

Seattle Ethics and Elections Commission Regular Meeting April 2, 2008

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on April 2, 2008 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue, Seattle, WA. Commission Chair Michele Radosevich called the meeting to order at 4:05 p.m. Vice-Chair Robert Mahon and Commissioners Tarik Burney, Ed Carr, Lynne Iglitzin, Mel Kang and Nancy Miller were present. Executive Director Wayne Barnett and Commission staff members Harley Anders and Gwen Ford were present, as was Assistant City Attorney Jeff Slayton. Staff members Bob DeWeese, Polly Grow and Mardie Holden were absent.

1) Public Comment

There was no public comment.

2) Approval of March 5, 2008 Minutes

Commissioner Miller made a motion to adopt the March 5, 2008 meeting minutes, which was seconded by Commissioner Kang. Commissioner Mahon suggested a correction on page 4 to make it clear that he questioned the City's ability to require that either state or federal employees register as lobbyists. The amended minutes were to adopted unanimously, with Commissioner Iglitzin abstaining because she did not attend the March meeting.

3) Advisory Opinion 08-03

The Executive Director said that this opinion discusses the circumstances under which a City employee may be paid for doing outside work, and the circumstances under which an employee can have official dealings with someone who recommends their services.

The opinion says that when an employee is offered something in his or her official capacity, the employee has to get a written determination at the department level that the work

cannot be performed on City time using City resources. Only if there is a determination that the work cannot be performed on City time may the employee do the work for pay.

The Chair said that she would prefer an opinion that had a two-step process where first, the employee must talk with their supervisor or department head to see if the work fits within the scope of the employee's official duties. If so, then the employee may do the work on City time but the compensation should go to the City. If it's not, and if it's determined that there isn't any conflict or foreseeable conflict, then the Employee should be able to do it. However, the department head has to decide whether the work fits within the employee's official duties.

Assistant City Attorney Slayton said that where there is a conflict with their current role at the City, or where the employee is using confidential information, that would raise issues under other sections of the Ethics Code. But if they are using their own expertise then it's questionable how the Commission can restrict that activity under the Ethics Code.

Commissioner Kang raised concerns regarding the appearance of someone profiting or getting paid by someone outside of the City to do what they or someone would do normally at the City. Assistant City Attorney Slayton stated that he did see a potential issue if managers cooperated with their employees to get them outside jobs. But that, too, would raise issues under other sections of the Ethics Code.

The Chair said that the Commission would like to see another draft of this opinion. She stated the discussion of departmental approval should come first, and that there needs to be a little more expansion of the role of the supervisor and department head in the process. She believes that they have to make a determination and basically concur that either this is not a City purpose, in which case the employee is free to do it, or it is a City purpose, in which case an employee cannot take advantage of the opportunity in his or her private capacity.

The Executive Director said that he believes that there are a substantial amount of City employees who do moonlight and we've always told them that the singular restriction is that they cannot bring matters before their own departments. The Commission has in the past advised, for example, that firefighters can teach CPR.

There was consensus that the opinion needed revisions, which the Executive Director promised to provide to the Commission at the following meeting.

4) Dismissal of Case No. 07-1-1010-1 (Allegation that Councilmember misused his position to assist his campaign)

The Executive Director said that this was the investigation into whether or not there had been threats made by Councilmember David Della and his staff to the President of the Seattle Police Officers' Guild and the Vice President of the Seattle Firefighters' union. Staff put everybody under oath, but received inconsistent accounts. The Executive Director determined that he lacked the evidence to prove a violation, and so dismissed the complaint.

Commissioner Kang raised concerns regarding the dismissal of the case. He said that where there is a credible complaint, the case should be presented to the Commission. The Executive Director stated that he believed it would be improper for him to charge a City officer or employee with a violation when he did not feel the violation could be proven by a preponderance of the evidence.

5) Next steps: Public Financing

The Executive Director said that the City Council and Mayor have elected to create a task force to study this issue. If the Commission was to take the process and to deliver a product in May or June, then it would need to go through public review, and there is not enough time for that two-step process. The task force would consist of the Chair of the SEEC, representatives from the League of Women Voters, Municipal League and Washington Public Campaigns, and

lawyer, an academic and a former elected official. The Executive Director said that he would be staffing it together with the City Attorneys Office and the Department of Finance.

6) Next steps: Lobbying Law

The Executive Director announced that the Lobbying law passed 9-0. Staff member Bob DeWeese is already at work designing a filing program and at some point the Commission will have to adopt rules implementing the law. The effective date of the Lobbying Law is approximately September 17th.

7) Report on Advisory Committee Legislation

The Executive Director stated that the advisory committee legislation that passed in 2006 required a report from the Commission one year after the adoption of the new rules. Staff has not received any complaints concerning advisory committee members. We are getting fewer disclosures than the Executive Director anticipated.

8) Executive Director's Report

The Executive Director referred to the last minute addition of a memo regarding Web postings relating to Senator Barack Obama. He stated that he does not think that the postings can be divorced from the context in which they are being made and therefore, it is his plan to recommend that the City agency not post a link to showings of a documentary featuring Senator Obama because such a posting would, in his opinion, constitute a use of City facilities to assist the Senator's campaign. The Commission was in total support of this decision.

The Executive Director announced that this was the last meeting for Harley Anders, Staff Investigator. The Commission thanked Harley for his service

Meeting adjourned at 5:57 p.m.

Minutes respectfully submitted by Gwendolyn Ford, Administrative Staff Assistant.