

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF WOODINVILLE**

In the Matter of the)	No. HEA-23-001
)	
November 6, 2023, Ethics Complaint)	
Against Mayor Mike Millman)	
)	THRESHOLD DETERMINATION OF
)	PROBABLE CAUSE

INTRODUCTION - AUTHORITY

Chapter 2.36 of the Woodinville Municipal Code (WMC) constitutes the “Code of Ethics,” which governs the conduct of “all members of the City Council, Planning Commission, and other City Boards and Commissions as well as all City employees.” *WMC 2.36.020*. The City Code of Ethics contains a declaration of policy, which provides:

High moral and ethical standards among public officials and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. Public officials and public employees are agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires that public officials and employees be independent and impartial when establishing policy and that their positions never be used for personal gain. A code of ethical conduct is necessary for the guidance of public officials where conflicts do occur as well as to prevent conflicts of interest.

WMC 2.36.010.

The purpose of the Code of Ethics is to “assist City officials and employees to establish guidelines to govern their own conduct as it relates to official City business.” *WMC 2.36.020*. It is “also intended to help develop traditions of responsible public service.” *WMC 2.36.020*. To achieve that purpose, the Code of Ethics contains a list of prohibited conduct for City officials (*WMC 2.36.020*); outlines the way in which the ethical rules are to be implemented and enforced (*WMC 2.36.060*); and delegates to the Hearing Examiner the responsibility of enforcing the ethics rules pursuant to specified enforcement procedures (*WMC 2.36.050*).

Any person with knowledge that a City Official may have violated the Code of Ethics may make a signed report to the City Clerk, who shall forward the report to the Hearing Examiner. *WMC 2.36.060(1)*. Upon the receipt of such report, “the Hearing Examiner, without benefit of subpoenas or sworn testimony, shall make such preliminary investigation as he or she deems appropriate to determine whether probable cause exists to believe that a violation of the code of ethics has occurred.” *WMC 2.36.060(2)*. Until such threshold determination of probable cause is

*Threshold Determination of Probable Cause
City of Woodinville Hearing Examiner
In re November 6, 2023, Ethics Complaint Against Mayor Mike Millman
No. HEA-23-001*

made, “[t]he fact that a report has been received, the contents of the report, and the identity of the person making the report shall remain confidential.” *WMC 2.36.060(1)*.

The Code of Ethics does not provide a definition for “probable cause,” but it is well established in the context of criminal law that probable cause exists when “the affidavit in support of the warrant sets forth facts and circumstances sufficient to establish a reasonable inference that the defendant is probably involved in criminal activity.” *State v. Jackson*, 150 Wn.2d.251, 76 P.3d 217, 225 (2003). Applying this principle to the Code of Ethics, “probable cause” exists when the Hearing Examiner determines that the ethics complaint and any supporting documentation sets forth facts and circumstances sufficient to establish a reasonable inference that a City official probably engaged in conduct prohibited under the Code of Ethics.

It is important to stress that a threshold determination of probable cause does not equate with a determination that the City official actually committed a violation of the Code of Ethics. Notably, in reaching a threshold determination of whether probable cause of an ethics violation exists, the Hearing Examiner’s preliminary investigation is limited because it must be conducted “without benefit of subpoenas or sworn testimony.” *WMC 2.36.060(2)*. Additionally, in conducting a preliminary investigation as to whether probable cause exists, the Hearing Examiner must be cautious to protect the confidential nature of the complaint and the identities of the complainant and the accused. Accordingly, the Hearing Examiner views the “probable cause” standard in the context of this limited preliminary investigation as akin to a determination that the facts and circumstances set forth in the ethics report, if true, reasonably describe acts that constitute a prima facie showing of a violation of *WMC 2.36.020*.

ETHICS COMPLAINT

On February 13, 2024, the Hearing Examiner received an ethics complaint filed by Woodinville resident Alex Campbell (Complainant) on November 6, 2023.¹ The complaint alleges that City of Woodinville Mayor Mike Millman improperly used his position as City Mayor to purchase directly from Chateau Ste Michelle Winery representatives concert tickets for himself and his wife for an event at the venue, which were sold out and therefore unavailable for direct purchase by the general public. The complaint further alleges that Mayor Millman improperly accepted an invitation to attend a pre-concert reception at the venue that was otherwise available only to Vintage Reserve Club (VRC) ticket holders. In addition, the complaint alleges that Mayor Millman improperly received these benefits from Chateau Ste Michelle Winery (the Winery) representatives in connection with Mayor Millman discussing his interest in organizing community and business opposition to the proposed siting of a King County transfer station on property located near the Winery.

¹ The ethics complaint was originally forwarded to a former Hearing Examiner for the City of Woodinville, who did not act on the complaint prior to the current Hearing Examiner being assigned the matter on February 13, 2024.

Specifically, the complaint asserts that the above alleged conduct violated Revised Code of Washington (RCW) 42.23.070(1) and (2), which are incorporated by reference into the Code of Ethics under WMC 2.36.020(16). RCW 42.23.070 provides in relevant part:

- (1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.
- (2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

In support of these allegations, the complainant submitted copies of what are purported to be a series of emails between Mayor Millman, using his official City-issued email address, and a representative of the Winery, Cara Connor. These email exchanges are described in relevant part below:

- In an April 22, 2022, email with the subject title, "Concert Invitation – the link!," Ms. Connor states, "Hi, I left of the link to our concert schedule. Here you go!"
- In an April 23, 2022, email response, Mayor Millman states:

Hi Cara

Thank you so much for reaching out to me. My wife and I love the concerts there and would love to see Chicago Sept. 3rd?

I also wonder if we could talk about the proposed site of a transfer station near the Chateau? I am interested in organizing community and business opposition to the process and proposed site by King County.

Thank you

Mike Millman

- In an April 25, 2022, response email, Ms. Connor states:

Hi Mayor Millman,

First – thank you for reaching out on the King County Transfer Station. I understand they are getting active again with a Sitting Advisory Group meeting on May 12th.

I'm happy to discuss but would also suggest conferring with Adam Acampora from Woodinville Wine Country as he is also interested in

Threshold Determination of Probable Cause

City of Woodinville Hearing Examiner

In re November 6, 2023, Ethics Complaint Against Mayor Mike Millman

No. HEA-23-001

the community response. I would love to set something up with both of you to see how we can work together on this.

For the Chicago concert on September 3rd – do you already have tickets for this? I’m showing it is sold out, but I think we have some options as these need to be purchased by you. In the meantime, I’ve added you and Michelle to the invitation list and will send a confirmation in the next few weeks.

Thank you,

Cara

- In an April 27, 2022, reply email, Mayor Millman states:

Hi Cara

I think I misunderstood the prior email. No we don’t have tickets but that is ok. As far as the transfer station issue I would like to meet with you and Adam at both of your convenience. If you want to get together with Adam and throw out some dates that work?

Thanks

Mike

- Finally, in a separate April 27, 2022, email with the subject title, “Chateau Ste. Michelle Concert/Woodinville Wine Country,” Ms. Connor states:

Hi Mike,

Yes – we do have the restrictions of gifting government employees over a certain amount, so we are not able to give you concert tickets (believe me – would love to!) but can donate the pre-concert reception.

We have a block of GA tickets on hold just for this purpose so if you do want to go, we would arrange payment for the tickets. Just let me know at any time if you want to do this.

I will get something arranged for us to meet with Adam and we can find a time that works for both of you.

Thank you,

Cara

The Complainant also submitted with his ethics complaint a purported excerpt from the October 13, 2023, edition of the *Woodinville Weekly*, which suggests that Mayor Millman and his wife attended the Chicago concert discussed in the email exchanges above. In addition, the Complainant submitted information regarding benefits for VRC ticket holders, which indicates that the price for a VRC ticket is \$75 and that benefits include on-site complimentary parking (\$30 value), priority access to the concert through a private entrance, and small bites and a sampling of wines at a pre-concert social two and a half hours before the start of the concert.

ANALYSIS

RCW 42.23.070(1)

RCW 42.23.070(1), which is incorporated by reference into the Code of Ethics under WMC 2.36.020(16), provides, “No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.” The Hearing Examiner determines that the ethics complaint sets forth facts and circumstances from which a reasonable inference may be drawn that a violation of RCW 42.23.070(1) probably occurred. As noted at the outset, this threshold determination of probable cause does not equate with a determination that a violation actually occurred, and further factual development would be required to establish that the conduct alleged in the complaint constitutes a violation of RCW 42.23.070(1).

Mayor Millman is clearly a “municipal officer” subject to the statutory provision’s prohibition against securing special privileges for himself or others. *See RCW 42.23.020(2)* (defining *municipal officer* in relevant part as “all elected and appointed officers of a municipality”). Assuming the truth of the allegations set forth in the complaint, it establishes that Mayor Millman sent an email to a representative at the Winery from his official City-issued email address in which he stated his and his wife’s desire to see a Chicago concert at the Winery. Although Mayor Millman did not expressly request in his email communication that the Winery representative provide him with concert tickets at no cost, a reasonable inference may be drawn that such a request was suggested. This reasonable inference is supported by the Winery representative’s responses to Mayor Millman, in which she clarifies that he would have to purchase concert tickets himself and that the Winery would not be able to give him the tickets at no cost. This indicates that the Winery representative interpreted Mayor Millman’s statement of interest in the Chicago concert as a request for tickets to that concert.

That Mayor Millman ultimately did not obtain free concert tickets does not negate the reasonable inference that his communication to the Winery representative from his City-issued email address was made for the purpose of securing a special privilege and, accordingly, the Hearing Examiner

Threshold Determination of Probable Cause

City of Woodinville Hearing Examiner

In re November 6, 2023, Ethics Complaint Against Mayor Mike Millman

No. HEA-23-001

determines that the facts and circumstances set forth in the ethics complaint establish a prima facie showing that a violation of RCW 42.23.070(1) probably occurred.

Moreover, the facts and circumstances set forth in the ethics complaint establish a reasonable inference that Mayor Millman was ultimately able to purchase concert tickets directly from the Winery, which were sold out and otherwise unavailable for direct purchase by the general public and, further, that the Winery offered to provide him with access to a pre-concert reception that was otherwise available only to VRC ticket holders. Although further factual development would be required to establish whether access to purchase sold out tickets and to a pre-concert reception constitute a special privilege prohibited under RCW 42.23.070(1), these facts and circumstances also warrant the determination that a prima facie showing of the violation probably occurred.

RCW 42.23.070(2)

RCW 42.23.070(2), which is incorporated by reference into the Code of Ethics under WMC 2.36.020(16), provides, “No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer’s services as such an officer unless otherwise provided for by law.” The Hearing Examiner determines that the ethics complaint sets forth facts and circumstances from which a reasonable inference may be drawn that a violation of RCW 42.23.070(2) probably occurred.

Again, assuming the truth of the allegations set forth in the ethics complaint, it establishes that Mayor Millman’s discussion of his interest in seeing a Chicago concert at the Winery was intermingled with his discussion of a matter of interest to the Winery. Specifically, Mayor Millman noted his interest in organizing community and business opposition to the proposed siting of a King County transfer station on property located close to the Winery. This establishes a prima facie showing that the request for concert tickets, as discussed above, was either directly or indirectly connected with a matter related to Mayor Millman’s services in organizing opposition to the proposed location of a transfer station. Accordingly, the Hearing Examiner determines that the facts and circumstances set forth in the ethics complaint establish a prima facie showing that a violation of RCW 42.23.070(2) probably occurred.

The Hearing Examiner again stresses that his determination of probable cause does not equate with a determination that Mayor Millman’s actions constituted violations of the ethics code. At this stage of the preliminary investigation, the Hearing Examiner must rely on the allegations set forth in the complaint, without regard to whether those allegations are accurate or complete. And it must be emphasized that Mayor Millman has not yet been made aware of the ethics complaint, let alone been given the opportunity to respond to the allegations set forth therein. Absent further factual development that may be provided in a response to the allegations and at a hearing, the email communications referenced above lack context necessary to determine whether a violation of the code of ethics actually occurred.

*Threshold Determination of Probable Cause
City of Woodinville Hearing Examiner
In re November 6, 2023, Ethics Complaint Against Mayor Mike Millman
No. HEA-23-001*

DECISION

The November 6, 2023, ethics complaint against Mayor Millman sets forth facts and circumstances sufficient to establish a threshold determination that probable cause exists to believe that violations of RCW 42.23.070(1) and RCW 42.23.070(2) have occurred. The Hearing Examiner retains the matter for a formal investigation by way of a hearing to determine if the violations have occurred. *WMC 2.36.060(2)(a); WMC 2.36.060(4)*. Under WMC 2.36.060(4), Mayor Millman may choose whether the hearing will be open or closed to the public.

So ordered this 8th day of April 2024.

A handwritten signature in black ink, appearing to read "Peregrin Sorter", written over a horizontal line.

PEREGRIN K. SORTER
Hearing Examiner
Laminar Law, PLLC