

October 1, 2025, SEEC Commission Regular Meeting
2025.09.04 W Barnett to P Chapman Investigation Request Dismissal

From: Barnett, Wayne <Wayne.Barnett@seattle.gov>
Sent: Thursday, September 4, 2025 12:23 PM
To: paulfchapman@hotmail.com <paulfchapman@hotmail.com>
Cc: Elections, Ethics <ethicsandelections@seattle.gov>
Subject: Re: Mayor's Social Media FW: Ethics and Election Violations by City of Seattle

Dear Mr. Chapman,

Thank you for writing. I have been looking into this issue since getting an e-mail from a reporter two weeks ago about the Mayor's use of TikTok and Instagram. I can tell you that while I understand why you reached out, I do not believe that the City posts featuring Mayor Harrell violate the law.

To reach this conclusion, I looked to the opinion given by the Commission twenty years ago in Case No. 05-2-0413-1. That case resolved charges I had filed against Mayor Greg Nickels alleging the use of City resources to assist his reelection campaign. By a 4-3 margin, the Commission agreed with me (although by a 4-3 vote it decided against imposing a fine). It remains the only Commission opinion interpreting this section of the law.

In its 11-page opinion, the Commission articulated a framework for analyzing these cases. It began, as I will, with a citation to the law at issue, SMC 2.04.300:

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. Facilities of 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 officer or agency; provided, that the foregoing provisions of this section shall not apply to the following activities:

(None of the exceptions are relevant to the decision.) It turned then to its analysis. First, the Commission said that "purpose" is tested objectively. There is "no need to prove or determine the subjective mental state (actual intent) of any person." (pages 2-3). Second, it is "not sufficient to ask simply whether a document is 'informational vs. promotional'....The key question is whether, to a reasonable person, the activity or document appears PRIMARILY designed to influence the outcome of an election, or PRIMARILY designed to be informational." The Commission then turned to explain its decision that the document distributed by Mayor Nickels was primarily promotional.

The content and style of the document were central to the Commission's determination. One very important factor was the title of the document: 'Mayor Greg Nickels THREE YEARS OF ACCOMPLISHMENTS' Making a difference in people's lives.'" The emphasis was plainly on the Mayor's individual record of what he defined as successes.

After "Content and Style," which it used interchangeably with the terms "tone and tenor," the Commission turned to the timing of the effort, saying that "the use of public facilities in an election year will receive heightened scrutiny from the Commission, and that timing may cause the Commission to more readily conclude that the primary purpose of the communication is to influence the outcome of an election."

Discussion

Applying this opinion to Mayor Harrell's social media presence in the past month, I note that the content and style of the activity militate against a finding that they are primarily to promote his reelection. For any incumbent, persuading people that they have used their time in office to produce concrete results is paramount. It was the Commission's finding that Mayor Nickels's Accomplishments Document focused laser-like on that mission. Mayor Harrell's TikTok videos are instead focused on daily events. The Mayor at Parks's "Big Day of Play," for example, or the opening of the Odessa Brown Children's Clinic in the Central District.

There are other salient differences, including the fact that the videos are for the most part under a minute, and total 11 minutes of video in the past month. And the Accomplishments Document was mailed to approximately 40,000 residents, while the TikTok account counts 1335 followers, and two-thirds of the posts have been viewed less than 1,000 times, with only one post featuring the Mayor attracting more than 10,000 views.

I also note that, in keeping with a Commission advisory opinion issued in 2011, the sites all keep comments open for anyone to comment, and many attract scathing commentary. Last week, one commentor wrote of Harrell: "The guy literally once, as an adult, flashed a gun at someone simply because they got a parking space he wanted. Vote him out," while another commented: "another day another ribbon cutting meanwhile harrell's office is canceling safety infrastructure on lake Washington boulevard lol." Most of the comments are in this vein.

On the other side of the ledger, there is the timing issue. No one can credibly dispute the spike in activity in the month of August. The question is whether the timing is sufficient to establish a violation of the law. I cannot read the opinion, in its totality, and reach that conclusion. **Both** elements were important to the Commission, and it is my job to fairly interpret Commission opinions.

(I note that while your complaint does not reference this fact, I am aware of New York City mayoral candidate Zohran Mamdani's use of short videos like the ones featuring Mayor Harrell. Mr. Mamdani is introducing himself to New York City voters, and posts much more than Mayor Harrell, who was first on the ballot 18 years ago.)

For these reasons, I am dismissing your complaint. Should you wish to appeal this determination to the full Ethics and Elections Commission, you have 21 days in which to submit your written appeal to this office. They can overturn my dismissal if they conclude that it lacks "a rational basis." Thank you for filing this complaint.

Best regards,

Wayne



Wayne Barnett

Executive Director

Seattle Ethics and Elections Commission

O: 206.684.8577 | M: 206.503.0632

wayne.barnett@seattle.gov | www.seattle.gov/ethics

#