

# Memo

To: Commission

From: Wayne Barnett

Date: January 30, 2008

Re: Request for Administrative Dismissal

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SMC 2.04.300 states that “[n]o elected official...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....”

As discussed in the dismissal of the allegation that former Councilmember Della threatened retaliation against Rich O’Neill, the President of the Seattle Police Officers’ Guild (“SPOG”), for that group’s endorsement of Tim Burgess, Della’s election opponent, our investigation showed that Della called O’Neill from his City Council office using his City telephone. While the content of the communication remains in dispute, what is not disputed is that Della made the call to discuss SPOG’s endorsement of Burgess. Accordingly, there is evidence indicating reasonable cause to believe that Della violated SMC 2.04.300 when he used City facilities to make the call.

The Commission’s Administrative Rule 3.G provides as follows:

1. If the Executive Director has evidence indicating that there are reasonable grounds to believe a violation of SMC 4.16 or SMC 2.04 has occurred, and either (i) the violation was inadvertent or minor, but not both, or (ii) appropriate actions have already been taken to address the allegedly unlawful conduct, the Executive Director may ask the Commission to direct him or her to administratively dismiss the case. This request shall be made at a Commission meeting. The request shall describe the basis for the Executive Director’s reason to believe that a violation occurred, the Code provision the Executive Director has reasonable grounds to believe was violated, and the reason the Executive Director believes the public interest is not served by pursuing the matter, which may include a description of the action taken to address the alleged violation.
2. The Commission shall direct the Executive Director either to administratively dismiss the case or deny the request....

I believe that Della’s use of his City telephone for a campaign call on this one occasion was minor, but not inadvertent. I also believe that pursuing a fine for this minor violation would not serve

the public interest, in light of Della's defeat at the polls in November. While a defeat at the polls certainly does not absolve an elected official of responsibility for every violation he or she committed while in office, this violation is too minor to merit additional attention or resources.

Therefore, I ask the Commission to administratively dismiss this case.