

## **Mike Nelson Response to Campaign Allegations from Tina Drennan and Mark Bucklin**

These claims have no merit. As Mayor, I am required by law to submit a public city budget and city budget message each year. The budget message must be available to the public at least 60 days before the end of the year. See RCW 35A.33.055. Every year, we submit the budget and budget message to the public in early October. There is no merit to the claim that the budget message was only provided during this election year. I provided budget messages to the public in 2022, and 2021. Attached to this response are invoices to the City of Edmonds for the printing and distribution costs of the budget messages in 2022, and 2021, as part of my regular and usual conduct as mayor. Please note the dates of the previous budget messages were all during the same time of year as this year's budget message.

Below are my specific responses to each allegation:

### **RCW 42.17A.550 Use of public office or agency facilities in campaigns—Prohibition—Exceptions.**

There is no violation of RCW 42.17A.550 because my budget message falls under the exceptions as part of the normal and regular conduct of my office as cited in Section (3) which states, “[a]ctivities which are part of the normal and regular conduct of the office or agency.” Producing a budget message is part of my legally required duties as Mayor. I am required to produce a budget message each fiscal year. State law requires the City's chief administrative officer to prepare a budget message at least 60 days before the beginning of the city's next fiscal year.

RCW 35A.33.055 specifically provides in relevant part:

Budget message—Preliminary hearings. In every code city ***a budget message*** prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body ***at least sixty days before the beginning of the city's next fiscal year...***

[*Emphasis added*]. In RCW 35A.33.010, a “chief administrative officer” is defined as “the mayor of cities having a mayor-council form of government.” As a result, as mayor, I clearly am responsible for complying with the mandates of RCW 35A.33.055.

Furthermore, RCW 35A.33.052 requires the preliminary budget, which includes the budget message, to be submitted to the city clerk at least 60 days before the next fiscal year. The clerk is required to have enough copies of the budget message to meet the demands of taxpayers and be available for “distribution” no later than six weeks before the city's next fiscal year. By using the word “distribution,” the law clearly intends that the budget message and budget be passed out or shared with taxpayers. The statute does not limit or define how the mayor should distribute this budget information. Therefore, a

budget message distributed in writing to taxpayers clearly falls within the requirements of RCW 35A.33.052.

**RCW 42.17A.555 Use of public office or agency facilities in campaigns—Prohibition—Exceptions.**

There is no violation of RCW 42.17A.555 because my budget message falls under the exceptions as part of the normal and regular conduct of my office as cited in Section (3) which states, “[a]ctivities which are part of the normal and regular conduct of the office or agency.” Producing a budget message is part of my legally required duties as Mayor. As explained above, state law requires the City’s chief administrative officer to prepare a budget message at least 60 days before the beginning of the city’s next fiscal year.

**WAC 390-05-273 Definition—Normal and regular conduct.**

The definition of “normal and regular conduct” in RCW 42.17A.555 means “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.”

There is no violation of WAC 390-05-273 because my conduct of producing and sharing my budget message is part of my specially authorized and usual actions as mayor under RCW 35A.33.055 and RCW 35A.33.052.

**RCW 42.52.180 Use of public resources for political campaigns.**

There is no violation of RCW 42.52.180 because my budget message is part of my normal and regular conduct of my office described as an exception under 42.52.180(2)(d). Producing a budget message each fiscal year and 60 days before the end of the year is part of my legally required duties as Mayor.

**RCW 42.17A. Section 703, Chapter 204, Laws of 201**

There is no merit to this claim because this section pertains to public service announcements. As defined by the WAC 390-05-525, public service announcements do not include a city’s budget and budget message. All city communications by elected officials would have to cease which is counter to government transparency and keeping citizens informed. Expanding the definition of public service announcements to budget messages would conflict with the state law requiring mayors to share their budget message.

The law defining public service announcements does not include any language specific to budget messages. A public service announcement must be “(a) [d]esigned to benefit or promote the community’s health, safety or welfare or nonprofit community events” and must be “(c) [s]ponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the

organization” and “(f) [s]ubject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing or otherwise publishing the communication including policies regarding length, timing and manner of distribution.” See WAC 390-05-525 (a), (c), and (f).

In WAC 390-05-525(2) examples of public service announcements include “communications regarding nonprofit community events, outreach or awareness activities.” This includes “breast cancer screening, heart disease, domestic violence, organ donation, emergency or other disaster relief for organizations such as the Red Cross, programs designed to encourage reading by school children, childhood safety, fund drives for charitable programs such as United Way, and similar matters.” See WAC 390-05-525(2)’s guidance. None of these examples are related to the distribution of a city’s budget message.

Elizabeth Sander, Treasury Services  
 Box 70, Seattle WA 98111

Invoice To City of Edmonds  
 700 Main Street  
 Edmonds, WA 98020

Invoice Date 10/22/2021

Invoice Due 11/21/2021

Job Number Multiple

Your Order #

Salesrep Neil Johnson

Quantity	Description	Setup	Min	Unit Price	U/M	Sub Total	Tax	Total
City of Edmonds Newsletter - 10-15-21.								
24,820	4 Page Tabloid Four color available throughout		6,249.00			6,249.00	649.90	6,898.90
1	Freight; Shipping: Office Copies			70.00	ea	70.00	7.28	77.28
24,800	Mail Prep		150.00	8.50	/m	210.80	21.92	232.72
1	Freight; Shipping: 1st Trip to Lynnwood to be verified			120.00	ea	120.00	12.48	132.48
1	Freight; Shipping: 2nd Trip to Lynnwood to be verified			100.00	ea	100.00	10.40	110.40
1	Freight; Shipping: Seattle P&DC to be mailed			70.00	ea	70.00	7.28	77.28

Postage Customer Permit #1036: \$4687.20

*MAJOR BUDGET MESSAGE*

TERMS: PLEASE NOTE OUR TERMS ARE NET 30 DAYS FROM DATE OF INVOICE.

*OK to Pay  
 Dave T*

Sub Total \$6,819.80

Sales Tax \$709.26

**TOTAL DUE \$7,529.06**

Customer #: 60642

Tax #:

Jobs Invoiced: 86510, 86511

Attn: Elizabeth Sander, Treasury Services  
PO Box 70, Seattle WA 98111

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Invoice To City of Edmonds  
700 Main Street  
Edmonds, WA 98020

Invoice Date 10/19/2022

Invoice Due 11/18/2022

Job Number Multiple

Your Order #

Salesrep Neil Johnson

Quantity	Description	Setup	Min	Unit Price	U/M	Sub Total	Tax	Total
<b>City of Edmonds - Mayor's Message.</b>								
25,500	4 Page Brochure Four color available throughout		5,943.00			5,943.00	624.02	6,567.02
<b>City of edmonds - Mayor's Meesage.</b>								
24,676	Mail Prep - Topsheeting		150.00	8.50	/m	209.75	22.02	231.77
2	Freight; Shipping: Deliver to Lynnwood Post Office Deliver to Edmonds Post Office			65.00	ea	130.00	13.65	143.65
Postage Customer Perm,it #1036 - \$4,318.30								

TERMS: PLEASE NOTE OUR TERMS ARE NET 30 DAYS FROM DATE OF INVOICE.

OK TO pay D. TURLEY 12-22-22

Sub Total \$6,282.75

Sales Tax \$659.69

**TOTAL DUE \$6,942.44**

Customer #: 60642

Tax #:

Jobs Invoiced: 88755, 88757