

Memo

To: Commission

From: Wayne Barnett

Date: April 1, 2010

Re: Open Government Ombudsman role for the SEEC

Each year, our office receives numerous calls from people seeking our help with open meetings questions or public records questions. Our response has been that the SEEC has no jurisdiction over these kinds of questions, and that the appropriate offices to answer such questions are the City Attorney's office or the Customer Service Bureau (CSB).

I believe that now is a good time to explore whether the SEEC – the only independent agency in City government – *should* play a role in helping people resolve their disputes with City departments over public records requests or open public meetings issues. The CSB is an executive branch agency, and the City Attorney's office must advise its clients, whose delay in responding to a request has usually prompted an inquiry with our office. Callers many times lack confidence that they will get impartial assistance from other City offices, which is why they reach out to the SEEC in the first place.

I do not believe that *requiring* citizens to seek our office's assistance would be consistent with the State Public Records Act, and therefore I do not recommend that the SEEC have any formal role to play in resolving open government disputes. Instead, I propose that the Commission explore creating an ombudsman position much like the position that exists currently in the State Attorney General's office. (I've attached a description of that office from the Attorney General's web site.)

The Open Government Ombudsman's role would be to provide an independent review of open government disputes. If a City department was not being responsive to a records request, the ombudsman could encourage the department to fulfill its obligations under the law. If the department still did not respond appropriately, the ombudsman could issue a report detailing the department's failure to satisfy the request. At the same time, if someone objected to a department's decision to withhold documents and the ombudsman agreed with the department's position, the ombudsman could share that conclusion with the complaining party. Hopefully, the complainant would have more confidence in an independent review.

We cannot fulfill this role at our current staffing level, and no one on staff has the expertise to fulfill this role, so we would need to seek to have a new position funded. This is, it should go without saying, a difficult budget environment in which to seek new funds. Nevertheless, I recommend that the Commission authorize me to work with the legislative and executive branches, and interested members of the public, to explore creating an independent public records ombudsman position to be housed in the SEEC. My goal would be to have the City Council include funding for such a position in the next biennial budget and, ideally, to have the Mayor include the creation of the position in his budget proposal to the City Council.