team, and to continue Community Court.



City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967



Information about the  
November 7, 2017 ballot measure

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. CS2017

### FOR INFORMATION PURPOSES ONLY

Not intended to support or oppose the Proposition



Proposition 1 Fact Sheet  
Olympia Public Safety Measure

Overview

Following several months of public process that identified community park needs, on July 21, 2015, the Olympia City Council voted to place a proposal for the creation of an Olympia Metropolitan Park District (MPD) on the November 3, 2015 ballot. During the discussion, needs were articulated for maintenance, development, land acquisition, and safety. If approved, the District will have the same boundaries as the City of Olympia, be governed by a Board composed of Olympia City Councilmembers, and will exercise powers given to metropolitan park districts in state law, including levying property taxes. The MPD would be funded by an increase in property tax. (Refer to FAQ section for further details.)

Ballot Language

The City of Olympia Proposition Number 1 concerns formation of the Olympia Metropolitan Park District, a metropolitan park district.

This proposition creates the Olympia Metropolitan Park District to provide ongoing funding to acquire, maintain, operate, and improve parks, Percival Landing, and other recreation facilities and programs. The District has the same boundaries as the City of Olympia, shall be governed by a Board composed of Olympia City Councilmembers, and exercises powers given to metropolitan park districts in state law, including levying property taxes and contracting with the City of Olympia to perform District functions.

Are you:

- ☐ For the formation of a metropolitan park district to be governed by the members of the Olympia City Council serving in an *ex officio* capacity as the Board of Commissioners of the Olympia Metropolitan Park District.
- ☐ Against the formation of a metropolitan park district.

Proposed Olympia Metropolitan Park District Priorities

Maintenance  
Priorities

A MPD can generate revenue to fund maintenance of Olympia’s existing parks and provide dedicated levels of funding as Olympia’s park system grows such as:

- » Rebuilding parks maintenance service levels
- » Addressing \$4 million deferred maintenance backlog
- » Providing ongoing inspection and maintenance of Percival Landing

Development  
Priorities

A MPD can also allow for park development projects and recreation activities such as:

- » Neighborhood parks
- » Community parks
- » Trails
- » Athletic fields
- » Water play features
- » Percival Landing upgrades

Land Acquisition  
Priorities

A MPD can have a strong emphasis on maintenance and operations and allow the City to focus existing funding on land acquisition such as:

- » Natural open space areas
- » Wildlife habitat
- » Trails
- » Community parks/Athletic Fields
- » Neighborhood parks

Safe Parks  
Priorities

A MPD can focus additional resources towards park safety such as:

- » Investments in proactive park enforcement
- » Increased park patrolling
- » Increased lighting and other park safety upgrades



Paul Simmons  
Director, Parks, Arts & Recreation





# Olympia Metropolitan Park District | Frequently Asked Questions

**Q: What is a Metropolitan Park District (MPD)?**  
A MPD is a junior property taxing district with special taxing authority for the management, control, improvement, maintenance, and acquisition of parks, pathways, boulevards, recreational facilities, programs, and services.

**Q: How much would this cost?**  
The Olympia Metropolitan Park District Board would set the tax rate. Current projections have targeted revenues of \$3 million annually which at 2014 assessed values would be a rate of 54 cents per \$1,000 assessed property value. By law, the maximum rate the board could set is 75 cents per \$1,000 assessed property value.

**Q: How would MPD revenue be collected?**  
The MPD tax would be a component of property owners’ annual Thurston County property tax assessment administered by Thurston County.

**Q: What area would be included within the MPD?**  
The Olympia MPD would include the entire area within the municipal boundaries of the City of Olympia as they currently exist as well as they may exist as the result of future annexations.

**Q: Who would pay this tax?**  
Property owners within the boundaries of the City of Olympia would pay this tax.

**Q: Would this tax expire?**  
The tax would not expire.

**Q: Who would govern the Olympia MPD?**  
The MPD would be governed by the Olympia Metropolitan Park District Board consisting of the Olympia City Council.

**Q: When would the tax go into effect?**  
If approved, the tax would appear on tax bills beginning in 2017.

**Q: If the MPD passes, could funds be used for other City of Olympia needs?**  
No, by state law, MPD funds could only be utilized for parks and recreation-related facilities, programs, and services.

**Q: How would the MPD revenue be spent?**  
MPD funds would be spent on park development and maintenance as outlined in the Parks, Arts and Recreation Plan or annual capital and operating budgets approved by City Council.

**Q: Who determines what the MPD revenue would be spent on?**  
The City Council, in its role as the Olympia Metropolitan Park District Board, would approve the MPD budget.

**Q: Who would provide oversight on how MPD revenue is spent?**  
Oversight would be provided by a 5-person Olympia Municipal Park District Advisory Committee, comprised entirely of Olympia residents, created to advise the City and the District. This Committee would provide an annual report to the City and the District regarding the City’s compliance with the funding levels contained in an interlocal agreement between the City and the District.

**Q: What would happen if the MPD measure fails?**  
Should the measure fail, there would not be additional funding for land acquisition, park development, and maintenance.



City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967



Information on a ballot measure to be voted on November 3, 2015

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. CS2015

**FOR INFORMATION PURPOSES ONLY**  
This is not intended to support or oppose the Proposition.



This is not intended to support or oppose the funding measure.

# NONINVESTMENT PARKS & RECREATION FACILITIES

## Funding Measure Fact Sheet

### Olympia's



P.O. Box 1967  
Olympia, WA 98507-1967



**ECRWSS**  
**RESIDENTIAL CUSTOMER**

*Information on an election to be held September 14, 2004*

## Parks & Recreation Facilities Funding Measure

### Background

In 2002, the Olympia City Council approved plans for parks and recreation, and now the City Council and its citizen advisory committees believe it is time to find a way to fund these plans. A funding measure is proposed on the September 14, 2004 ballot to raise the private utility tax rate from 6% to 9% to fund the parks and recreation plans. The tax is a 3% increase that would raise approximately \$2.25 million in revenue per year. If a customer's monthly bills for telephone, electricity and natural gas services total \$165, \$9.90 in private utility tax is assessed per month. If this measure passes, the assessment would increase by \$4.95 to a new total of \$14.85 per month. The total amount of the increase in this example would be \$59.40 per year. This measure would provide funding to secure open space, develop new parks, and create pedestrian connections within our neighborhoods.

### Ballot Language

The Olympia City Council adopted an ordinance to increase the tax on telephone, electrical and natural gas business, for the purpose of helping fund wildlife habitat, natural areas, open space, parks and trails and recreation-related sidewalks. This ballot measure would allow the City of Olympia to protect and preserve wildlife habitat, natural areas and open space; acquire, develop and maintain waterfront, neighborhood, community and special use parks and playgrounds; and construct and improve hiking, biking and walking trails and recreation-related sidewalks by increasing the tax on telephone, electrical and natural gas business by three percent, all subject to review and recommendation by City Council appointed citizen advisory committees.

### Anticipated Projects

Parks anticipated for acquisition and development and sidewalks anticipated to be constructed with the revenue from this measure are listed and depicted on the following map. Parks and recreational facility priorities are derived from the adopted *2002 Parks, Arts & Recreation Plan*<sup>1</sup>. The Olympia City Council has defined a strategy that places park land acquisition as a priority before investments in park development. Revenue from this measure would fund acquisition of approximately 500 acres of land, and development and maintenance of 6 park sites in the next 20 years.

Recreational sidewalk projects are derived from the *2003 Sidewalk Program*<sup>2</sup> with an emphasis on connecting to parks, recreational facilities and trails. An estimated 70,000 feet of sidewalk will be constructed on major streets, as shown on the following map, in the next 20 years. Funds from this measure would also be dedicated to sidewalk needs on smaller neighborhood streets that connect to parks and recreational facilities; these have not yet been identified.

Some adjustments to the projects listed may be needed based on final cost estimates, inflation, actual revenues collected and the timing of other development in Olympia.

### For General Information

Please contact Olympia Parks, Arts & Recreation Customer Service at 753-8380  
or visit our website: [www.ci.olympia.wa.us/par](http://www.ci.olympia.wa.us/par)

<sup>1</sup> The *2002 Parks, Arts & Recreation Plan* is available on-line at: [www.ci.olympia.wa.us/par](http://www.ci.olympia.wa.us/par)  
<sup>2</sup> The *2003 Sidewalk Program* is available on-line at: [www.ci.olympia.wa.us/publicworks](http://www.ci.olympia.wa.us/publicworks)

Parks & Recreation Facilities Funding Measure  
ANTICIPATED PROJECTS 2004-2025

WESTSIDE

- Evergreen Park Drive Neighborhood Park (A)
- Grass Lake Yauger Trail Greenway (A)
- Grass Lake Mud Bay Trail Greenway (A)
- Green Cove Creek Trail Connection (A)
- Green Cove Creek Trail Greenway (A)
- Hansen Area School Neighborhood Park (A)
- Kaiser Road Neighborhood Park (A)
- Percival Canyon Trail Corridor (A)
- West Bay Special Use Park (A)
- West Bay Trail Corridor (A)
- Westside Ravine Trail Greenway (A)
- Buchanan Neighborhood Park (D)
- Grass Lake (Phase 2 & 3) (D)
- Sunrise Neighborhood Park (Phase 2) (D)
- West Bay Special Use Park (D)

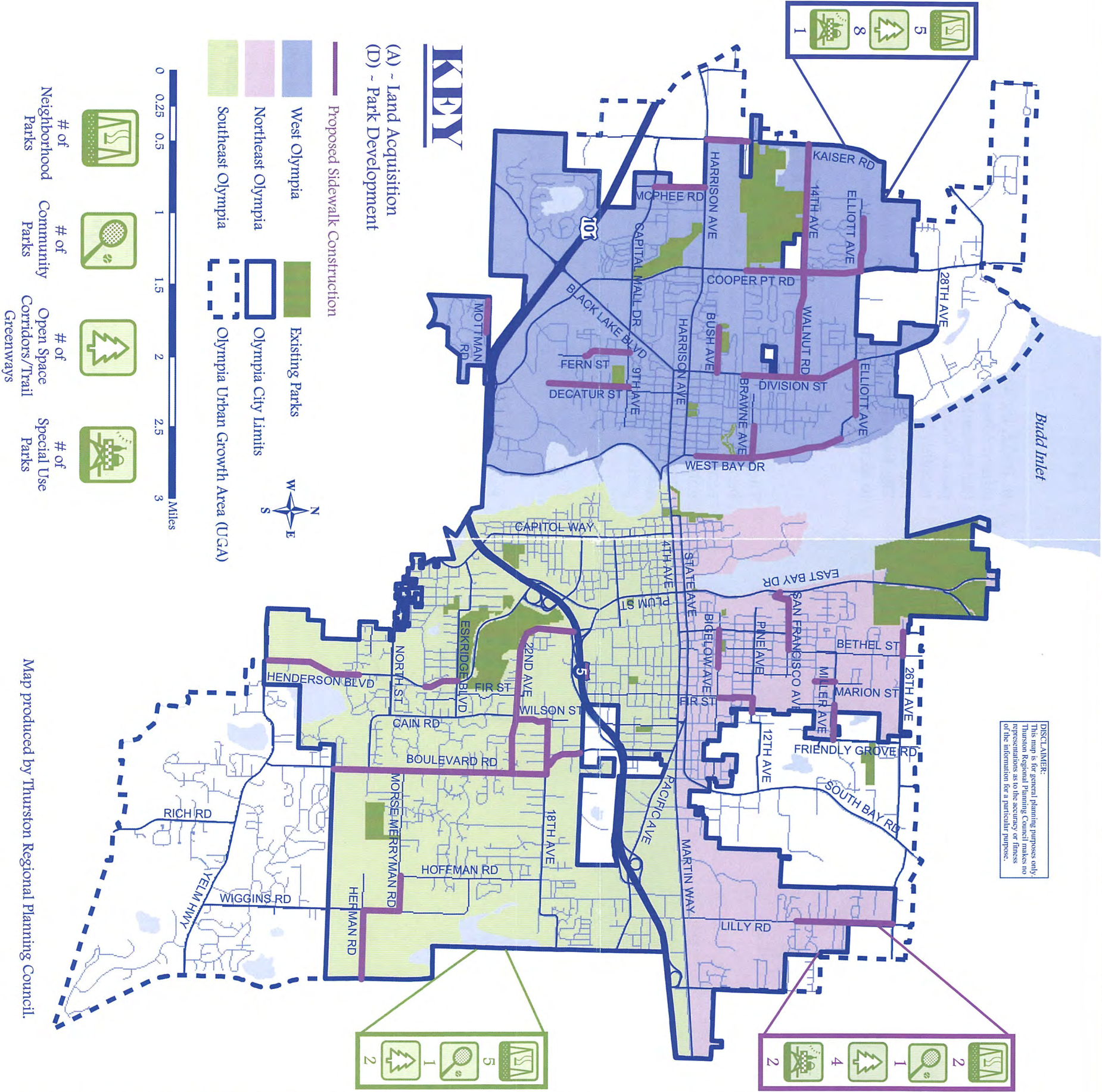
- 14th Ave/Walnut Road: Kaiser to Division
- Brawne Avenue: West Bay to Rogers
- Bush Avenue: Birch to Division
- Cooper Point Road: Conger to Elliott
- Decatur Street: 9th to Caton
- Division Street: Conger to Walnut
- Division Street: Walnut to Elliott
- Elliott Avenue: Cooper Crest to Cooper Pt.
- Elliott Avenue: Division to Crestline
- Fern Street: 9th to 14th
- Mottman Road: Mottman Ct. to SPSCC
- McPhee Road: Harrison to Capital Mall Dr.
- West Bay Drive: Schneider Hill to Garfield
- Kaiser Road: Harrison to 6th

SITES UNDETERMINED

- Aquatic Center site acquisition
- Arts Center site acquisition



The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and in the delivery of services and resources.



NORTHEAST

- Heritage Fountain Special Use Park (A)
- Indian Creek Trail Greenway (A)
- Lilly Road Neighborhood Park (A)
- Lindell Road Neighborhood Park (A)
- Lindell Road Community Park (A)
- Mission Creek Trail Greenway (A)
- Plaza Sites (downtown) Special Use Park (A)
- Woodward Creek Trail Greenway (A)
- Woodward Easement Line (A)
- Heritage Fountain Block (Phase 2) (D)
- 26th Avenue: Bethel to Gull Harbor
- Bigelow Avenue: Puget to Central
- Fir Street: Bigelow to Pine
- Lilly Road: Woodward Green to 26th
- Marion Street: Ehrbridge to Miller
- Miller Avenue: Fir to Friendly Grove
- Pine Street: Fir to Edison
- San Francisco Avenue: East Bay to Bethel

SOUTHEAST

- Cain Road Neighborhood Park (A)
- Centennial School Area Neighborhood Park (A)
- Chambers Creek Trail Corridor (A)
- Chambers Lake Trail Greenway (A)
- Henderson Neighborhood Park (A)
- Pioneer School Area Neighborhood Park (A)
- Yelm Highway Community Park (A)
- Yelm Highway Neighborhood Park (A)
- Centennial School Area Neighborhood Park (D)
- 18th Avenue: Boulevard to Wilson
- Boulevard Road: 15th to 22nd
- Boulevard Road: 22nd to Log Cabin
- Boulevard Road: Log Cabin to 41st Way
- Eastside Street/22nd Ave: 1-5 to Boulevard
- Henderson Boulevard: Eskridge to Carlyon
- Henderson Boulevard: Lake Cove to Yelm Hwy
- Herman: Wiggins to Chehalis Western Trail
- Morse-Merryman Road: Hoffman to Wiggins
- Wiggins Road: Morse-Merryman to Herman
- Wilson Street: 22nd to 18th

# Parks & Recreation Facilities Funding Measure

## Frequently Asked Questions . . .

**Q: What is a private utility tax and what utilities are subject to this tax?**

This is a tax levied by the City of Olympia on all private telephone, electric and natural gas business. This tax is not levied on public water, sewer, stormwater and garbage collection or cable television services.

**Q: Who pays this tax?**

Users of telephone, electric and natural gas utilities within the Olympia City limits.

**Q: Who is not subject to the private utility tax?**

Users of private utilities located in Olympia's Urban Growth Area (UGA) are not subject to this tax. However, as land in the UGA is annexed into the City, businesses and residents using utilities in those areas would be subject to the tax.



East Bay Waterfront Park & East Bay Drive Sidewalk Photo: City of Olympia

**Q: What is the current private utility tax rate? What is the proposed increase?**

The current private utility tax rate is 6%, the maximum amount allowed by statute without a vote of the people to increase it. This measure proposes that this rate be raised to 9%.

**Q: How is this tax collected?**

The private telephone, electric and natural gas businesses include and itemize this tax in their monthly billings to customers and submit payments to the City of Olympia quarterly.

**Q: How would this tax rate increase affect a utility bill?**

Private utility bills are based on the amount of telephone, electricity and natural gas used by each consumer. An example below illustrates how a 3% rate increase would affect a combined utility bill. If a customer's monthly bills for telephone, electricity and natural gas services total \$165, \$9.90 in private utility tax is assessed per month. If this measure passes, the assessment would increase by \$4.95 to a new total of \$14.85 per month. The total amount of the annual increase in this example would be \$59.40 (\$4.95 per month increase x 12 months = \$59.40).

**Q: How much additional revenue will this generate?**

At this time, each 1% of the private utility tax rate generates approximately \$750,000 per year. A 3% rate increase would generate an additional \$2,250,000 per year.

**Q: How will these funds be dedicated?**

City Council has specified that 2/3 (approximately \$1,500,000) of the revenue generated by the tax rate increase would be dedicated annually to park acquisition, development and maintenance. Council further specified that 1/3 (approximately \$750,000) of the revenue generated by the tax rate increase would be dedicated annually to the construction of walking paths and recreation-related sidewalks.



Watershed Park

Photo: Carl Cook

# Parks & Recreation Facilities Funding Measure

## Frequently Asked Questions . . .

**Q: Will this tax rate increase expire?**

No. Adopted plans establish long-term implementation schedules for park, open space and sidewalk system expansion. Revenue from this measure will be used to fund facility acquisition, construction and ongoing park maintenance.



Percival Landing Park

Photo: Carl Cook

**Q: What parks would be acquired and what projects would be constructed with these funds?**

Throughout Olympia, approximately 134 acres of neighborhood, community and special use parks and approximately 419 acres of open space would be acquired, developed and maintained. Approximately 70,000 feet of sidewalk would be constructed along major streets connecting parks, schools and trails. Funds from this measure would also be dedicated to sidewalk needs on smaller neighborhood streets.

**Q: Although collected within the City limits of Olympia, will this revenue fund park projects currently located in Olympia's Urban Growth Area (UGA)?**

Yes. The Growth Management Act requires that the City plan for infrastructure development within the UGA. Council has directed that future park sites currently located in the UGA be acquired, but not constructed, before they are used for other forms of development. As lands in the UGA are annexed into the City of Olympia, these households and businesses would be subject to the private utility tax.

**Q: Who will oversee the expenditures of these funds?**

The projects funded by this revenue will be reviewed by City Council-appointed advisory committees. These projects will be included in the City of Olympia's Six-Year Capital Facilities Plan (CFP) which is approved annually by the Olympia City Council.

**Q: Will funding from this measure be used to purchase sites for an aquatic facility and art center?**

Yes, although the sites for these facilities have not been identified. The Olympia Parks, Arts & Recreation Plan specifies that construction funding for these facilities would be through partnerships or other means.



Olympia Skate Court, Yauger Park

Photo: Carl Cook

**Q: What will happen if the measure fails?**

Should the measure fail, adopted plans would need to be amended. The revised plans would propose a park system that could be constructed within the current capital funding level of approximately \$1,000,000 per year. The City's construction of sidewalks would continue at the current funding level of about \$175,000 per year.



# **Exhibit #6: Report of Investigation**

**City of Olympia December 6, 2019 supplemental  
response to the complaints**

**PDC Case 59039**



December 6, 2019

**SENT VIA EMAIL**

Kurt Young  
[pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov)  
PDC Compliance Officer  
State of Washington  
Public Disclosure Commission  
P.O. Box 40908  
Olympia, WA 98504-0908

**Subject: PDC Case No. 59039 – City of Olympia Response to consolidated complaints**

Dear Mr. Young:

This letter responds to your November 22, 2019, email requesting additional information from the City of Olympia related to the PDC's investigation of an alleged violation of RCW 42.17A.555 for misuse of public facilities to oppose a ballot proposition (EY 19; Oct 19).

**1. How long has Steve Hall been City Manager for the City of Olympia?**

Steve Hall retired from the position of Olympia City Manager on November 7, 2019. Prior to his retirement, Mr. Hall held the position of Olympia City Manager for approximately 16 years, beginning on September 1, 2003.

**2. Please generally describe the scope of Mr. Hall's duties, and his role in the day-to-day operations of the City of Olympia.**

Mr. Hall's duties as Olympia City Manager are set forth in RCW 35A.13.080 and more particularly described in the Olympia City Manager position description, attached to this letter as Attachment E.

**3. Please provide the monthly salary amount paid to Steve Hall as City Manager.**

Prior to his retirement on November 7, 2019, Mr. Hall's monthly salary as Olympia City Manager was \$14,514.22.

**4. Please describe Mr. Hall's typical interactions with the Mayor and City Council as City Manager, and his role in the city's legislative and decision-making process.**

Given the breadth of Mr. Hall's role as Olympia City Manager and frequent and varied interactions with members of the City Council, including the Mayor, it is difficult to describe "typical interactions with the

Mayor and the City Council.”<sup>1</sup> However, as City Manager, Mr. Hall in recent years regularly had the following interactions with City Council members, including the Mayor:

- Mr. Hall typically attended each meeting of the Olympia City Council and would interact with members of the City Council, including the Mayor, at such meetings.
- Mr. Hall met most weeks with the Mayor, the Mayor Pro Tem, and one other member of the City Council (on a rotating basis) to set the agenda for that week’s City Council meeting.
- Mr. Hall typically conducted one-on-one meetings or calls with each member of the City Council, generally weekly.

5. In the response dated October 29, 2019, you stated that “city staff” designed the mailer. Identify the specific City of Olympia staff member or members that were responsible for the design, content, and review of the mailer, and to whom these staff member or members reported to with respect to their work on the mailer.

The following table shows the individuals who were primarily responsible for the design, content, and review of the mailer. Each individual’s role, to whom they reported, and the time each spent on tasks related to the mailer are reflected in the following table:

Name, position	Role	Reported to	Approximate time spent
Steve Hall, City Manager	Approved general approach, approved final product	City Council	.5 hours
Kellie Braseth, Strategic Communications Director	Reviewed content, facilitated obtaining voter addresses	Steve Hall, City Manager	1.5 – 2 hours
Rich Hoey, Public Works Director	Coordinated approval from City Manager, reviewed content	Steve Hall, City Manager	1 - 2 hours
Mark Barber, City Attorney	Provided legal advice on the approach to the mailer and reviewed its content	Steve Hall, City Manager	1 - 1.5 hours
Mark Russell, Deputy Director, Public Works	Coordinated development and review of the content of the mailer	Rich Hoey, Public Works Director	2 - 3 hours

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<sup>1</sup> Please note: the City of Olympia utilizes a “Council-Manager” form of government under RCW Chapter 35A.13 in which the mayor is a member of the city council and the city council hires and directs the city manager, who serves as chief administrative officer and is responsible for the day-to-day administration of the city.

Name, position	Role	Reported to	Approximate time spent
Kristin Gilkerson, Program Specialist, Public Works Transportation Program	Developed content in coordination with members of the Transportation Leadership Team; provided photos and worked on design, in collaboration with Jessi Turner	Sophie Stimson, Transportation Planning Supervisor	25 hours
Sophie Stimson, Transportation Planning Supervisor	Reviewed and edited content of the mailer	Mark Russell, Deputy Director, Public Works	3 - 4 hours
Andrew Beagle, Transportation Engineering Supervisor	Reviewed and made suggested edits and additions to the content of the mailer	Mark Russell, Deputy Director, Public Works	2 hours
Jessi Turner, Program Specialist	Graphic designer for the mailer, consulted on design formatting and best practices in collaboration with Kristin Gilkerson.	Kellie Braseth, Strategic Communications Director	30 hours
		Total approximate hours	66-70 hours

6. Identify, approximating if necessary, the amount of time spent by Steve Hall on the mailer, to include time spent on the design, content, or review of the mailer. Also identify, approximating if necessary, the collective amount of time spent by City of Olympia staff member or members on designing, producing, or reviewing the mailer.

See the response to question 5, above.

7. Did the Mayor of Olympia or any Olympia City Council member have any meetings, e-mail communications, conversations or discussions with Mr. Hall concerning the No on I-976 mailer before it was printed and distributed? If yes, specify who Mr. Hall communicated with, when those communications took place, and describe the nature of those conversations. If those communications were in writing (emails, text messages, etc.), staff is requesting copies of those communications.

Most members of the City Council recall that they were generally made aware that a mailer regarding I-976 was to be prepared and sent out. Some Council members recall that City Manager Steve Hall mentioned at a Council meeting that a mailer regarding I-976 was going to be sent out. A few members of the Council discussed an I-976 mailer generally in one-on-one meetings with Mr. Hall. And one

member of the Council recalls that Mr. Hall mentioned an I-976 mailer at a weekly agenda setting meeting. However, no members of the Council were consulted about or made aware of the content of the mailer. As best as can be determined, no communications between Mr. Hall and members of the Council regarding the mailer were in writing.

8. **Did the Mayor of Olympia or any Olympia City Council member review the content of the No on I-976 mailer before it was distributed, or receive a “heads-up” that it was going to be mailed out? If yes, specify who conducted that review or was notified about the pending mailer, when those communications took place, and describe what, if any, feedback was provided to Mr. Hall by the Mayor or member(s). If those communications were in writing (emails, text messages, etc.), staff is requesting copies of those communications.**

See the response to question 7, above.

9. **Concerning action taken at the October 8, 2019, Olympia City Council meeting to adopt Resolution M-2055 opposing Initiative 976, once the resolution had been adopted, was there any discussion amongst the Council members (with or without Mr. Hall) about the need to send out a mailer concerning the action taken? If yes, specify who participated in that discussion(s), when that discussion(s) took place, and describe what, if any, direction or instruction was provided to Mr. Hall by the member(s).**

As discussed in the response to question 7, above, City Manager Steve Hall made members of the Council aware that a mailer regarding I-976 was to be sent out. However, members of the Council do not recall that there was any discussion amongst Council members about an I-976 mailer.

10. **As we discussed during our telephone call, staff received an additional inquiry from a citizen alleging he received a copy of the mailer despite the fact he lives outside of the City of Olympia area. Staff is requesting the City of Olympia provide a copy of the invoice or receipt from the Thurston County Auditor’s Office for the mailing labels, and any additional back-up documentation concerning the purchase and/or use of the labels.**

See Attachment F to this letter.

11. **In the City of Olympia’s response dated October 29, 2019, you stated “And because the Council had expressed its opposition to I-976, which staff viewed as being equivalent to the Council urging a “no” vote...”. Please identify the City of Olympia staff member or members who concluded that the resolution was the equivalent of urging a no vote.**

City Manager Steve Hall, after consulting with City Attorney Mark Barber, and discussing the matter with Public Works Director Rich Hoey, concluded that the Council’s resolution was the equivalent of urging a no vote.

Kurt Young  
PDC Compliance Officer  
State of Washington  
Public Disclosure Commission  
December 6, 2019  
Page 5

**12. Concerning the prior mailings included as part of the City of Olympia's response, did Mr. Hall also authorize or approve any or all of those mailings? If not, who did?**

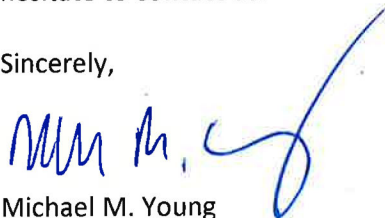
Development of the content and design of those prior mailings would have occurred at the staff level. Mr. Hall's role would have been limited to approving the sending of a mailer generally and perhaps reviewing and approving the final product before it was printed for mailing and mailed.

**13. None of the mailings included as part of the City of Olympia's response dated October 29, 2019, urged either a yes or a no vote, and each contain the phrase "For Information Purposes Only" and state that the mailer is "not intended to support or oppose" the proposition identified in each mailer. In light of this past practice, identify the City of Olympia staff member or members that made the decision to include the "Vote No" language, as well as the decision to not include the other language described above.**

City Manager Steve Hall, after consulting with City Attorney Mark Barber, and discussing the matter with Public Works Director Rich Hoey, made the decision to include the "vote no" language and to omit the other language.

Thank you for the opportunity to respond to these questions. If you require further information, please do not hesitate to contact us.

Sincerely,



Michael M. Young  
Deputy City Attorney

MMY:kap

**Attachments**

cc: Olympia City Council  
Jay Burney, Interim City Manager  
Keith Stahley, Interim Assistant City Manager  
Mark Barber, City Attorney  
Kellie Braseth, Strategic Communications Director



CITY OF OLYMPIA  
 Established Date: Jan 1, 1985  
 Revision Date: Dec 28, 2010

## City Manager

Class Code:  
10

Bargaining Unit: Independent

### SALARY RANGE

\$83.74 Hourly  
 \$14,514.22 Monthly  
 \$174,170.67 Annually

### DESCRIPTION:

The City Manager serves as the Chief Administrative Officer of the City of Olympia government.

### ESSENTIAL FUNCTIONS:

The essential functions of this position include but are not limited to:

1. Coordinates the activities of all City departments to meet overall organizational goals; leads and directs executive management in effecting actions which carry out policies as set by the City Council.
2. Serves as the Chief Administrative Officer of the City responsible to the City Council, directs issues to the Council and makes recommendations for action.
3. Appoints and serves as the immediate supervisor to all City Department Directors; confers with Department Directors on goals, organization, staffing, special needs and problems.
4. Directs the preparation of the annual budget, prepares the budget message and submits the budget to the City Council.
5. Addresses and/or meets and confers with local business groups, individuals, citizen groups, media and other government officials regarding issues, needs and problems facing the City.
6. Resolves a variety of difficult and complex management problems.
7. Administers a variety of special programs and operations.
8. Reports regularly to the City Council on the status of City operations and programs.
9. Prepares policy statements and procedures for implementing goals and programs or regulations.
10. Punctual, regular and reliable attendance is essential for successful job performance.

### TYPICAL QUALIFICATIONS:

Knowledge/Skills/Abilities:

1. Knowledge of the various forms, functions and organizational styles of municipal government.
2. Knowledge of current literature, trends and developments in the fields of Public Administration and Public Finance.
3. Knowledge of budgeting principles and practices.
4. Knowledge of the principles, philosophy and common practices of public personnel administration.
5. Ability to serve effectively as the administrative agent of the City Council.
6. Ability to effectively delegate responsibility to subordinates.
7. Ability to work with and coordinate the activities of subordinate personnel while encouraging their development.
8. Ability to analyze organizational and administrative problems, adopt an effective course of action and provide leadership to others in such actions.
9. Ability to plan and coordinate the preparation and administration of a multi-department budget.
10. Ability to create innovative management programs and systems in response to organizational needs.
11. Ability to prepare clear and comprehensive written reports.
12. Ability to speak effectively and persuasively in a variety of situations.
13. Ability to gain the trust and cooperation of others under difficult circumstances and communicate technical concepts and abstract ideas.
14. Ability to establish and maintain cooperative relationships with City officials and employees, the general public and representatives of other agencies in the capacity of agent for the City Council.
15. Demonstrated punctual, regular and reliable attendance is required.

Experience/Education:

1. Graduation from a four year college or university with a degree in Public Administration or a closely related field; and five years of progressively responsible municipal management experience.
2. A Master's Degree in Public Administration or a closely related field is desirable and may be substituted for up to one year of the required experience. (Additional experience in the field of municipal management may be substituted for the college degree with one year of experience being equal to one year of education.)

Special Requirements

1. Valid Washington State Driver's License may be required.

**SUPPLEMENTAL INFORMATION:**

Contacts:

1. Interpersonal contact is the key to effective City management.
2. As the Chief Administrative Officer of the City, the City Manager has contact with citizens, personnel of all departments and divisions, the business community, neighborhood organizations, the media, City administrators, and City Council members.
3. Contacts are varied in type and intensity.
4. The City Manager is occasionally involved in highly sensitive and/or emotional interactions requiring skill in gaining the trust and confidence of others.
5. Contact with management professionals of other agencies and jurisdictions is encouraged to keep current on trends and new developments in the field of municipal management.

Supervision:

1. The City Manager supervises all City personnel through Department Directors.

Accountability:

1. Major decisions affecting the effective operation of City functions are the responsibility of the City Manager and errors could cause serious setbacks to the City's ability to carry out its mission.
2. The incumbent is directly responsible to the City Council for the effective operation of all City functions.

Working Conditions:

1. The position of City Manager subjects the incumbent to the continual stress of accommodating competing demands and meeting deadlines.
2. Ability to attend meetings regionally, during evenings and weekends, is necessary.

The City of Olympia is an Equal Opportunity Employer, committed to a diverse workforce. Women, minorities, and people with disabilities are encouraged to apply.

**CLASS SPEC DATA:**

FLSA Status - Exempt

Pay Grade - 500

Represented - No

**Thurston County Auditor's Office, Elections Division**

2000 Lakeridge Drive SW, Olympia, WA 98502

Phone: 360.786.5408 Fax: 360.786.5223

Email: elections@co.thurston.wa.us

Web: ThurstonVotes.org

RECEIVED DATE  
ATTACHMENT F**Request for Registered Voter Data**

(The Auditor shall furnish copies of voter data as allowed in RCW 29A.08.720.)

**Contact Information**

Kellie Purce Braseth

Name

Campaign

601 4th Ave. East, Olympia, WA 98507

Address

kbraseth@ci.olympia.wa.us

Email

360-753-8361

Day Phone

**Data (Reports are emailed excel files. CD's or .txt files available upon request.)****Jurisdiction(s):** ☐ Full County ☒ Other (i.e. district, precinct) City of Olympia**District Flags (Optional):** ☐ Congressional ☐ Legislative ☐ Commissioner ☐ School ☐ Fire**Initial Sort:** ☒ Residential Address ☐ Precinct ☐ Last Name**Address Information:** (choose **ONE**) ☐ Residential & Mailing ☐ Residential Only ☒ Mailing Only**Voter History:** ☒ None ☐ Last 2 Primary & 2 General Election☐ or Dates Listed: 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_**Labels & Lists:** Special orders may be placed. Labels = \$.0275 per voter. Lists = \$.15 per sheet. Payment in **FULL** is required prior to processing. Allow 48 hours for processing.**Matchbacks:** Lists of voters who returned their ballot (includes voter registration number, return date, and ballot status).☒ Matchbacks & Full Voter List ☐ Matchbacks Only(choose **ONE** election) ☐ February ☐ April ☐ August ☒ November**Special Instructions:** \_\_\_\_\_**Acknowledge & Finalize**

I have read and understand the legal statutes (RCW 29A.08.720 & 29A.08.740) on the back of this request form that describe the limits on how this data may be used. I will not use this data for commercial purposes and will exercise due care in the responsibility of securing this data. I understand I am jointly and severally liable for damages incurred from any misuse of this data in my possession or from my distribution. I understand that any violation of RCW 29A.08.720 relating to the misuse of such data is a felony punishable by: imprisonment for not more than five (5) years, a fine of not more than \$10,000.00, or both fine and imprisonment.

**Signature:** **Date:** 10/01/19**For Office Use Only**

Voter Data Request Log Updated: [ ]

Price: \$ \_\_\_\_\_

Paid/Check or Receipt #: \_\_\_\_\_

Notes: \_\_\_\_\_

Date Satisfied: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_, Deputy

**Exhibit #7**

**Steve Hall, former Olympia City Manager**

**January 8, 2020: Investigative Interview Summary Notes**

Jeff Myers, an attorney with Law, Lyman, Daniel, Kamerrer & Bogdanovich, PS, stated that he was representing the City of Olympia, and not Mr. Hall personally in this matter. He stated that his involvement was to ensure the City of Olympia's attorney client privilege is not waived by Mr. Hall, since Mr. Hall is no longer City Manager.

Mr. Hall stated that he served as City Manager for the City of Olympia for 16 years, from 200x through November 7, 2019, when he retired from the position of Olympia City Manager. He stated prior to that he served as Assistant City Manager for the City of Olympia for several years, and prior to that he served as Assistant to City Manager for the City of Boulder Colorado for several years.

Mr. Hall stated as Olympia City Manager, he is the Chief Executive Officer for the city, that he was appointed City Manager by the mayor and the City Council, and he is their sole employee. He stated the Mayor/Council hire him to run the day-to-day operations of the City of Olympia that includes overseeing all city departments for all of the city services provided to residents. He stated all city department heads report to him including both the City of Olympia Police and Fire Chiefs.

Mr. Hall stated he works with the Mayor and City Council on the annual budget, frequently meets one-on-one with the Mayor, and Mayor Pro-Tem, and that he typically meets weekly with most of the Council members. He stated those meetings concern a variety of city issues and that he provides the Mayor and Council with information, guidance and updates on the cities goals, and what policies can be implemented to achieve those goals and objectives.

Mr. Hall stated that once he made the decision to retire which was around Labor Day 2019, and once that decision had been made, he informed Mayor Selby, Mr. Barber, and members of the Olympia City Council. He stated he also informed the city's police and fire chief, other city department heads, management and staff, and after that numerous others of his decision to retire with a November 2019 target date.

Mr. Hall stated he began having discussions with the city's Public Works Department (PWD) concerning I-976 in June of July of 2019, and that those discussions primarily involved city transportation issues including road construction projects, road maintenance issues, and transportation projects under the Transportation Benefit District (TBD). He stated that the city's projection was that the passage of I-976 would cut about one-half of the annual budget for the city's road maintenance and repair programs, which could total about \$1.7 million out of a total \$3.5 million budget. He indicated that would have a pretty dramatic impact on the city, and he had a lot of internal conversations with department heads, the Mayor and Council, and city staff concerning I-976 prior to the resolution being adopted by the City Council.

Mr. Hall said he discussed with city staff that if I-976 was approved, what can the city do, how should the city communicate with citizens about the projected impacts of I-976 if approved by voters, and how I-976 would impact the future Capital Facilities projects. He stated that around the same time the city was preparing to update the 6-year Capital Facilities plan, which needed to include the projections for the potential passage of I-976 and its impact on the city.

Mr. Hall noted especially for years three through six of the plan and involved discussions about what projects are going to have to be modified or scaled back, and those discussions included the possibility that some projects would likely be delayed or cancelled. He stated the early discussions included how the city should communicate with its citizens concerning the impacts of I-976 on city transportation and infrastructure issues, and how that information may be provided to them, such as in a mailer.

Mr. Hall stated that the City Council had placed several City of Olympia propositions on the ballot recently. He stated concerning those City of Olympia sponsored ballot propositions, once the city had scheduled and held an open public meeting and adopted a resolution in support of a measure, the city would produce and distribute information concerning the resolution that was approved. In addition, he stated that the City Council has frequently weighed in on a variety of other issues, especially if the issue pertains to another local jurisdiction such as an Olympia School District levy or bond measure.

Mr. Hall stated the City Council has in the past held an open public meeting allowing for citizens to express their support or opposition to the proposed ballot proposition(s), and then adopt a resolution, typically in support of the measure in the case of the Olympia School District. He stated in 2019, the Olympia City Council held public meetings and listed as agenda items for three separate ballot propositions that included two statewide measures I-976 and Referendum 88 (R-88) concerning affirmative action, and a local countywide measure. He stated the City Council heard pro/con testimony from the public concerning each ballot measure and then adopted Resolutions in support of R-88 and the local ballot proposition, and the resolution in opposition to I-976.

Mr. Hall stated when the City Council scheduled a public hearing concerning I-976 and provided citizens with the opportunity to testify in support of or opposition to I-976, he had discussions with staff that they were aware the council was going to be adopting a resolution, likely in opposition to the measure. He stated that once the council adopts the resolution, the discussions with staff concerned how the city would communicate the position taken by the City Council's resolution in opposition to I-976 to the citizens, since not everyone attended City Council meetings or watched live and were aware of the action being taken.

When asked, Mr. Hall stated the city was aware of the prohibitions in RCW 42.17A.555 concerning the use of city facilities to support or oppose candidates or ballot propositions, and he stated that the City of Olympia was careful in trying to keep politics out of city government. He stated that even when the City of Olympia had placed a local measure on the ballot such as the Home Fund, he did not go out on city time concerning those measures.

Mr. Hall stated he did not remember exactly when he made the decision the City of Olympia would produce and distribute information concerning the No on I-976 resolution. He indicated that the decision was made prior to the October 8, 2019 Olympia City Council meeting, and he discussed with City PWD and Communications staff the need to be ready to communicate the Council action taken on I-976 to its citizens right away. He stated those conversations involved the possibility of sending out a flyer right after the resolution had been adopted and prior to the November 2019 election.

Mr. Hall stated the Council was clearly aware of the impact that the passage of I-976 would have on the City of Olympia. He indicated that based on his prior conversations with City Council members, he thought the Council would likely vote to oppose I-976, but he was not sure whether or not it would be a unanimous vote. He stated that he thought he had informed all of the councilmembers that an I-976 mailer was being prepared to be sent out by the city. He stated that he most likely communicated this information at a pre-city council agenda setting meeting that included the Mayor, Mayor Pro-Tem and at least one other council member.

Mr. Hall stated that part of his job is to provide City Council members with equal information, and at some point, he would have informed all of the councilmembers concerning the mailer so none of them would be surprised. He stated he did not have any discussions with the Mayor, Mayor Pro-Tem or City Council members concerning the content of the mailer, including the Vote No on I-976 message. He stated that he did not consider that to be the Mayor or Council's job, but instead that would be City of Olympia staff's job, so he would not have included the council in that type of discussion.

Mr. Hall stated that City of Olympia Management, Staff and employees were responsible for the design, content, and review of the mailer", and he confirmed that neither the Mayor nor any city councilmembers were involved at all. He stated he mostly worked with Rich Hoey, Olympia PWD Director, and Kellie Braseth, Olympia Strategic Communications Director, that Mr. Hoey and Ms. Braseth both reported to him directly as department heads and he met frequently with both individuals throughout the year, not just on the I-976 mailer.

Mr. Myers noted on the record that Mr. Barber participated with Mr. Hall in some of those discussions and agreed those conversations were covered by the attorney client privilege.

Mr. Hall stated that prior to the Council adopting the resolution, he spoke with Mr. Hoey concerning the content of the No on I-976 mailer and began with what the I-976 mailer would look like. He stated that early in stages of drafting the mailer, Mr. Hoey provided him with photographs of City of Olympia streets that were in good condition and streets that were in bad conditions. They discussed and agreed that including photographs of both would show citizens the contrasting conditions of some of the city streets and likened it to the eye doctor visit and the better/worse criteria.

Mr. Hall stated that he did not look at or review a first or second draft of the mailer, and he made no additional tweaks since he had already spoken with staff and they were working on it and following his earlier input/feedback. He stated there was no real need for him to have any more involvement with the mailer, and added that the Communications department is very competent, and is constantly communicating with citizens and updating information about Council action and issues affecting the city. He stated that the next time he saw the mailer, it was when it was received at his house.

Mr. Hall stated that Ms. Braseth has a number of communication tools at her disposal, and that the city communicates through a variety of mediums that includes the distribution of printed materials and brochures, producing videos and other information that is included on the city

website, Facebook page, and through its Twitter account, as well as messaging for the cities various departments, and citizen outreach efforts.

Mr. Hall stated Ms. Braseth was very knowledgeable about the I-976 issue, and the action taken by the Council, so she knew the message to get out after the resolution had been adopted. He stated that he traditionally has left the messaging to her and the Communications department, and confirmed that he did that in this instance, and added she did not need much direction. He stated that he did not discuss the specifics concerning the content and drafting of the I-976 mailer. He was aware the mailer would include information about the fiscal impacts the passage of I-976 would have on the City of Olympia's road and maintenance projects, that the message would reflect the Council's opposition to I-976, and would include the good streets bad streets comparative photographs he discussed earlier with Mr. Hoey.

Mr. Hall stated that the city produced and distributed a mailer concerning a city sponsored ballot proposition in 2016 that he did spend more time reviewing the facts and details prior to distribution, which was the 2016 Public Safety ballot proposition. He stated that he spent time reviewing drafts of that publication, since the proposed ballot proposition would provide very specific services to the citizens concerning public safety issues. He stated those issues included mental health services, social service intervention, alternative sentencing, and services for addiction and homeless citizens, and that he spent quite a bit of time with the City of Olympia Police Chief discussing and reviewing the information for the mailer about that ballot proposition.

When asked if he discussed the "Vote No" language with Mr. Hoey or Ms. Braseth, Mr. Hall stated that all three of them were present at the City Council meeting where the council members adopted the resolution and were clear in their opposition to I-976. He stated there was no specific direction from him to include the Vote No on I-976 statement five times in the mailer (staff corrected the record and indicated it appeared three times. He stated the mailer need to reflect the action taken by the Olympia City Council action, the language included in the resolution stating that I-976 was bad for City of Olympia and the community, and that the City Council urged citizens to vote no on I-976. He stated that he indicated the content of the mailer need to accurately reflect the resolution that had been approved by the council.

Mr. Hall confirmed the City of Olympia produced and distributed a factsheet for several of the most recent City of Olympia sponsored ballot measures, including the Home Fund and the Public Safety initiative. He stated that the city had in the past also adopted resolutions in support of the Olympia School District bond or levy measures in the past, as well as support for statewide ballot propositions such as Referendum 88.

However, Mr. Hall noted that none of those measures had the direct impact on City of Olympia citizens and city services that I-976 did, reiterating that if I-976 is approved, the City of Olympia's transportation budget would likely be cut in half. Staff noted that the prior City of Olympia mailings provided as part of the City of Olympia's response for The Home Fund and Public Safety initiative, included the statement **"FOR INFORMATION PURPOSES ONLY. Not intended to support or oppose the Proposition."**

Mr. Hall acknowledged that those prior mailers included the disclaimer, and the No on I-976 mailer did not contain that statement. He stated the difference was that the information provided by the city in the City of Olympia sponsored ballot propositions were all adding new things for the citizens to consider.

Mr. Hall added that the resolutions and mailers concerning the Home Fund, or the Public Safety Initiative were about the city making a pitch to its citizens, offering something better for the community to consider and providing citizens with information why they should consider approving the measure. When asked why that disclaimer did not appear on the No on I-976 mailing, he stated there was never really any discussion about including that statement, due to the vote no language.

Mr. Hall stated that in the case of I-976, the ballot proposition was proposing to “take something away” if the measure was approved which felt very different to him than the messages concerning the other ballot propositions. He stated that he felt the city had to be very clear about “if you don’t want to lose this, you need to vote no on I-976.”

Mr. Hall stated that city staff did not sit there and compare the prior publications with the proposed I-976 mailer, and then include the “Vote No” language in this mailer xx number of times. He stated that he did not recall having any discussions with city staff about omitting or not including the “Vote No” language in the mailer.

Mr. Hall stated that he spoke with Mr. Hoey a couple of times one-on-one and there was a meeting that did include Mr. Hoey and Mr. Barber. Staff asked Mr. Hall if any of those meetings included a conversation with Mr. Barber as legal counsel concerning the inclusion of the Vote No on I-976 language or targeting the mailing to registered voters. Mr. Myers objected stating those meeting and conversations that included Mr. Hall, Mr. Barber and Mr. Hoey were covered by the attorney client privilege.

When asked about mailing the I-976 publication to only registered voters, Mr. Hall stated that he did not have any conversations or discussions with any City of Olympia council members, management or staff about mailing the No on I-976 publication to only registered voters. He stated that he only found the mailer was sent to registered voters after it had already been mailed out.

Mr. Hall stated the registered voter issue came up after the publication had already been mailed in a conversation that he had with Ms. Braseth. He stated he couldn’t recall if it was part of the allegations listed in one of the complaints filed with the PDC, or from citizen feedback that the city had received. He stated they talked about what list the city had used for the mailer, and he discovered the No on I-976 mailer was only sent to registered voters.

Mr. Hall stated the registered voter mailing list was used since that was the mailing list the city typically used to communicate with citizens. He stated the registered voter list was typically used by the city to communicate with citizens since it was easy to obtain and was maintained and regularly updated by Thurston County Elections. He stated his discussions with Ms. Braseth included only mailing the I-976 publication to registered voters, and not to all citizens, residents or boxholders. He stated that based on those discussions, the City of Olympia changed its mailing practice and will not be using a registered voter mailing list to communicate with

citizens in the future. He stated that the city also has a utility billing list which includes every mailing address in the city that has a utility, and the discussions he had included the possibility of using that list or some other mailing list that included all households.

Staff asked Mr. Hall if he had formed any opinions about whether the No on I-976 mailer complied with campaign finance and PDC legal requirements prior to it being sent out. He stated that he has been around this business for a long time and he has seen how the PDC has interacted with other agencies and added that the city of Olympia had been in contact with PDC staff on several occasions over the past few years.

Mr. Hall stated he thought that the mailer “passed the test” and was okay since the public hearing was held providing an opportunity for citizens to weigh in on the matter, and the City Council had taken a clear vote in opposition to I-976. He stated that after 30(+) years of doing this type of work, and without reviewing the final version of the mailer, he thought based on his experience the mailer accurately reflected the Council action and met the test with regards to the PDC statutes/rules.

Mr. Hall stated that he was surprised about the public responses concerning the mailer, but noted that after the complaints were filed, and in hindsight he noted he saw the objections being raised by the complainants and others. He stated that while the Council urged a no vote in the resolution, the city was directly urging citizens to vote no in the mailer, and he indicated that he got it, and that this mailer was different than the resolution adopted by the city council.

Staff noted that the majority of No on I-976 ballot committee’s television advertisements referenced or mentioned Tim Eyman, and asked Mr. Hall if there were any discussions about including a reference or mentioning Tim Eyman in the mailer, and he stated no. He reiterated that the mailer was about the facts, and if approved I-976 would have a significant impact on the livability of this community, and the citizens need to know about what the city council did in its meeting and resolution concerning this issue.

**Exhibit #8 Steve Hall Report of Investigation:**

**February 26, 2020 Investigative Interview Summary Notes**

**Rich Hoey, Olympia Public Works Department Director**

**PDC Case 59039**

Mr. Hoey stated that he has worked for the City of Olympia for 15 years, has been the City of Olympia Public Works Department (PWD) Director since being appointed to that position in 2011, was permanently hired to the Director position in March of 2012, and prior to that he was the City of Olympia Water Resources Director. He stated the City of Olympia Public Works Department consists of five divisions: (1) Transportation; (2) Water Resources; (3) Solid Waste; (4) Engineering; and (5) General services which includes all city facilities and fleet services. He stated that allowing for seasonal hiring fluctuations, there are roughly 160-170 employees in the PWD.

Mr. Hoey stated he was hired as PWD Director by Steve Hall, former City Manager, that he reported directly to Mr. Hall, and he would meet with one on one with him on a weekly basis. He stated at those meetings, he would update Mr. Hall with what was going on that week in the PWD, matters that would be going before the City Council in an upcoming or future City Council meeting, transportation issues, personnel matters, and a variety of topics related to public works.

Mr. Hoey stated that he would see Mr. Hall at the weekly agenda setting meetings that included members of the Executive Team to discuss the upcoming or future City Council meeting agendas. He would also see Mr. Hall at Executive Team meetings, whenever those meetings would be held, typically three out of four weeks of every month. He stated that his meetings and interactions with Mr. Hall were collaborative in nature and included briefing him on specific PWD issues and providing information on a variety of public works issues, especially related to transportation.

Mr. Hoey stated he did not regularly meet with Mayor Selby or any Olympia City Council members but that he would see them at work, at Council and agenda meetings, at other city related events and around city hall. He stated Mr. Hall would frequently receive questions or feedback from the Mayor or a City Council member, and he would relay those questions or issues back to him to respond to, either directly or through Mr. Hall. He stated that he had regular meetings with some City Council members on topical issues, such as the LOTT board the various City Council member on that board, or other city related issues that involved public works.

Mr. Hoey stated that he began having discussions with Mr. Hall and city staff concerning the impacts that I-976 would have on the City of Olympia in the summer of 2019. He stated those discussions involved the serious financial impacts that approval of I-976 would have on the City of Olympia's transportation budget. He stated that he met largely with transportation and other PWD staff, and with Mr. Hall and added that I-976 drew a lot of media attention and interest concerning its impacts on the city transportation budget.

Mr. Hoey stated that the Olympia City Council established a Transportation Benefit District (TBD) that charged residents and businesses vehicle license tab fees. He stated that the revenue generated from the license tab fees were accounted for in a dedicated account and were spent solely for transportation improvement projects around the city. He stated the TBD would establish a budget and approve a work plan for how the tab fees would be spent, and the Transportation department would account for and report to the TBD board and City Council how those funds had been allocated and spent. He stated that city transportation staff regularly made presentations and recommendations to the TBD board concerning how to spend/use the funds.

Mr. Hoey stated that early in the summer of 2019, he specifically began having discussions with Mr. Hall, transportation, public works and other city staff about the impacts I-976 would have on the City of Olympia. He stated based on the projections, if I-976 were to be approved it would eliminate all of the funding for the TBD, which depending upon the year would mean up to 40-50% of the cities Capitol Budget for Street repair and construction projects.

Mr. Hoey stated as the projections indicated, the approval of I-976 would have a huge impact on the city's ability to adequately maintain and repair its transportation infrastructure. He stated there were also discussions about I-976 at the Council agenda meetings and those discussions concerned having the Council conduct a public hearing about I-976 and take an official position on the proposed ballot measure through the city's resolution process. He stated those specific discussions focused on what needed to be done by staff to prepare for the meeting in which the resolution would be heard.

Mr. Hoey stated that he began having discussions with Mr. Hall in late summer about the City of Olympia's opposition to I-976, and those discussions involved have the city putting together a mailer or postcard providing information to the citizens about the impacts of I-976. He stated those discussions involved having the city communicate to citizens where the TBD dollar were currently being spent, how the cities street paving, repairs and improvement projects would be impacted by the passage of I-976, and where citizens could get additional information about the proposed ballot measure.

Mr. Hoey stated Mr. Hall agreed that the city would put together a mailer along those lines, and that he and his staff were to work with the City of Olympia Communications staff to develop what the I-976 mailer would look like. He stated the project involved Kelly Braseth, Strategic Communications Director, and Mark Russell, Deputy PWD Director, and the three of them met to discuss in general terms about having the city produce and distribute a mailer concerning I-976 and what that mailer might look like. He stated that Mr. Russell would occasionally meet with Mr. Hall when he was not available or on vacation, or when he was making a presentation. He stated Mr. Russell reported directly to him, and he was primarily involved with the public works transportation division but would also assist with administrative duties as needed.

Mr. Hoey stated that all of the work done on the mailer was at the direction and approval of Mr. Hall. He stated after the initial meeting with Ms. Braseth, he mostly worked with Mr. Russell on the mailer, and that he directed the instructions, information or intent of is discussions that he had with Mr. Hall to Mr. Russell. Mr. Russell then worked with other PWD staff and city communications staff members to develop the mailer, along with other city staff to bring this together.

When asked about his discussions with Mr. Hall and what the mailer might look like, Mr. Hoey stated that he gave Mr. Hall pretty high-level details about the TBD funding early on in the process. He stated that as the City Council was getting ready to take a position in opposition to I-976 at an upcoming Council meeting, Mr. Hall made the decision to include the Council's opposition to I-976 in the mailer as indicated in the Resolution.

Mr. Hoey stated that he relayed the information from Mr. Hall to Mr. Russell and instructed him to work with city transportation and communications staff to put together the mailer. He stated that he was not directing the details of the layout for the content of the mailer or the exact language to be included in the mailer, but instead he was merely passing along the instructions and direction he had received from Mr. Hall to Mr. Russell.

Mr. Hoey stated there was one area he was involved with concerning the layout which involved two options for photographs to be included in the mailer. He stated some of photographs reviewed by staff were of City of Olympia streets in disrepair while other photographs were of recently repaired or sections of good streets. He spoke with Mr. Hall concerning the two photographs and they agreed to use both photographs to provide citizens with a good contrast of the issue, good streets vs bad streets comparison.

Mr. Hoey stated that the City of Olympia has really talented public works and communications staff, and other than approving the final version, he felt confident that he had conveyed Mr. Hall's wishes to staff. He stated that Jessi Turner, Program Specialist for the Communications Department and Kristin Gilkerson, Program Specialist for City of Olympia Public Works Transportation Program, provided the layout work for the mailer including the drafting of the text. He stated that Mr. Russell primarily worked on the mailer on behalf of the PWD, based on direction he received from him. He stated that information in the mailer came from the PWD as part of the Capitol Facilities Plan, which was being frequently being updated by staff, so that information was readily available for use in the mailer.

Mr. Hoey stated that Mr. Russell and his staff would have pulled the information together, including the photographs and provided the content for communications services to work on the mailer. He stated that the city has a lot of photographs of its infrastructure including street conditions, street repair and construction projects in various stages of completion. He stated the Vote No language was included at the direction of Mr. Hall who wanted the mailer to reflect the position taken by the City Council to oppose I-976 as stated in the resolution. He stated he would have discussed this issue at a high level with Mr. Hall, but that he did not have any direct discussion to include the words "Vote No on I-976" three times with either Mr. Hall or Mr. Russell.

Staff questioned in his communications with Mr. Hall, how the mailer would reflect the City Council's opposition to I-976 in the resolution and did his conversation with Mr. Hall include the words "Vote No" in the mailer. He stated that he did not recall anything that specific, and when asked exactly what they discussed about the "Vote No" language, he stated that conversation with Mr. Hall also involved the City Attorney. He stated that conversation was privileged and confidential and was not anything he could elaborate on, other than noting that he was involved with the conversation.

After the meeting, Mr. Hoey stated that he communicated to Mr. Russell that the City Manager made the decision to include the City Council's position in opposition to I-976.

When asked if his conversation with Mr. Russell included him including the “Vote No” language, Mr. Hoey stated he did not remember using that exact wording to convey it, but it was to reflect the City Council opposition to I-976 as adopted in the Resolution. He stated when Mr. Russell was showing him the final draft version of the mailer as part of the final review process, he felt the language in the mailer concerning “Vote No on I-976” language was consistent with the City Council’s position.

Mr. Hoey stated he was part of the final review, and that he shared the final draft with Mr. Hall but stressed to him that the mailer needed to be reviewed by Mark Barber, the Olympia City Attorney before it went out. He stated that was important to him and important to Mr. Hall as well, and they both met and discussed the mailer with Mr. Barber before the final version was sent.

Mr. Hoey stated he did not send the final version of mailer to Mr. Hall but added that when he reviewed the final version of the mailer, he thought that the content of the mailer was consistent with his prior discussions with Mr. Hall. In addition, he stated he felt the I-976 mailer accurately reflected councils’ position.

When asked about other City of Olympia mailings concerning city sponsored initiatives such as the Home Fund and Public Safety Initiative, Mr. Hoey stated that he was not involved with those issues or the mailings that were subsequently sent out for those two ballot propositions. He stated that he had seen that language **“FOR INFORMATION PURPOSES ONLY. Not intended to support or oppose the Proposition”** before, and noted it was probably on one of those mailings. He stated that he did not have any discussions with Mr. Hall, Mr. Russell or any City of Olympia staff members about excluding that statement in the I-976 mailing.

Mr. Hoey stated that he did not have any conversations or discussions, or exchange emails or texts with Mr. Hall or Mr. Russell about mailing the I-976 publication to only registered voters, and he did not even think to ask a question about that issue. He stated that Communications services would have been in charge of determining the mailing list to use and whom to target, and he was aware they had contacted Thurston County to obtain the mailing list for the I-976 mailer, but he only learned that information after the fact.

Mr. Hoey stated that from the time the City Council adopted the Resolution to the time the I-976 publication was mailed out, involved a fairly quick turnaround time. When asked about the start date for the mailer, he stated that the preliminary impacts if I-976 was approved on the TBD would have begun early on in the process. He stated that the information about the Council’s opposition to I-976, was not part of that discussion as they were waiting for the City Council to hold the public meeting and adopt the resolution prior to sending out the mailer.

Mr. Hoey was asked if he was involved with any discussions or conversations with Mr. Hall concerning the complaints or blow back from the I-976 mailer, and he stated he did not recall any specific conversations. He stated that any conversations that did take place with Mr. Hall concerning the mailer and the Vote No language would have included the city’s legal department.

When asked about what type of feedback he received as PWD Director after the mailer went out, Mr. Hoey stated that there were emails that were forwarded to him concerning the city’s mailer, but those were largely directed to the City Council.

Mr. Hoey stated that he did not remember the exact number of emails, but he estimated there were at least a dozen or more emails that he was cc'd on but was not asked and did not provide a response. When asked if he had any discussions with Mr. Hall in which legal counsel was not present concerning whether the mailer complied with PDC guidance and rules/interpretations before it had been sent out, Mr. Hoey stated that his discussion with Mr. Hall also involved the city's legal department and their review of the mailer.

Mr. Hoey stated that his basic understanding was the mailer could include the City Council's position on the proposed ballot proposition. He stated that his conversations with Mr. Russell would have been that the mailer needs to be coordinated with the city's legal department, since neither of them were experts on the PDC rules and requirements.

Mr. Hoey stated that the City Manager provided direction and had the authority concerning the preparation of the mailer, and he directed public works to work with communications in the design of the mailer. He stated the PWD took the lead as the subject matter expert on this, which was confirmed by Ms. Braseth during her interview. He reiterated that he was following the direction from Mr. Hall concerning the mailer and added that the PWD and the communication team collaboratively worked on the mailer.

Mr. Hoey stated that there was a lot of media attention after the mailer had been sent out prior to the election being held, and that involved the Communications services staff and Ms. Braseth. He stated he was also aware of the emails from some of his meetings with Mr. Hall.

Mr. Hoey stated that he did not have any conversations with the Mayor or City Council members about including the "Vote No" language in the mailer. He confirmed staffs last questions that Mr. Hall had the authority to approve the Vote No on I-976 mailer and stated that "he made the decision and provided direction to include the City Councils position on I-976 for the mailer."