

(GENERAL)

COMPTROLLER  
FILE NUMBER 280862

---

PETITION AND STATEMENT OF CHARGES

OF

RICHARD L. SPARKS FOR RECALL OF WESLEY  
C. UHLMAN AS MAYOR OF SEATTLE; TOGETHER  
WITH OPINION OF KING COUNTY PROSECUTOR  
AS TO LEGAL SUFFICIENCY OF SAME.

---

FILED JANUARY 24, 1975

*16pp*

**C. G. ERLANDSON**  
COMPTROLLER AND CITY CLERK

BY *D. F. Fenton* DEPUTY

---

**ACTION OF THE COUNCIL**

REFERRED	TO
REFERRED	TO
REFERRED	TO
REPORTED	DISPOSITION
RE-REFERRED	TO
REPORTED	DISPOSITION

## REPORT OF COMMITTEE

Mr. President:

Your ..... Committee

to which was referred the within.....

would respectfully report that we have considered the same and respectfully recommend that.....

.....

.....

.....

.....

.....

.....

CHAIRMAN

CHAIRMAN

.....

.....

.....

.....

City of Seattle  
OFFICE OF THE COMPTROLLER  
Seattle, Washington 98104



C. G. ERLANDSON  
CITY COMPTROLLER

JOHN B. KELLUM  
CHIEF DEPUTY COMPTROLLER

February 14, 1975

Mr. Richard D. Warbrouck  
Seattle Fire Fighters Union  
3921 Stone Way North  
Seattle, Washington 98103

Dear Mr. Warbrouck:

Pursuant to telephonic request of yesterday, February 13, 1975, concerning the petition for the recall of Wesley C. Uhlman as Mayor of the City of Seattle, this is to inform you of certain legal requirements as covered by RCW 29.82.025, as amended 1971 1st Extraordinary Session, in obtaining and filing supporting signatures, time limitation.

Said statute, in part, provides "a maximum of one hundred and eighty days in which to obtain and file supporting signatures after the issuance of a ballot synopsis by the appropriate official." The ballot synopsis was received and filed as of February 11, 1975. One hundred and eighty days from that date would be August 10, 1975. However, the fact that August 10, 1975 is a Sunday would alter the deadline to Friday, August 8, 1975 at 5:00 o'clock p.m. Therefore, the deadline for filing the petitions is 5:00 o'clock p.m., Friday, August 8, 1975.

For your further information, RCW 29.82.060, re. Number of signatures required, provides, in part, that "signatures of legal voters equal to twenty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election". The total number of votes cast for the Office of Mayor at the General Election in November, 1973, was 188,964. Twenty-five percent is 47,241, which is the number of qualified signatures necessary for this proposition to be placed on the ballot.

Very truly yours,

City Comptroller

CGE:ej

cc: Assistant City Clerk

Honorable John Harris, Corporation Counsel

*To: Jack Trenton is for your file. Carl.*

OFFICE OF THE PROSECUTING ATTORNEY

KING COUNTY COURTHOUSE  
516 Third Avenue  
SEATTLE, WASHINGTON 98104

(206) 344-2550

CHRISTOPHER T. BAYLEY  
PROSECUTING ATTORNEY

11 February 1975

Mr. C. G. Erlandson, City Comptroller  
Office of the Comptroller  
City of Seattle  
Seattle, Washington 98104

Re: Ballot synopsis of "Statement of Charges for Recall of  
Wesley C. Uhlman as Mayor of the City of Seattle,"  
January 13, 1975

Dear Mr. Erlandson:

Pursuant to RCW 29.82.020 we have formulated a ballot synopsis of the charges in the "Statement of Charges for Recall of Wesley C. Uhlman as Mayor of the City of Seattle" which was filed with your office on January 13, 1975. We also enclose a copy of the letter we have written to Mr. Richard L. Sparks notifying him of the exact language of the ballot synopsis. With this letter and ballot synopsis which we return to you today we also enclose the original of the charges which were filed with you on January 13, 1975 for your files.

For CHRISTOPHER T. BAYLEY, King County Prosecuting Attorney:

*Sharon A. Finegold*

SHARON A. FINEGOLD  
Deputy, Civil Division

jk

Enclosures

*2/11/75  
Received this  
date 2/11/75  
11:24 AM*

*(Circular stamp)*

Ballot Synopsis of the Statement of Charges for Recall of  
Wesley C. Uhlman as Mayor of the City of Seattle.

[Wesley C. Uhlman, Mayor, City of Seattle committed acts of  
malfeasance, misfeasance and violation of oath of office in  
the following particulars:]

SYNOPSIS

I.

From December 20, 1973 until January 13, 1975  
the said Wesley C. Uhlman did knowingly and willfully appoint  
and knowingly and willfully retain Walter Hundley as Director  
of the Office of Management and Budget, City of Seattle, knowing  
the said Walter Hundley to be unqualified and incompetent to  
carry out the duties of that position, to-wit: the said Walter  
Hundley

- 1) Falsely reported to city officials that  
fire department personnel had failed to fight fires aggressively.
- 2) Proposed:
  - a. Replacing Medic I Firefighters with  
civilians, resulting in higher costs and restricted  
capacity;
  - b. Decommissioning two combat fire companies,  
seriously jeopardizing life and property;
  - c. Reducing the arson squad from seven to  
two members despite increased arson fires during  
the 1973-74 months preceding the proposal;

d. Decommissioning one of the two fire boats, leaving Seattle's waterfront with no backup fire boat if equipment failed and halving marine division fire-fighting capacity;

e. Cutting Seattle Fire Department budget more than \$600,000 alleging insufficient city funds although Office of Management and Budget overlooked \$600,000 unexpended from the previous year's City appropriations.

## II.

From December 20, 1973 until January 13, 1975 the said Wesley C. Uhlman filed with the Seattle City Council, as required by the Charter of the City of Seattle, a statement of reasons for removing Jack Richards as Seattle's Fire Chief, and willfully included in that statement of reasons the false statement that the quality of information and cooperation provided by the fire department to Walter Hundley's department was very poor, misleading and deceptive, which false statement was given to the City Council for the purpose of concealing and covering up the incompetence and lack of qualification of Walter Hundley to carry out his duties as Director of the Office of Management and Budget of the City of Seattle.

OFFICE OF THE PROSECUTING ATTORNEY

KING COUNTY COURTHOUSE  
516 Third Avenue  
SEATTLE, WASHINGTON 98104

CHRISTOPHER T. BAYLEY  
PROSECUTING ATTORNEY

(206) 344-2550

11 February 1975

Mr. Richard L. Sparks  
3026 37th Avenue S.W.  
Seattle, Washington 98126

Re: Ballot synopsis of "Statement of Charges for Recall of  
Wesley C. Uhlman as Mayor of the City of Seattle,"  
January 13, 1975

Dear Mr. Sparks:

Pursuant to the duties imposed upon us by RCW 29.82.020 we hereby  
notify you of the exact language of the ballot synopsis by  
attaching a copy of the ballot synopsis to this letter. We have  
returned the ballot synopsis and the original statement of charges  
to Mr. Erlandson, Comptroller, City of Seattle.

For CHRISTOPHER T. BAYLEY, King County Prosecuting Attorney:

SHARON A. FINEGOLD  
Deputy, Civil Division

jk

Enclosure

6

**City of Seattle**  
**OFFICE OF THE COMPTROLLER**  
Seattle, Washington 98104



C. G. ERLANDSON  
CITY COMPTROLLER

JOHN B. KELLUM  
CHIEF DEPUTY COMPTROLLER

January 24, 1975

Mr. Richard L. Sparks  
3026 37th Avenue Southwest  
Seattle, Washington 98126

Dear Mr. Sparks:

Following receipt of your petition on January 13, 1975, for the recall of Mayor Wesley C. Uhlman, the petition was referred to the Honorable Christopher T. Bayley, King County Prosecuting Attorney, pursuant to R.C.W. 29.82.020, for his determination of the legal sufficiency of the charges contained therein.

At 10:25 a.m. today, Friday, January 24, 1975, letter was received from Mr. Bayley wherein he concludes "We believe the charges meet the test of legal sufficiency and specificity as set forth by the Supreme Court of Washington and therefore constitute grounds upon which a recall petition may be predicated."

A ballot synopsis will be forthcoming as required by RCW 29.82.020.

A copy of Mr. Bayley's opinion is enclosed for your information.

Very truly yours,

City Comptroller

CGE:e1

Enc.

bc: ✓ J. P. Fenton, Assistant City Clerk

Honorable John P. Harris, Corporation Counsel

COMPTROLLER AND CITY CLERK  
C. G. ERLANDSON

75 JAN 24 AM 11:19

FILED  
CITY OF SEATTLE

OFFICE OF THE PROSECUTING ATTORNEY  
KING COUNTY COURTHOUSE  
SEATTLE, WASHINGTON 98104

CHRISTOPHER T. BAYLEY  
PROSECUTING ATTORNEY

(206) 344-2550

24 January 1975

1/24/75

Received 10:25 a.m.

*[Handwritten signature]*

Mr. C. G. Erlandson  
City Comptroller  
Office of the Comptroller  
City of Seattle  
Seattle, WA 98104

Re: Recall charges against Mayor Wesley C. Uhlman: Filed 13 January 1975

Dear Mr. Erlandson:

Pursuant to the provisions of RCW 29.82.020 our office has reviewed the recall charges directed against Mayor Wesley C. Uhlman which were filed with your office on 13 January 1975. Our task according to that statute is to advise you as to the legal sufficiency of the alleged acts as grounds for recall so that a ballot synopsis of the sufficient charges may be promptly prepared. We do not, of course, look to the truth or falsity of the acts alleged in the charges, but determine only whether, if true, they are sufficient. Bocek v. Bayley, 81 Wn.2d 831, 838, 505 P.2d 814 (1973); Skiamore v. Fuller, 59 Wn.2d 818, 370 P.2d 975 (1962).

The standards for reviewing the legal sufficiency of the charges have been set forth by the State Supreme Court in Bocek v. Bayley, supra, at 835:

Our standards for determining the sufficiency of recall charges alleging such cause were clearly stated in State ex rel. Citizens Against Mandatory Bussing v. Brooks, 80 Wn.2d 121, 124-25, 492 P.2d 536 (1972) as follows:

First, in determining the validity of recall charges, courts are limited to examination of the charges stated and cannot inquire into factual matters extraneous to the allegations. E.g., State ex rel. LaMon v. Westport, 73 Wn.2d 255, 438 P.2d 200 (1968).

Mr. C. G. Erlandson  
23 January 1975  
Page Two

Second, courts must assume the truth of the charges in determining whether legally sufficient grounds for recall have been stated. E.g., Skidmore v. Fuller, 59 Wn.2d 318, 370 P.2d 975 (1962). Third, just as there can be no inquiry into the truth or falsity of the charges, there can be no inquiry into the motives of those filing the charges. Roberts v. Millikin, 200 Wash. 60, 93 P.2d 393 (1939). Fourth, recall charges are sufficiently specific if they are definite enough to allow the charged official to meet them before the tribunal of the people. E.g., State ex rel. LaMon v. Westport, supra. Finally, any one sufficient charge requires the holding of a recall election. E.g., Morton v. McDonald, 41 Wn.2d 889, 252 P.2d 577 (1953).

We reiterate that our opinion in no way relates to the truth or falsity of the charges; for purposes of examining their legal sufficiency we are enjoined to examine the charges as they appear on their face.

#### CHARGE I: SUFFICIENCY

The first charge alleges that between 20 December 1973 and 13 January 1975

Mayor Wesley C. Uhlman knowingly and wilfully appointed and knowingly and wilfully retained one Walter Hundley as Director of the Office of Management and Budget of the City of Seattle knowing that Walter Hundley was and is unqualified and incompetent to carry out the duties of that position.

The charge then describes some of the proposals related to fire protection made by that director of Office of Management and Budget. The Supreme Court of Washington has repeatedly determined such a charge to be adequate to begin recall proceedings.

Mr. C. G. Erlandson  
23 January 1975  
Page Three

In State ex rel. LaMon v. Westport, 73 Wn.2d 255, 438 P.2d 200 (1968), and Morton v. McDonald, 41 Wn.2d 889, 252 P.2d 577 (1953), charges of employing officials known to be incompetent were held to be legally sufficient for recall purposes.

Ex rel. Mandatory Bussing v. Brooks, 80 Wn.2d 121, 129, 492 P.2d 536. See also, Bocek v. Bayley, supra, at 837:

Regarding the charge that these appellants hired an unqualified school superintendent, again assuming this charge to be true, it is apparent that such conduct may justifiably be considered to be an improper performance of a duty, or misfeasance, clearly failing to act in the best interests of the school district community.

Thus we see that the allegations in charge I are sufficient to satisfy legal requirements of substance.

#### CHARGE II: SUFFICIENCY

The second charge is that between 20 December 1973 and 13 January 1975

Mayor Wesley C. Uhlman filed with the Seattle City Council, as required by the Charter of the City of Seattle, a statement of reasons for removing Jack Richards as Seattle's Fire Chief, and wilfully included in that statement of reasons the false statement that the quality of information and cooperation provided by the fire department to Walter Hundley's department was very poor, misleading and deceptive, which false statement was given to the City Council for the purpose of concealing and covering up the incompetence and lack of qualification of Mr. Walter Hundley to carry out his duties as Director of the Office of Management and Budget of the City of Seattle.

This charge is also sufficient to be put on the recall ballot. It alleges behavior similar to unlawful conduct, that is a willful attempt to conceal incompetence by use of false statements. RCW 42.20.040 states:

a

Mr. C. G. Erlandson  
23 January 1975  
Page Four

Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

The acts alleged in the charge are sufficient to constitute malfeasance, misfeasance or violation of oath of office.

Misfeasance or malfeasance (often stated as maladministration, misconduct, official misconduct, nonfeasance, or misbehavior in office), have been held to be comprehensive terms and include any wrongful conduct that affects, interrupts, or interferes with the performance of official duty. State ex rel. Knabb v. Frater, 198 Wash. 675, 89 P.2d 1046 (1939); State v. Miller, 32 Wn.2d 149, 201 P.2d 136 (1948). Violation of an official's oath of office has been described to mean the failure of the officer to perform his duties of office honestly, faithfully, and to the best of his ability. Huntamer v. Coe, 40 Wn.2d 767, 772, 246 P.2d 489 (1952).

Danielson v. Faymonville, 72 Wn.2d 854, 859, 435 P.2d 963 (1967).

#### SPECIFICITY

The recall charges as stated were sufficiently definite to enable Mayor Uhlman to meet the allegations before the public:

All of the charges included the name of the official charged, a specific description of the alleged wrongful conduct, the date the alleged act occurred, and the allegation that the act constituted misfeasance, malfeasance or a violation of the oath of office. As we stated in Danielson v. Faymonville, [supra]

Mr. C. G. Erlandson  
23 January 1975  
Page Five

'Recall charges need only contain a statement of the acts complained of, with sufficient definiteness that the one charged may be able to meet them before the tribunal of the people.'

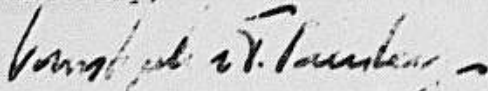
Even this broad requirement is to be 'liberally construed'. Gibson v. Campbell. . . . Considering each of the recall charges individually, we think them sufficiently definite to apprise these appellants of the allegations levelled against them to enable them to defend their actions before the public.

Bocek, supra, at 838. See also, Cudihee v. Phelps, 76 Wash. 314, 136 P. 367 (1913).

We believe the charges meet the test of legal sufficiency and specificity as set forth by the Supreme Court of Washington and therefore constitute grounds upon which a recall petition may be predicated.

We include a copy of this opinion which we request that you deliver to the person who has filed the charges herein. A ballot synopsis of the two charges will be forthcoming as required by RCW 29.82.020.

Sincerely,

  
CHRISTOPHER T. BAYLEY  
Prosecuting Attorney

rm

**City of Seattle**  
**OFFICE OF THE COMPTROLLER**  
Seattle, Washington 98104



C. G. ERLANDSON  
CITY COMPTROLLER

JOHN B. KELLUM  
CHIEF DEPUTY COMPTROLLER

January 13, 1975

The Honorable Christopher T. Bayley  
Prosecuting Attorney  
King County  
King County Courthouse  
Seattle, Washington 98104

Dear Mr. Bayley:

Pursuant to R.C.W. 29.82.020, I hereby refer the enclosed petition, filed with this office today, January 13, 1975, demanding the recall of Mayor Wes Uhlman, which is transmitted herewith for your determination of the legal sufficiency of the charges contained therein.

Very truly yours,

City Comptroller

CGE:ej

Enc.

cc: ✓ J. F. Fenton, Assistant City Clerk

Honorable John P. Harris, Corporation Counsel

12

STATEMENT OF CHARGES FOR RECALL OF  
WESLEY C. UHLMAN AS MAYOR OF  
THE CITY OF SEATTLE

COMES NOW, RICHARD L. SPARKS, a legal voter of the City of Seattle, King County, Washington, and charges Wesley C. Uhlman, acting in his capacity as Mayor of the City of Seattle, with committing acts of malfeasance in office, misfeasance in office and violation of oath of office during the period of time from December 20, 1973 until the time of filing this charge as follows:

I.

Mayor Wesley C. Uhlman knowingly and wilfully appointed and knowingly and wilfully retained one Walter Hundley as Director of the Office of Management and Budget of the City of Seattle despite the knowledge that Walter Hundley was and is unqualified and incompetent to carry out the duties of that position as evidenced by the following:

1. Walter Hundley proposed replacing the trained, qualified and experienced Medic I-Firefighters with civilians despite the fact that such replacement would result in higher costs and a restricted capacity to function in many emergency life saving situations now handled by firefighters.

2. Walter Hundley proposed to decommission two combat fire companies well knowing that four fire companies which covered the same geographical area had already been lost and which proposal would have seriously jeopardized life and property in that area of the city which is most densely populated and which has the highest incidence of fire calls. Engine 7 and Attack 10 were the companies which would have been eliminated. These companies were on the first response to the recent multiple alarm fires which undoubtedly contributed to the reduction in the loss of life and the time in which the fire was extinguished.

3. Walter Hundley made a false, irresponsible and unsupportable report to the city officials that the fire department personnel have failed to aggressively fight fires.

4. Walter Hundley recommended reducing the arson squad from seven members to two members in spite of the fact that there was a 60% increase in arson fires during the 1973-74 months preceding this irresponsible proposal.

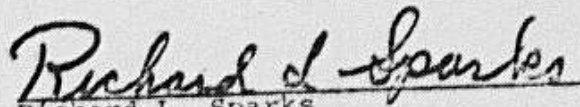
5. Seattle has only two fireboats. Walter Hundley recommended decommissioning one of them in his proposed budget in spite of the evident facts that this left the Seattle waterfront with no operating backup fireboat in the event of equipment failure, and reduced the firefighting capability of the marine division by 50% during the critical

first two or three hours of a major waterfront fire.

6. Walter Hundley proposed reducing the fire department's capability by cutting the budget of the Seattle Fire Department more than Six Hundred Thousand (\$600,000.00) Dollars for the expressed reason that the city could not provide funds when, in fact, the office of Management and Budget which he directed had overlooked and neglected to recognize Six Hundred Thousand (\$600,000.00) unexpended dollars left over from the previous year's city appropriations.

## II.

Mayor Wesley C. Uhlman filed with the Seattle City Council, as required by the Charter of the City of Seattle, a statement of reasons for removing Jack Richards as Seattle's Fire Chief, and wilfully included in that statement of reasons the false statement that the quality of information and cooperation provided by the fire department to Walter Hundley's department was very poor, misleading and deceptive, which false statement was given to the City Council for the purpose of concealing and covering up the incompetence and lack of qualification of Walter Hundley to carry out his duties as Director of the Office of Management and Budget of the City of Seattle.

  
Richard L. Sparks  
3026 - 37th S. W.  
Seattle, Washington 98126

