

October 18, 2007

Re: Case No. 07-2-1012-1

Dear \*\*\*\*\*:

On October 12, 2007, you filed a complaint with our office alleging that Councilmember Godden “authoriz[ed] City employees under her supervision and control to use their time and City telephones, computers, equipment and other facilities to arrange for and calendar political and election campaign meetings and related events that she attended to further her election campaign.” You further allege that Councilmember Godden “utilized the services of City employees under her supervision to schedule and calendar personal business that was not for any City purpose.” For the reasons discussed below, I am dismissing your complaint.

### **Facts**

In support of your complaint, you provided us with copies of Councilmember Godden’s calendar, together with expanded daily entries, for the first eight months of 2007. Councilmember Godden’s calendar reflects numerous campaign-related events, as well as some personal appointments, such as appointments with her hairdresser.

In a follow-up e-mail to us, you called out two calendar entries that you believe provide clear evidence of violations of the Ethics and Elections Codes. The first, from February 24, 2008, reads “GianCarlo will meet you at Amanda’s, and I told him to bring cards.” The second is a calendar entry from May 12, 2007, which reads “Carlo gone thru May 21<sup>st</sup>.” GianCarlo is Councilmember Godden’s campaign manager.

### **Relevant Law and Advisory Opinions**

SMC 2.04.300, provides that: “No elected 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.” The law does not bar City officers and employees from promoting or opposing ballot propositions on their own time using their own resources.

SMC 4.16.070(2)(a) provides that no City officer or employee may “[u]se his or her official position for a purpose that is, or would to a reasonable person appear to be primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the City; or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person....”

SMC 4.16.070(2)(b) provides that no City officer or employee may “[u]se or permit the use of any person, funds, or property under his or her official control, direction, or custody, or of any City funds or City property, for a purpose which is, or to a reasonable person would appear to be, for other than a City purpose....”

In April 2005, following a lengthy Commission discussion, I sent a letter to every elected official regarding how to manage campaign scheduling in compliance with the Elections Code’s bar on the use of City resources for campaign purposes. The letter said:

The Commission recognizes two City purposes that intersect with campaign scheduling. First, your public schedule needs to reflect where you are at all times, so that you can be reached on important City matters whenever necessary. Second, you shouldn’t be double-booked, scheduled to attend a campaign event and an official event at the same time.

When your scheduler’s actions are limited to those necessary to ensure that your public schedule is complete and accurate, and that your whereabouts are known at all times, the primary beneficiary of your scheduler’s actions is the City, not your reelection campaign, and there is no misuse of City resources. When your staff schedules a fundraiser or a campaign appearance for you, whether or not they initiate or accept the call, the primary beneficiary of that act is your reelection campaign, and the benefit to the City is incidental. Such activity raises serious issues under the Ethics and Elections Codes.

**Campaign scheduling must be performed by campaign personnel, who can and should coordinate scheduling with your City staff to ensure that you are not double-booked and can be reached on important City matters.** Your staff can and should communicate with the campaign regarding open time slots on your public schedule (to be sure you aren’t double booked), and to place campaign events on your public schedule (to ensure you can be reached). Scheduling campaign events, however, cannot be done on City time or using City resources.

(Emphasis in original.)

Our office has reviewed the documents you provided us with and can find no evidence that would suggest that Councilmember Godden’s City staff is performing campaign scheduling for the Councilmember. You have not highlighted for us, nor have we identified, any instances

where campaign staff scheduled a fundraising or campaign appearance. Noting on the Councilmember's schedule, as staff did in May, that the campaign manager would be away for a week does not constitute using City resources for campaign purposes. The notation is simply a fact – it does nothing to either promote or oppose Councilmember Godden's reelection effort. And the February meeting between Councilmember Godden and her campaign manager is an example of staff communicating with the campaign regarding open time slots on the candidate's public schedule, and staff placing a campaign appointment on the public schedule.

Finally, with regard to Councilmember Godden's hair appointments, in 1999 the Commission authorized the minimal use of City facilities so long as it is "personal use that is necessary for employee productivity and accommodates the demands of daily living, [and] so long as the use is occasional, does not cost the City money or interfere with City work, and is authorized by management." *See Op. Sea. Ethics & Elects. Comm'n 6* (1999). Nothing in the documents you provided suggest that Councilmember Godden has used City resources beyond that authorized under this opinion.

## Conclusion

Based on my reading of the law and prior Commission opinions, I do not believe there is reasonable cause to believe that Councilmember Godden has violated either the Ethics Code or the Elections Code, and therefore I am dismissing your complaint. You are entitled to appeal my dismissal under Seattle Ethics and Elections Commission Administrative Rule 2.6.<sup>1</sup> Please be advised that if you elect to file an appeal under Administrative Rule 2.6, we will no longer be able to preserve your anonymity.

Very truly yours,

/s/

Wayne Barnett  
Executive Director

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<sup>1</sup> 2.6 Appeal of Executive Director Dismissal Decisions

- (1) Upon the written request of a party aggrieved by an Executive Director's decision to dismiss a complaint, the decision may be reviewed by the Commission.
- (2) A request for review shall be served at the office of the Commission no later than twenty one (21) days after the date of mailing the decision of which review is sought.
- (3) A request for review shall state the grounds therefore, and shall be no longer than twelve 8 1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than twelve characters per inch.
- (4) When a request for review is served, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the Commission has acted on the request for review.
- (5) The Commission shall act on the request at the next meeting at which it may be practicable by:
  - (a) deciding whether to review the Executive Director's decision; and
  - (b) if it decides to do so, either affirming, reversing, or amending the decision.
- (6) In reviewing the Executive Director's decision, the Commission shall base its review on whether the Executive Director had a rational basis for the decision, and shall only reverse or amend a decision to the extent that a rational basis is lacking.

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cc: Seattle Ethics and Elections Commission (*complainant's name and address withheld*)  
Councilmember Jean Godden (*complainant's name and address withheld*)