

**Seattle Ethics and Elections Commission Regular Meeting
November 5, 2014**

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on November 5, 2014 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commissioner Bruce Carter was asked by his colleagues to chair the meeting and called the meeting to order at 4:03 p.m., Commissioners Brendan Donckers, Eileen Norton and Kendee Yamaguchi were in attendance. Commissioner Brad Axel joined via telephone. Commission Chair Bill Sherman and Vice-Chair Rich Cohan were not present. Executive Director Wayne Barnett and staff members Anthony Adams, Polly Grow and Gary Keese were present. Assistant City Attorney Jeff Slayton was also in attendance.

1) Public Comment

There was no public comment.

Action Item

2) Meeting minutes for October 1, 2014

Commissioner Norton moved to approve the minutes from the October 1, 2014 Regular meeting. Commissioner Yamaguchi seconded. The minutes from the October 1, 2014 Regular meeting were unanimously approved.

3) Commission legislation

The Executive Director summarized the two pieces of legislation for the Commission, one making technical changes and the other exempting committees that are not as active in Seattle City campaigns from being required to file reports with the Commission.

The Executive Director alerted the commissioners to one policy choice on the technical changes amendment. The bar on contributions in excess of \$5,000 in the final 21 days before an election was held unconstitutional in a challenge brought by a ballot measure committee,

meaning that legally speaking the bar on contributions in excess of \$5,000 still applied to contributions to candidate committees. A reading of the opinion though makes it difficult to see how the bar could legally be applied to a candidate committee, and for that reason he was recommending eliminating the bar altogether. He noted that the Public Disclosure Commission was also recommending that state law be amended to eliminate the bar for both ballot measure and candidate committees.

Commission Donckers said he would prefer not to act on the technical change bill at this meeting, but wanted a month to review the case law. Commissioners Carter and Norton both said they were satisfied with the Director's recommendation. After discussion between the commissioners, Commission Donckers withdrew his request.

Commissioner Donckers moved to recommend adoption of the two pieces of legislation to the City Council, and Commissioner Norton seconded. The motion carried unanimously.

Discussion Items

4) Advice to the Seattle Channel regarding programming (Continuation of discussion)

Commissioner Carter led off the discussion with an analogy. He said the Seattle Channel is like a billboard, and candidates for office should not have access to that billboard unless they share it with their opponents.

Commissioner Norton said there is an incredibly fine line between campaigning and conducting official business, and she liked San Francisco's approach, which was to keep candidates off the channel in the months leading up to an election.

Commissioner Donckers asked Megan Erb from the Seattle Channel how the Channel handles programming around ballot measures.

Megan Erb responded that the Seattle Channel does not produce any programming concerning measures that doesn't include both pro and con viewpoints.

Commissioner Yamaguchi asked whether it was possible to edit shows to resolve issues when a guest promotes or opposes a candidate or a ballot measure.

Amy Lowen from the Seattle City Attorney's office answered that the host of the show could direct viewers to programming that included both viewpoints. Commissioner Norton said that she did not favor that approach, and Commissioner Carter agreed that it is not sufficient.

Amy Lowen clarified that the Elections Code bars promoting or opposing ballot measures, not discussing them altogether.

Commissioner Axel said he was not in favor of drastically changing the Seattle Channel's programming, but wanted to make sure that the programming complied with the Elections Code.

The Executive Director reminded the Commission that they have the option of not rendering advice at all, if they cannot reach a consensus. Gary Keese said that the Commission may want to consider rendering advice on what they consider to be clearly permissible and impermissible under the Elections Code, and leave the fact-intensive questions to be analyzed on a case-by-case basis.

The Chair invited Chris Leman to offer two minutes of public comment on the Seattle Channel issue. Mr. Leman said that the Commission's website should include all information provided to the Commissioners about topics on the agenda. He urged the Commission to render an opinion. He said the Director's September 5 memo was extremely wanting, and that the Director was not treating the Seattle Channel the same as other City agencies, when it is in fact a City agency.

Commissioner Carter said that it was clear Mr. Leman's comments would take more than two minutes and asked Mr. Leman to reduce his comments to writing and share them with the Commission. Mr. Leman objected to Commissioner Carter's request that he limit his comments. Commissioner Carter said that the Commission would not be taking action at the November meeting, and that he preferred written comments prior to the December meeting.

Commissioner Norton asked whether there had been discussion of converting the Seattle Channel into a nonprofit. Megan Erb said that she was not aware of any discussions.

The Commission did not reach a decision, and held the agenda item until the December meeting, when the Chair and Vice-Chair should be in attendance.

5) Case No. 14-2-0623-1 (Alleged misuse of City facilities)

The Executive Director said that this dismissal had not been appealed. He said that he was hoping to review the Commission's administrative rules in 2015, and perhaps clarify what evidence was required for the Commission to initiate an investigation. This complaint included few if any facts, and it is not clear in the Commission's rules how staff should handle allegations of violations without any factual support.

6) Executive Director's report

The Executive Director reported that the City Budget Office had pledged to work with the Commission to fund a position on an emergency basis should the need arise to hire new staff early in 2015.

The Executive Director informed the Commission that the rollout of the City's Learning Management System had been delayed until January 2015, meaning that staff was reaching out to employees about getting trained on the Whistleblower Code via e-mail and other modes of communication.

The Director said that there had been a news report on the City's Office Funds, and he anticipated asking the Commission to review the rules starting next month. The Office Funds Rules have not been reviewed in more than 10 years.

Decision still subject to appeal (No Discussion)

7) Case No. 14-2-1006-1 (Alleged misuse of City facilities)

This case was still subject to appeal at the time of the November 5, 2014 Regular Commission meeting.

8) Late-filing penalty for Quality Pre-K for Our Kids (\$30)

This case was still subject to appeal at the time of the November 5, 2014 Regular Commission meeting. The Committee had, however, paid the penalty.

9) Late-filing penalty for Yes for Early Success (\$10)

This case was still subject to appeal at the time of the November 5, 2014 Regular Commission meeting. The Committee had, however, paid the penalty.

The Regular Commission meeting for November 5, 2014 adjourned at 5:23 p.m.