

August 5, 2009

BY FIRST CLASS MAIL

Dear Mr. *****:

I am in receipt of your July 10 letter seeking an investigation into uniformed firefighters soliciting charitable donations. My office is aware of the Seattle Fire Department's "Fill the Boot" campaign, and let me share with you why the use of City resources for the campaign does not violate the Ethics Code.

The Ethics Code, at SMC 4.16.070.2.a bars the use of City funds, property or personnel for "other than a City purpose." In analyzing this provision, the Commission has stated and restated on several occasions over the past 20 years that "[t]he City Charter authorizes the City Council to identify what is the public's business and to determine how the City's funds and facilities are to be used." In Advisory Opinion 2006-1, the Commission elaborated on its analysis, stating that when analyzing an alleged misuse of City resources,

the Commission first looks for explicit authorization of a department's use of City facilities in an official City action; for example, an ordinance, resolution, executive order, or duly promulgated department rule. If the use is expressly authorized by an official City action, and that action is not contrary to state or federal law, then the use serves a City purpose, and our inquiry ends.

After consulting with this office regarding the application of the Ethics Code to the Fill the Boot campaign, in August of 2008 the City Council adopted Resolution 31078, "recognizing and supporting the Muscular Dystrophy Association Annual Fill the Boot event." The resolution states that "[t]he City of Seattle recognizes that the MDA and IAFF annual fundraiser known as Fill the Boot is consistent with the mission and purpose of the City of Seattle and the Seattle Fire Department" and "[t]he City of Seattle recognizes the Seattle Fire Fighters and the MDA's annual fundraiser Fill the Boot as a service that benefits and improves the City of Seattle and the quality of life for Seattle citizens."

Given this City Council resolution, the Fire Department's Fill the Boot campaign constitutes a recognized City purpose, and the use of City time and resources to support the campaign does not violate the Ethics Code. The audience for your challenge to the use of City resources for this campaign is the City Council, not the SEEC.

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If you would like to appeal to the full Ethics and Elections Commission my determination that this use of City resources does not violate the Ethics Code, you may do so under the Commission's Administrative Rule 4.¹

Thank you for your letter. While it is my determination that this particular use of City resources did not violate the Ethics Code, the SEEC relies on alert and engaged citizens like you to report potential wrongdoing to our office.

Very truly yours,

/s/

Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission (*name and address of complainant redacted*)
Mayor Greg Nickels (*name and address of complainant redacted*)
Councilmember Tim Burgess (*name and address of complainant redacted*)
Fire Chief Gregory Dean (*name and address of complainant redacted*)

¹ Rule 4 APPEALS

- A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint, or to impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.
- B. An appeal of a dismissal shall be served at the Commission's office no later than 21 days after the date of mailing the decision of which review is sought.
- C. An appeal of late-filing penalties shall be served at the Commission's office no later than 14 days after the date of mailing the decision of which review is sought.
- D. A request for review shall state the grounds therefor, and shall be no longer than twelve 8-1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than 12 characters per inch.
- E. When an appeal is filed, the Executive Director's decision shall not be final until the Commission has acted on the appeal.
- F. The Commission shall act on the request at the next meeting at which it may be practicable by:
1. deciding whether to review the Executive Director's decision; and
 2. if it decides to do so, either affirming, reversing, or amending the decision.
- G. In reviewing the Executive Director's decision, the Commission shall base its review on whether the Executive Director had a rational basis for the decision, and shall only reverse or amend a decision to the extent that a rational basis is lacking.