

Memo

To: Commission

From: Wayne Barnett

Date: January 30, 2008

Re: Case No. 07-2-1011-1, Investigation into contributions to Tim Burgess's City Council campaign

Last October, staff commenced an investigation into whether the Seattle Fire Fighters Voluntary Political Action Fund ("SFFU VPAC") had improperly reimbursed South King County Professional Firefighters Local 24 ("Local 2024") for a \$700 contribution that Local 2024 made to the Tim Burgess for Seattle City Council 2007 committee (the "Burgess Campaign"). After reviewing all the documents and conducting interview, we have found insufficient evidence to press charges and are closing our investigation with this report.

Facts

On September 17, 2007, Local 2024 made a \$700 contribution to the Burgess Campaign. Local 2024 also made a \$700 contribution to Venus Velasquez's City Council campaign on September 25, 2007.

On September 19, the SFFU VPAC issued a check for \$700 payable to "South King County PFF Local 2024." The memo field on the check is blank. The check was sent to Bob Stinnett, Local 2024's Vice President and Political Action Director, under a cover letter which begins: "I am pleased to inform you that Seattle Fire Fighters have endorsed the lid lift campaign called "Yes for South King Fire". The letter also says "Seattle Fire Fighters look forward to your successful campaign and election." The letter is signed by Kenny Stuart, SFFU's Vice President and Political Action Chair.

In a C-4 filed with the City on October 16, the SFFU VPAC disclosed the September transaction with Local 2024. The purpose for the expenditure listed on the C-4 is "Yes for South King Fire."

The South King Fire lid-lift measure passed in the August Primary, a month before SFFU VPAC wrote a check to Local 2024. At the time of the vote, there was no campaign committee registered to support the lid lift campaign.

In October, Local 2024 provided us with receipts showing expenditures of approximately \$7,000 to promote the ballot measure, including receipts for yard signs, mailings, and robocalls. Local 2024 also provided us with documents showing the money received by the union in support of the lid lift campaign, including the \$700 from SFFU VPAC.

Local 2024 registered a campaign committee with the Public Disclosure Commission on December 3, 2007. The reports filed at that time report a \$700 contribution from SFFU. The reports show that the check from SFFU was one of only two from persons not employed by South King Fire and Rescue. The other was a \$50 contribution from the contractor hired to produce brochures and yard signs promoting the lid lift campaign.

Commission staff interviewed Kenny Stuart. Stuart told us that the \$700 check to Local 2024 was not a reimbursement for that local's contribution to the Burgess Campaign. Stuart said that at a June convention in Wenatchee he'd asked fire fighter union locals from around the state to contribute to the Burgess Campaign. He also told people to let him know "if there is something in your district we can get behind." (Records show that SFFU contributed \$700 to Spokane mayoral candidate Mary Verner and Spokane's firefighter local contributed \$700 to the Burgess Campaign. Records also show that SFFU contributed \$200 to a Puyallup City Council candidate and Puyallup's firefighter local contributed \$200 to the Burgess Campaign.)

Stuart told us that he did not meet Stinnett at the Wenatchee convention, but that the two met in July or August at a meeting in Renton about the Medic One campaign. After that meeting they discussed the Burgess campaign, and Stuart asked whether SFFU could be helpful in any campaigns Local 2024 had going. Stuart didn't recall Stinnett discussing any races at that first meeting.

Stuart told us that a couple weeks later, Stinnett raised the issue of SFFU supporting the lid lift campaign. Stuart took the issue before SFFU's board, which endorsed the lid lift campaign on September 13. The minutes of SFFU's September 13 meeting show a unanimous vote to endorse the South King County Fire Levy. The minutes also note that "Local 27's endorsed politicians have been receiving contributions from other fire fighter locals," and "Local is supporting other locals."

Stuart told us that he was not aware at the time that the ballot issue had been decided in August. Stuart also told us that he thought he'd instructed SFFU's treasurer, Steve Borgstrom, to make the check payable to Yes for South King County Fire.

In a separate interview, Borgstrom told us that Stuart had told him to make the check payable to Local 2024. Stuart later told us that he couldn't recall to whom he'd told Borgstrom to make the check payable.

Commission staff interviewed Bob Stinnett, Local 2024's Political Director. Stinnett also told us that the \$700 check from SFFU VPAC was not a reimbursement for Local 2024's contribution to the Burgess Campaign. Stinnett told us that he had learned about the Burgess Campaign from Kenny Stuart, and that he had brought the idea of supporting the Burgess Campaign to Local 2024's Executive Board. Stinnett told us that the union has members who live in Seattle, and supported Seattle candidates.

Stinnett told us that when he first discussed the Burgess campaign with Stuart, the two did not discuss the lid lift campaign. Only later did the two discuss what issues were of interest to Local 2024, and Stinnett at that point mentioned their lid lift campaign and asked SFFU to contribute.

Analysis

SMC 2.04.290.A states that “[n]o contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.” For the 2007 election cycle, SMC 2.04.370 capped contributions to campaign committees from a single source at \$700.

There is insufficient evidence to charge SFFU VPAC with reimbursing Local 2024 for its contribution and thereby exceeding the contribution limit. Both Mr. Stinnett and Mr. Stuart told us that the check was for the purposes of supporting a lid lift campaign spearheaded by Local 2024. Our investigation showed that Local 2024 did expend money to support the lid lift campaign, albeit without filing the necessary paperwork with the PDC until months after the campaign had ended. Lacking any oral or documentary evidence that would show that the \$700 was a reimbursement for Local 2024’s contribution to the Burgess Campaign, I am closing our investigation.

Postscript

In the course of our investigation, I contacted a handful of campaign finance law experts from around the country to ask whether they thought evidence of outright exchanges – “You contribute X to my candidate and I will contribute X to yours” – would be sufficient to charge one or both parties to the exchange with exceeding the contribution limit, or concealing the source of a contribution. (Note: we gathered no evidence of “quid pro quo” exchanges in this investigation.) None recalled seeing any prosecutions based on this theory, and none thought at first blush that evidence of such an exchange would be legally sufficient to make out a violation.

If the Commission would like us to explore with the Law Department changes to our law that would make these kinds of exchanges unlawful, please let me know.