

**LAW OFFICES OF
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August 28, 2024

VIA E-MAIL

Mr. Michael O'Keefe
Appointed Rancho Mirage City Councilmember
and Candidate for Rancho Mirage City Council

Mr. Ted Weill
Rancho Mirage City Councilmember and Mayor Pro Tem
and Candidate for Rancho Mirage City Council

**RE: Demand to Cease and Desist from Misusing City Equipment,
Campaigning on City Property and While in City Uniform, and
Otherwise Violating City of Rancho Mirage Rules & Regulations and
California State Law in Connection with City Council Campaigns**

Dear Messrs. O'Keefe and Weill:

Be advised that this office represents Wayne Avrashow in connection with serious concerns that you are in violation of numerous City of Rancho Mirage rules and regulations and California State laws by misusing your City Council positions in connection with your City Council campaigns. Accordingly, and as set forth in greater detail below, demand is hereby made that you immediately cease and desist from engaging in any activities that constitute such misuse.

As you know, the City of Rancho Mirage Personnel Rules & Regulations, adopted December 2, 2021 (the "Regulations"), prohibit the types of activities in which you have been engaging. Specifically:

- 1) You are prohibited from using any City equipment, supplies, or other City items while engaged in outside activities, such as campaigning for election to the City Council (see attached Regulation 1204.6);
- 2) You are prohibited from participating in political activities, such as campaigning for election to the City Council, while in a City uniform or other City issued clothing (see attached Regulation 1206.3); and
- 3) You are prohibited from engaging in political activity, such as campaigning for election to the City Council, while on City property (see attached Regulation 1206.4).

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These actions also appear to violate California state law in that:

It is unlawful for any local officer to use public resources for a campaign activity (see attached California Government Code Section 8314).

These and other rules, regulations and laws are designed to protect the public and the electoral process, and yet you have engaged in numerous activities that appear to violate the letter and/or the spirit of these legal proscriptions. Specifically:

1) On Appointed Councilmember O’Keefe’s campaign website (okeeferanchomirage.com), the Appointed Councilmember is featured in a campaign photograph standing in front of the Rancho Mirage City Hall, with the City logo clearly visible. (See attached photo; this is particularly disturbing, given that the City Attorney is on record, via an email to Councilmembers, saying “Don’t use city symbols, logos, seals . . . , or insignias of your office in campaign literature.”) (See attached July 2013 email from then-City Attorney Steven B. Quintanilla to Councilmembers.)

2) In a video posted on Appointed Councilmember O’Keefe’s campaign website, he is featured at his April 29, 2024 campaign kickoff event speaking about how he wears his official City Council nametag whenever he goes out. He wore the nametag at that campaign event and is seen in several videos on his campaign website wearing the nametag while campaigning for office. (See attached screenshots; this appears to violate the City Attorney’s “Do’s and Don’ts” email by using an item that was paid for with City dollars for campaign purposes.)

3) A review of Appointed Councilmember O’Keefe’s campaign website video messaging reveals numerous images evidencing the above-described violations, including but not limited to: the Appointed Councilmember sitting in his City Council office; an exterior image of City Hall, an approximately 15-second image of the City’s logo and name on a sculpture in the median of a busy highway; and images of the City’s public library and observatory (See attached).

4) Both Appointed Councilmember O’Keefe and Councilmember/Mayor Pro Tem Weill posted images wearing their official City badges in front of the City Hall building and boasting of filing their paperwork as City Council candidates. These images were posted on social media, including but not limited to, a Facebook post on July 15, 2024 at 6:14 p.m. on their social media accounts (see attached), and were disseminated to the public on the Rancho Mirage News site.

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5) At the publicly livestreamed July 18, 2024 City Council meeting, Mayor Pro Tem Weill wore a campaign button urging his reelection to the Council on the left lapel of his suit jacket, while at the same time wearing his official City Council name tag on the right lapel of his suit jacket and sitting behind his official City Council name placard. (See attached screenshot.) This action appears to flaunt and violate State laws and City Regulations (This is particularly distressing, given that more than ten years ago, then-City Attorney Quintanilla expressly warned Mayor Pro Tem Weill not to use the City Hall address as his contact information for his re-election campaign).

6) A review of Mayor Pro Tem Weill's campaign website (tedweill.com) reveals numerous images evidencing the above-described violations, including but not limited to: the Mayor Pro Tem posing in front of City Hall, in the City Council chambers, and in the City's public library, and an image of the City's observatory.

Appointed Councilmember O'Keefe's and Mayor Pro Tem Weill's ongoing pattern and practice of purposely blurring the line between their roles as members of the Council and as candidates for the Council – which appears to be intentional – must not be allowed to continue. Not only do these actions appear to violate the law, but they are a disservice to the citizens of Rancho Mirage and extremely disruptive to the democratic process.

Please confirm that you will immediately cease and desist from engaging in these activities and will remove all improper images from your campaign websites, all social media posts, and wherever else they may appear. Thank you for your anticipated cooperation, and we look forward to your responses no later than September 4, 2024.

Sincerely,

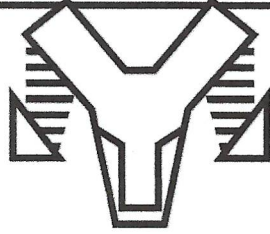
A handwritten signature in blue ink that reads "Bradley W. Hertz". The signature is written in a cursive style and is positioned above a horizontal line.

Bradley W. Hertz

BWH/slf
#2506.01
Enclosures

cc: Michael A. Hestrin, Esq., Riverside County District Attorney
Riverside County District Attorney Public Integrity Unit
Robert A. Bonta, Esq., California Attorney General
James M. Lindsay, Esq., Chief of Enforcement,
California Fair Political Practices Commission
Colin Kirkpatrick, Esq., Rancho Mirage City Attorney

CITY OF RANCHO MIRAGE



**City of Rancho Mirage
Personnel Rules and
Regulations**

1204.5 Revocation / Suspension of Outside Employment Authorization

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Policy.

- a) The employee's work performance declines; or
- b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City

1204.6 Use of City Equipment Prohibited

Under no circumstances may an employee use any City equipment, vehicles, tools, supplies, machines, or any other item that is City property while an employee is engaged in any outside employment, activity or enterprise.

1206 Limitations on Political Activity

1206.1 No Solicitation During Work Hours or City Offices

City employees or officers may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in City offices.

1206.2 No Targeted Solicitation of City Officers or Employees

Officers or employees of the City, or candidates for elective office of the City, may not directly or indirectly solicit political contributions from other officers or employees of the City unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of the City.

1206.3 No Political Activity in Uniform

No City employee or official shall participate in political activities of any kind while in a City uniform or other City issued clothing.

1206.4 No Political Activity on City Property or Work Hours

City employees and officials are prohibited from engaging in political activity during working hours or on City property.

State of California

GOVERNMENT CODE

Section 8314

8314. (a) It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "Public resources" means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.

(4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section may be commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

(Amended by Stats. 2003, Ch. 62, Sec. 109. Effective January 1, 2004.)

ELECT COUNCIL MEMBER



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RANCHO MIRAGE



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Do's and Don'ts of campaign re-elections

By KESQ News Team FOLLOW



Published July 15, 2013 6:41 PM

The city attorney for Rancho Mirage sent out a list of do's and don'ts to city council members that are seeking re-election. The campaign rules reminder was initiated by potential violations of laws with regards to use of public resources by Rancho Mirage Council members.

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Officials holding public office can not use any public property that was paid for or is owned by the city in their campaigning or fundraising for re-election.



purposes of campaigning.”

Recently, Quintanilla had to advise Rancho Mirage city council member Ted Weill that he should refrain from using city hall’s address as his contact information for his re-election campaign.

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and let us know what you
think.

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“Because that may result in people responding to city hall with campaign contributions,” Quintanilla said. “And that would be a violation of the law if campaign contributions were sent to the city and delivered to him.”

Rancho Mirage Council member Scott Hines recently self-reported a violation for mistakenly e-mailing a campaign solicitation to the city manager.

We tried reaching out to Ted Weill and Scott Hines, but they were unavailable for interviews Monday afternoon.

Below is the complete e-mail from Steve Quintanilla to members of the Rancho Mirage and Desert Hot Springs city councils.

Dear Council Members:

If you decide to run for re-election, there are several rules you should be aware of with respect to your role as a sitting council member. Here are some "dos and don'ts" you should consider while campaigning for re-election.

Do include your name, street address, and city on the outside of each piece of mass mail.

Do make it clear in any campaign communication that the communication was not paid for with public funds.

Don't solicit contributions from city staff.

Don't use anything that has been paid for with public dollars, which includes city owned office equipment such as photocopiers, office supplies, letterhead, postage, laptops, iPads or cell phones, photographs, internet service, computer software, vehicles, office space and staff time.

Don't solicit or utilize the services of city consultants, including but not limited to the city attorney for advice pertaining to your personal campaign activities.

Don't use city symbols, logos, seals, letterhead, or insignias of your office in campaign literature.

Don't use time during public meetings, particularly televised public meetings, to make extended comments related to your campaign platform or campaign issues.

Don't promise a prospective contributor a favorable decision in exchange for the receipt of a campaign contribution.

Don't state what your final decision would be regarding a prospective development project that must be considered in the context of a public prior to considering and weighing all of the evidence at the public hearing.

Don't meet in person, via phone, etc. with more than one other council member to discuss any matter within the subject matter jurisdiction of the city council outside the context of a noticed public meeting.

Don't accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before any joint powers agency or other agency you have been appointed to and for three months following the date a final decision is rendered in the proceeding if you know or have reason to know that the contributor has a financial interest in the outcome of the proceeding.

PLEASE NOTE: This memorandum is not intended to provide a full analysis of all the "dos and don'ts" of local political campaigning. You are advised to seek independent legal advice on all matters pertaining to your personal campaign activities such as soliciting, receiving and reporting contributions, etc.

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Jul 15 · 🌐

This morning Michael O'Keefe and me filed papers at Rancho Mirage City Hall to run for City Council in th... See more





TED WEILL

MAYOR PRO TEM



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