

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

In the Matter of Enforcement Action
Against:

Steve Hall, former City Manager for the
City of Olympia

Respondent.

Case No. 59039

STIPULATION AS TO
FACTS, VIOLATIONS AND
PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Peter Lavallee, and Respondent, Steve Hall, former City Manager for the City of Olympia, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event the Commission suggests modification to any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the state campaign finance and disclosure laws; RCW 34.05, the Administrative Procedure Act; and WAC 390.

FACTS

1. Steve Hall served as City Manager for the City of Olympia for 16 years and retired from that position on November 7, 2019. The Olympia City Mayor and the City Council hires the city manager.
2. Initiative 976 (I-976) is a Washington statewide ballot proposition that qualified for the November 5, 2019 general election ballot, and sought to: 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.

3. On October 8, 2019, the Olympia City Council held a regularly scheduled meeting. As part of the agenda the City published its intent to allow public testimony regarding the Initiative.¹ At the meeting, after considering public input, the Council unanimously adopted a Resolution expressing City Council opposition to I-976.
4. After adopting the Resolution, on October 15, 2019, the City of Olympia printed and mailed a two-page publication (“the Olympia Mailer”). The Olympia Mailer declared “**Vote NO Initiative 976**” in a larger font size in the upper left 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.” The mailer included the statement “The Olympia City Council urges a “**NO**” vote on I -976” at the upper right half of the first page inside of an orange banner. The Olympia Mailer included the “**Vote NO Initiative 976**” statement in two other places.
5. The Olympia Mailer included a section that stated “**Why Vote No?**”, followed by three bullet points providing factual information about the potential loss of significant funding for street repairs and improvements should I-976 be approved. The Olympia Mailer also included the following 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, about \$1.5 M/year. If the measure passes, that funding would go away.

6. The Olympia Mailer was sent exclusively to households with registered voters. Mr. Hall stated that the registered voter mailing list was the mailing list the City of Olympia typically used to communicate with its citizens, and that it was easy to obtain since it was maintained by Thurston County and regularly updated.
7. While the content of the Olympia Mailer was developed by City staff, Mr. Hall was ultimately responsible for the decision to approve distribution of the Olympia Mailer, which included the “Vote No” language. Mr. Hall approved distribution of the Olympia Mailer after consultation with City Attorney Mark Barber and Rich Hoey, City of Olympia’s Public Works Director.

¹ RCW 42.17A.555(1) allows a city council to vote on a motion or resolution to express support or opposition to a ballot proposition, provided: (1) the notice for the meeting includes the title and number of the ballot proposition, and (2) members of the legislative body or members of the public are allowed an approximately equal opportunity to express an opposing view.

8. As City Manager, Mr. Hall was the day-to-day administrator for the City of Olympia. He was ultimately responsible for authorizing and approving all city expenditures of public funds, including the printing and distribution of the Olympia Mailer.
9. Based on information provided by the City of Olympia, the total cost for the Olympia Mailer was \$9,932.82, which included \$7,183 to print and mail the publication. In addition, the city estimated that a total of \$2,749.82 was incurred for City of Olympia staff time to produce and distribute the Olympia Mailer, based on 66-70 hours of staff time.
10. Mr. Hall discussed his plan to distribute the Olympia Mailer with the Mayor, Mayor Pro-Tem or City Council members, but did not discuss the content of the mailer with them, including the Vote No on I-976 message.
11. Mr. Hall indicated that I-976 threatened 50% of the City's transportation funding for street repair and reconstruction, and that he felt a duty to inform citizens of this information and the City Council's opposition to the Initiative.

Factors in Mitigation

12. Mr. Hall has not previously been found in violation of RCW 42.17A or WAC 390.
13. Use of a single, jurisdiction-wide, mailer presenting factual statements regarding a ballot measure is permitted pursuant to PDC Interpretation 04-02.
14. Mr. Hall has cooperated with the investigation of this matter, and from the evidence available, it does not appear that Mr. Hall engaged in a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, nor does it appear that he engaged in collusive behavior.

Factors in Aggravation

15. Mr. Hall was an experienced City Manager and was aware of the prohibitions in RCW 42.17A.555 concerning the use of city facilities to support or oppose candidates or ballot propositions.
16. The Olympia Mailer was mailed to only registered voters.
17. Prior City of Olympia mailings for proposed City-sponsored local ballot propositions included the statement **“FOR INFORMATION PURPOSES ONLY. Not intended to**

support or oppose the Proposition.” That statement was not included in the Olympia Mailer.

STATUTORY AND RULE AUTHORITY

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.”

WAC 390-05-271(2) states that RCW 42.17A.555 does not prevent a public office or agency, 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.”

VIOLATIONS

Based on the Stipulation of Facts set forth above, Steve Hall stipulates to having violated RCW 42.17A.555 by authorizing the use of the facilities of the City of Olympia to produce and distribute a mailer in opposition to I-976 prior to the November 5, 2019 general election.

PENALTY

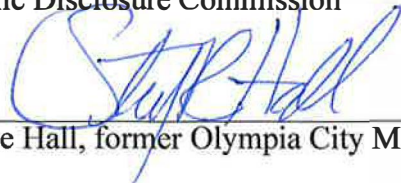
Based upon the Stipulation of Facts and Violations set forth above, Mr. Hall agrees to pay a total civil penalty of \$10,000, with \$5,000 suspended on the following conditions:

- a. Mr. Hall is not found to have committed any further violations of RCW 42.17A or WAC 390 within four years of the date of the final order in this matter. The suspended penalty shall not be assessed based solely upon any remediable violation, minor violation, or error classified by the commission as appropriate to address by a technical correction.
- b. Mr. Hall complies with all PDC reporting requirements.
- c. The non-suspended portion of the penalty (\$5,000) is paid by Mr. Hall within 30 days of the date of the final order in this matter. If he fails to make timely payment of the non-suspended portion of the penalty, the suspended portion of the penalty shall be immediately become due without further action by the Commission.

Steve Hall affirms his intention to comply in good faith with the provisions of RCW 42.17A and WAC 390 in the future.

/s

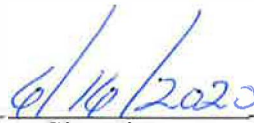
Electronically Signed, Peter
Lavalley, Executive Director
Public Disclosure Commission



Steve Hall, former Olympia City Manager

7/15/2020

Date Signed



Date Signed