

Seattle Ethics and Elections Commission Special Meeting

October 30, 2019

A special meeting of the Seattle Ethics and Elections Commission (SEEC) convened on October 30, 2019 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Brendan Donckers called the meeting to order at 4:00 p.m. Vice Chair Hardeep Singh Rekhi and Commissioners Nick Brown, Bruce Carter, Eileen Norton, Richard Shordt, and Susan Taylor were present. Executive Director Wayne Barnett was joined by Assistant City Attorneys Jeff Slayton, and Gary Smith, along with staff members Fedden Amar, Chrissy Courtney, Polly Grow, René LeBeau, Tomica Ransaw, and Annie Tran.

Action Items

- 1) Minutes for September 9, 2019 special meeting**
- 2) Minutes for September 25, 2019 special meeting**

Commissioner Norton moved to approve the minutes from September 9 and 25, and the motion was seconded by Commissioner Carter. The motion passed unanimously, with no opposition and no abstention.

- 3) Request for reconsideration in In re David Soule**

The Director informed the commission that Mr. Soule asked for reconsideration of the \$1,000 fine against him to be lowered to \$500. The Director encouraged Mr. Soule to attend and make his case, but Mr. Soule was not in attendance at the meeting, and the Director provided an email from Mr. Soule to the commission. A \$500 settlement was offered initially in the interest of trying to resolve things, but there was no reply from Mr. Soule at that time. The Director noted that the \$1,000 fine for Mr. Soule was calculated using the same formula as the other SDOT employees found to be in violation in similar cases. The Chair asked for a reminder of the

underlying cause and how the amount was calculated. The Director answered that the underlying offense was abuse of the parking privilege, and the calculation of the amount due was the Early Bird parking rate of \$20, times the number of times of abuse, which was 25, and then that amount was doubled. The Chair asked Assistant Attorney Gary Smith what the standard of review would be for a reconsideration, and Mr. Smith answered that it was a *de novo* review. Vice Chair Rekhi stated that he was not inclined to change the fine since Mr. Soule was not present, and Commissioner Taylor also stated that 25 times seemed like a lot to her. The Chair noted that unless there was a motion to take action, doing nothing was an effective denial. The Chair asked if anyone wanted to make a motion. The Director noted that no motion was required unless the commission wished to change their position. No motion was made.

4) Lobbying law

The Director noted that there was a two-page communication from the Mayor's office received earlier in the day, in response to the Director's September 11 request to all department directors and copying the Mayor's counsel, requesting comments on the draft legislation under discussion. The Director asked how the Chair would like to proceed. The Chair stated that as the letter was received on very short notice, he was unsure if the commissioners had all had time to read and digest it. The Chair saw three options, one, that the commission could discuss the letter, two, they could postpone the entire subject to the next meeting, or three, where the commission seems to have consensus, they could move forward on the other portions of the proposal that did not deal with the departmental aspects of lobbying, which could be taken up at a later date. The Chair solicited other options from the commission.

Commissioner Taylor stated that she wished they had more time to consider it, but noted that the letter, although it did not have much in the way of specific feedback, indicated that there

was further engagement with the city and was curious as to what the Director thought that meant and how the commission would do that. The Director answered that it was an interesting question and for him, it came down to the role of the commission. The Director asked if the commission is considering itself the expert body giving its input to the Council, and assuming that after the Council takes it up, that will be where public input is gathered and public stakeholders are engaged or did the commission want that to take place before the proposed legislation goes to the Council. The Director was not sure what further engagement was anticipated from the commission and whether the commission would like to duplicate efforts that would take place at the council eventually. Commissioner Taylor thanked the Director and said that was helpful, and maybe it was not the place of the commission to do that in any event. The Director responded that it was really more of a question and if the commission wanted to do that, they could. Commissioner Brown offered that the commission asked for the input, and this was the response they've gotten, so it was now a question of whether the commission would like to push beyond the vague points presented but noted that he did not want to duplicate work, since that in general, seemed like a bad idea. Commissioner Carter said that the costs are a matter of great interest, and if it were easily accomplished without great cost, then good, but if it were going to be very costly, the commission could rethink it, and it was too bad they could not seem to extract some estimate of the costs from the bureaucracy that would have to absorb those costs. Commissioner Carter went on to note that he didn't know what other methodology the commission could use, but he was disappointed because he would have thought they could come back with their budget people and say it would cost so much. The Chair said that in addition to the costs, he would also like to know the actual practical burden that it would cause the

departments if they were to comply. The Chair stated that it makes it difficult to evaluate on a policy level, if on a more granular level the effect on the departments themselves is not clear.

The Director stated that two things he gets from this letter, in addition to some discussions, are first, if the commission only defines lobbying to apply to the top tier of a department, then it could have the inadvertent effect of people starting to go further down into the departments, and the Director is unsure if it would be good or bad to have someone lobbying lower level department officials. Second, the Director stated that if lobbying departments becomes registerable, then exceptions will likely have to be created for those who are not considered lobbyists traditionally, but which present topics that could be considered lobbying topics such as engineers, lawyers, architects, etc. The Director offered to pull together language around that for the next meeting, and noted the City of Los Angeles, which does require registration for lobbying departments, and is being used as a model for the proposed legislation, has many more exceptions for such positions as engineers, architects, and those who historically would address department heads on behalf of their paying clients.

The Chair noted that the last version of the proposed law had language that included departments as regulated entities of lobbying laws. Commissioner Shordt offered that while there isn't really enough time for the commission to digest the letter from the City, the Director made a good point that if the commissioners were to proceed along this path, it would be good to incorporate what the city has provided. Commissioner Shordt noted that in his day job, they deal with lobbying disclosures and Los Angeles is a municipality that they have to work with, and so he understands that businesses that work with the City of Seattle would like clarity when they are being asked to register their employees. Commissioner Shordt suggested that carving out a list of exceptions and putting that on paper would be really helpful, and then at that point they might

want to have the City weigh in again and see if the interpretation and approach makes sense. Commissioner Shordt continued that if the commission is going to take time and effort to put together a thoughtful piece of legislation they should at least give the city and the agencies and departments within it an opportunity to look at the near final product because he is not entirely comfortable voting on something without a buy in or a clear indication that the City will not provide any further information before submitting it to City Council.

The Chair asked if it would be appropriate, following Commissioner Shordt's reasoning, to let the Mayor's office and other departments know that the commission intends to consider taking action next time with or without city input, although the commission would love to have their input. The Chair continued that he did not want to get ahead of the commission but it appears that there is consensus on significant pieces of the legislation such as the disclosure pieces and the lobbying regulations for elected positions and consultants and it would be nice to not keep kicking the proposal down the line and continuing to wait. The Director and the commission expressed agreement. The Chair asked if for the next meeting they could have a version that includes the departmental piece and one that excludes it, and the Director answered that was possible. Commissioner Carter also requested an exception for the community council groups, such as the Magnolia group who came to warn about the structural issues with the Magnolia bridge, since these are groups who were formed in an ad hoc manner to share their views. The Director asked if there was any compensation for such community council members, and Commissioner Carter said no, so the Director noted that they would already be exempted in the current version. The Chair noted that an earlier version did not have the departmental piece, so he is hoping that if there not sufficient information on that issue or consensus that there could be an alternative vehicle that the commission could use to discuss and potentially advance.

Discussion Items

5) Proposed legislation to end super PACs in City elections and ban political spending by foreign-influenced corporations

The Chair noted that an updated version of the previously proposed legislation from Councilmember González was sent to the commission, and that Councilmember González would like to be present to address the commission. The Director informed the commission that the Councilmember is currently in a budget session for the City Council, so she requested the commission to either move out of order or take a recess to wait for her to be able to join, which is anticipated to be closer to 5 p.m. The Chair asked if they should move forward with the other items and get those accomplished and the Director agreed.

6) I-122 report

Democracy Voucher Program Director René LeBeau reported that around 142,000 vouchers have been returned from about 37,000 residents, which is a significant increase from what was seen in 2017. The majority of the participating candidates have received the maximum in voucher funds, there is one candidate left who can still receive democracy vouchers and that campaign is quickly moving towards the maximum. There is a decrease in the number of vouchers being returned and the program is getting ready to start closing down for the year.

Ms. LeBeau said voucher usage had increased 124 percent, from 66,000 vouchers received at this time in 2017. This increase is being incorporated into planning for 2021. The Chair noted that from his quick math, it seemed like most the submitters are turning in all four vouchers. Ms. LeBeau answered that the majority do appear to be turning in all four all at once, but those are rough numbers.

Commissioner Norton noted that it is great to have the increased turnout, but there are also seven races, and far more candidates, so wondered if this many people would have been able to provide their vouchers two years ago, or if the candidates would have already reached their maximums. Ms. LeBeau answered that she believes that 2021 should give more of an apples to apples comparison, but one thing she was looking at was the amount of funding set aside, which was \$3 million in 2017 and \$4.2 million in this year, and we can begin to look at the percentage of funding used per election cycle. Since the 2017 and 2019 election years were so different, Ms. LeBeau noted the program is still in the process of getting numbers for comparisons. Commissioner Norton noted that in two years, there would also be the mayor's race, and Ms. LeBeau agreed, and noted that race would not entirely be an apples to apples comparison.

Ms. LeBeau continued her report, noting that the portal was useful, and it will be wound down once the final candidate has reached their maximum. There have been over 6,000 people assign their vouchers using the online portal, so that has been useful. Right now, 12 of the 14 candidates decided to use the voucher program, and 11 have reached their maximum, and the last one is very close. Ten candidates have been released from both the spending and the contribution limits, and one candidate has not been released from anything to date. Regarding invoicing, what is hoped to be the second to last check was run earlier in the day, and the program has invoiced just over \$2.4 million in democracy vouchers out to the campaigns. All vouchers are due by the end of November; the vouchers will no longer be accepted after that point. Once we reach the point in the election year where all the candidates have reached the maximums, then there will be a press release and social media around that end as well. Ms. LeBeau asked if there were any questions from the commission, and the Director asked that she speak to BERK Consulting.

Ms. LeBeau answered that she mentioned at the last meeting that they were going to engage with a third party to help with an analysis of this year's program and they have finalized a contract with BERK Consulting. BERK Consulting is familiar with the program and the data and they have held a few meetings already. The first action will be to solicit feedback from candidates who did not make it through the primary and get their experience, because there were a lot of first time people. Ms. LeBeau stated that they were looking for a final report by the end of February, and if there are any items from that report that need legislative attention, hopefully there will be time to get that in place prior to the 2021 cycle. The Chair asked if BERK did the report in 2017 and the Director and Ms. LeBeau confirmed that it was.

7) Executive Director's report

The Director noted that the dismissal still subject to appeal will be appealed, and the complainant has asked that the item be calendared for the next commission meeting as they were unable to make it today. The next regularly scheduled commission meeting is next Wednesday, and the Director does not think that there will be enough time to pull together something meaningful in the next week. December 2nd in the morning is one option, which would take the place of the December meeting, or the week of November 11, which would allow for changes to the lobbying law to be pulled together but would likely not allow enough time for the executive branch to respond. Commissioner Brown noted that December seemed more appropriate than next week, but the commissioners can work on the logistics with the Director offline. The Chair stated that he believed there was a while before the Councilmember could join. Commissioner Brown asked if it would be possible to check on the Councilmember's schedule to see if she can join us or if there is something else that they could discuss before the Councilmember arrived.

The Chair stated that there would be a break until 4:30 p.m. hoping Councilmember González joins the Commission meeting.

5*) Proposed legislation to end super PACs in City elections and ban political spending by foreign-influenced corporations

The Chair called the meeting to order again at 4:38 p.m. when Councilmember González joined the commission meeting. The Chair asked the Councilmember to lead and then the commission would ask questions. The Councilmember thanked the Commission for having her and explained she had just rushed over from a budget meeting.

The Councilmember opened her remarks by stating that yesterday she sent a memorandum laying out a slight modification from the proposed ordinance, which is otherwise the same as the ordinance sent in August of 2019, to the Chair and the Director. The Councilmember expressed a sincere interest in hearing the feedback of the SEEC, as the regulatory and compliance body for the City of Seattle, as it relates to local elections. She thinks it is really important as a policymaker, for her and her colleagues to have the benefit of the input from the commission regarding this ordinance, particularly as it relates to how the ordinance would be implemented and enforced. The Councilmember noted that they wanted to pass something that was enforceable and palatable to the commissioners and to the commission staff.

For additional context, the Councilmember believes this legislation is important to the intent and the purpose of what the voters said in 2015 when they overwhelmingly supporting the Honest Elections initiative (I-122) and established the Democracy Voucher Program. This legislation is designed with the intent to close up what the Councilmember sees as some gaps in the campaign finance laws and to provide an opportunity to be truer to what the Councilmember

sees as being the intent of I-122, which was fundamentally rooted in shifting the democratic and electoral process away from big dollar donors and more towards grassroots donors in the city.

The Councilmember also provided materials regarding Initiative 735, which was a Washington State initiative passed by the City of Seattle by over 80% and passed statewide by over 60%. The Councilmember said that Washington State as a whole, and the City of Seattle in particular, have signaled strong support for ensuring that candidates and elected officials are accountable to voters and not to big donors who bankroll campaigns with the potential purpose of having a quid pro quo relationship with those that they support through large donations.

The ordinance is in large part similar to the version submitted in August, but they have made some modifications. The current version allows for a whereas clause that would specifically reflect the intention of the Councilmember to do some analysis of the 2019 election cycle data at the conclusion of this election cycle. The current version also has an added definition for a limited contributor committee (LCC), which is a political committee that would need to qualify under certain criteria. The LCC would need to exist for at least nine months, it would have to receive contributions from at least 150 persons for a city council race, at least 400 donations from persons for a citywide city council or city attorney race, and donations from 600 persons if in a mayoral race, additionally, the total contributions should be \$500 or less per person in the proceeding calendar year. The Councilmember closed by stating that her intent is to align some of the small donor grassroots political fundraising activity with the intent of the provisions of I-122 and asking for questions from the commission. The Chair thanked the Councilmember for joining them and opened the floor to questions.

Commissioner Norton wanted to know more about the reasoning behind a limited contributor committee being allowed to contribute more than other independent expenditure

committees. Commissioner Norton expressed concerns that setting up different classes of expenditure committees and exempting them from the contribution limits would make the proposal more vulnerable to an attack from those who will file a lawsuit. Councilmember González answered that the limited contributor committee would be exempt from the \$5,000 aggregate contribution limit only if it qualifies to be an LCC, which focuses on having a high volume of small dollar donors. The Councilmember continued that the purpose there is to try to regulate the size of a contribution, so that you do not see a single donor contributing \$1.5 million dollars, what would be seen, hopefully, would be 600 people making donations of \$500 dollars or less, so the purpose is to refocus that type of behavior on the small grassroots fundraising.

Commissioner Norton said she understood that in terms of creating that committee, but still doesn't understand why they would not be subject to the \$5,000 contribution limit to the independent expenditure committee. Councilmember González answered that the policy logic is that they would be smaller donors and more donors. Commissioner Norton said that \$500 dollars a year is a lot, and each person could give \$1,000 dollars over 2 years, and she is struggling with why this would be constitutional, since it is setting different classes of speech at some level. Commissioner Norton stated that she supported the legislation the commission received in August but is struggling with this version.

Councilmember González said that since there are currently no limits on independent expenditures, then this would at least create a pathway for there to still be independent expenditure committee activity, but only if it is focused on a significant volume of donors and a smaller contribution amount for those donors. The Councilmember continued that obviously, this is a first conversation, and she is interested in hearing this feedback and she chose \$500 dollars to align that contribution language to what currently exists for an individual cap for donation,

and that amount could be set lower. Commissioner Norton acknowledged that it was less about the contribution to the committee and more about the expenditure, since the LCCs are not bound by an expenditure limit, and the smaller grass roots group can donate as much money as they have to a political action committee (PAC).

Commissioner Norton said she is still struggling with why there is a limit to the amount that an individual or a corporation is allowed to give to a PAC, but there is not a limit on these small committees. Commissioner Brown supported Commissioner Norton by noting that there is a limit on one but not the other and Commissioner Norton agreed, and stated that it would be treating people differently and that just doesn't feel right to her. Commissioner Norton also said that in a worst case scenario that you could have 1,000 people in one of these committees who all give \$1,000 dollars over two years and that would still be \$1 million. Commissioner Norton said that the folks who we are trying to rein in, could take this and still donate as much money as they want, they would just have to go out and get more people.

Councilmember González said she would take that as a caution, but believes that grassroots fundraising is not as easy as it sounds, and getting 400 people to make a contribution of a lower amount is a threshold that still needs to be met, and if that threshold needs to be raised to keep the system from being gamed, she is interested in that feedback. Commissioner Norton said she is worried about this creating a loophole, and unsure of the impact to the rest of the originally proposed ordinance.

Councilmember González replied that she appreciated the fact that many people would have thought that I-122 would have helped to address the independent expenditure issue, when in fact there was nothing in I-122 that limited independent expenditure spending. The Councilmember continued that there was a belief that providing people democracy vouchers

would allow for a greater volume and different kinds of people to engage in the political system, and she thinks that is largely true, but an unintended consequence has been the shift from ordinary donors to massive unlimited dollar infusions into independent expenditures. The Councilmember stated that this was an opportunity for the city to take reasonable measures in the independent expenditure arena to limit what people can contribute, setting aside the questions of constitutional complexity around expenditures. Commissioner Norton stated that the first version that was sent over is the one she would support, whether it would get through the courts or not, but with the LCCs she is very nervous about the added risk of the arguments as it goes through the appellate courts. Commissioner Norton continued that she certainly appreciates what the Councilmember is trying to do but is concerned about the possible impact on the rest of the changes. Commissioner Carter stated that he agreed with Commissioner Norton and is concerned that this exception could swallow up the rule and there could be a lot of money coming through this loophole and it is inconsistent with the rest of the restrictions.

Commissioner Brown thanked the Councilmember for attending the meeting, noting that during commission discussions of this proposal last time there was a fairly broad support for the policy and kudos to Seattle for leading the way and tackling problems like this. However, Commissioner Brown continued, the larger philosophical question he had, and one that was acknowledged by those who spoke in support of the ordinance last time, was that this proposed legislation could be contrary to 9th Circuit precedent and precedent in other federal courts. The struggle that Commissioner Brown weighed was the proper role of the commission in the face of contrary precedent, and whether or not it should be endorsed and supported regardless. As a policy matter, this is supported, and Commissioner Brown gave the Councilmember kudos for leading the way on this, but in terms of endorsing or providing feedback that would be useful, as

all the witnesses attested, this would be a legal challenge to the proposal and that is of concern to Commissioner Brown and he asked if the Councilmember had any thoughts on that topic.

Councilmember González stated that as an independent body, the commission could decide how they want to proceed and move forward in their best judgment. As a former commissioner herself, Councilmember González says that she understands and appreciates the importance of the role this body plays, and they have been given increased responsibility with the passage of the Honest Elections initiative and the implementation of the Voucher Program. The Councilmember said she thinks this situation and the opportunity this legislation provides is unique and she does strongly believe it could withstand a legal challenge if one were to come, primarily because they would be building on the precedent that is already in the state, around defending the constitutionality of the Democracy Voucher Program and secondly, because of the Democracy Voucher Program, there is a strong publicly financed campaign structure in the city.

The Councilmember stated that she believes the context and the environment in Seattle in terms of the existing regulatory framework does provide an opportunity to make some nuanced legal arguments to a court of law, but she wanted to avoid getting into areas of attorney-client privilege. The Councilmember reassured the commission that as part of the process, they will be queueing up at least two executive sessions within the legislative process to make sure that they are being judicious, and she has done all of the legwork on the front to make sure they are not expending unnecessarily taxpayer dollars by having pro bono council on board to address some of the complex constitutional legal issues that could arise.

The Chair noted that the 9th Circuit case, the Long Beach case, addressed PAC expenditures, and of course, the ordinance under discussion addressed PAC contributions. The Chair also stated that one of the questions he has grappled with is how to determine the

appropriate ownership percentage in the definition of a foreign-influenced corporation and asked the Councilmember to shed some light on this topic. Councilmember González offered that in a review of the literature available, if a particular individual or group of individuals own 1%, it is significant ownership in a corporation and offers direct access to corporate decision making. The people who own 1% or more of a corporation tend to have direct access to the board room and the top leadership of a corporation. Commissioner Norton noted that in support of the Councilmember's point, that she asked someone she respects who would know about the 1%, and was told that in this context 1% ownership is significant and such an owner would have influence, at 2%, the owner would really be listened to, although it didn't sound like a lot to her, in that world it is. Vice Chair Rekhi offered that he was comfortable with the 1%, whether it is 1% or 5% ownership, there is influence, and stated that he did not believe a corporation should be able to do something that a foreign individual would be prohibited from doing and even at 1%, a corporation should not get special rights.

Commissioner Taylor also thanked the Councilmember and said she supports the goals of the ordinance, but she also had a question related to the corporate ownership issue. As an attorney with a corporate background, she agreed that 1% is a big percentage for a big company, but she worries that companies will object to the due inquiry requirement because 78-80% of all shareholders own corporate stock through their broker, so the corporation itself doesn't usually know who its owners are, but she thinks there is a filing requirement with the U.S. Securities and Exchange Commission (SEC) once the owner gets to 5%, so that would be an easy threshold to police. Commissioner Taylor asked the Councilmember if she had considered the flex between the 1% to 5% and whether it matters. The Councilmember answered that she thinks right now it is difficult to assess how that would play out in real life, but she has a hard time believing that

the CEO or the leadership of the corporation would not know who this massive stakeholder is in their corporation. The Councilmember continued that because we exist in an environment where this information does not have to be disclosed at all, then imposing this requirement shifts the burden to the corporation to make a good faith effort to ascertain whether or not that stakeholder is in compliance with existing federal law, which prohibits foreign national dollars from coming into the electoral system. The Councilmember noted that how a corporation decides to fence off that money and not let it be allowed into the electoral process is going to be up to the corporation. Commissioner Taylor thanked the Councilmember.

Commissioner Brown asked the Councilmember to speak to the next steps procedurally; is this helpful feedback, would something else be more useful and the timing for the Council. Councilmember González answered that it is helpful to her to hear that there is some consensus of support for the goals and the purpose of the legislation, and there was a letter from the Public Disclosure Commission (PDC) as well, showing support for the original ordinance, and that could be a model for the commission, to provide a letter to the Councilmember, and the warnings of unintended consequences, such as those provided earlier by Commissioner Norton, would be helpful. If there is an interest from the commission to see a version before the final vote in the Council, that would be helpful for her to know as well. In the memo from the Councilmember there was a timeline provided of what she hopes to accomplish legislatively with the ordinance. She would like to be able to refer the ordinance to the Council's introduction and referral calendar by November 12th, and immediately after the budget process, begin to frame up committee hearings to have public debate, with a full vote by January 13, 2020. Commissioner Brown asked if that would all be done under the current council and Councilmember González replied that new councilmembers will be sworn in and their first day on the job will be January 6.

Commissioner Shordt thanked the Councilmember for coming to speak with the commission. Commissioner Shordt asked how she anticipated individuals having to report with respect to the LCC and commented that he hoped that as the City Council considered this, they would think of the administrative burden this would put on the commission, because as the Councilmember knows, they do amazing and exceptional work as a small but mighty team and if they are asked to look at hundreds more contributors, assessing their validity, and determining in a rapid turnaround time during the election cycle whether the contributions and expenditures are okay, he thinks the commission could use help financially and with personnel to make sure they can enforce the legislation. Commissioner Shordt stated he was curious to hear the Councilmember's thoughts on what information individuals who wanted to contribute to the LCCs would be required to provide and how to track whether they met the qualifications.

Councilmember González answered that obviously the work load for the commission had been ramped up, and there is a reasonable argument to be made that additional resources need to be made available to the commission, whether this proposal is passed or not, but there is a fiscal note summary that accompanies this legislation and they would need to work with the Director and the staff to make sure they have a good understanding of the resources that would be needed and since they are currently in budget process that would have to be dealt with as part and parcel of the passage of the ordinance. The Councilmember continued that it would be her expectation that the commission engage in rule making around interpretation and implementation of the ordinance. The Councilmember hoped the commission would be able to come up with a set of rules to identify and determine how to evaluate whether someone has qualified as an LCC, and that the additional disclosure requirements for an LCC be defined and clarified through a set of

rules, and it is her expectation that an LCC would still have the transparency requirements that would apply to ordinary independent expenditure committees.

Commissioner Norton asked if the fiscal note comes in the introduction or later in the process. Councilmember González answered that it generally comes at introduction but that is not a hard and fast rule, but she is sensitive to the resource question.

Commissioner Carter thanked the Councilmember as well and stated that they are generically supportive of this notion and he was very disappointed to have seen so much outside money coming into the current election. Commissioner Carter continued that legally he was concerned about the corporate restriction, and that if it is left up to the corporations to figure it out, then that is an indication for imaginative lawyering and imaginative lawyering can generate a lot of litigation. So, if it can be defined for larger corporations in such a way that would allow a corporation to revert to a document they have to file now, then it would give a standard, rather than opening it to litigation. The Councilmember clarified that this was specific to the 1% vs. the 5% declaration, and Commissioner Carter agreed, and said that even though he didn't know where the line should be, he believed it should be pretty definitive and if they already file a paper, then perhaps that is a starting place for subject matter experts. Councilmember González stated that feedback was really helpful to her to get a good sense of which subject matter experts to talk to, in order to get a better understanding of those dynamics and hopefully to be able to answer more of the operational questions around how to effectively require disclosure and certification. Commissioner Carter noted that the SEC requires a lot, so that might be a good place to go and see what is already required in terms of the potential for enforcement.

The Chair asked if the Director had any questions or comments, and the Director answered not at this time, and thanked the Councilmember. The Chair said he was hearing some

clear consensus regarding certain objectives and goals, specifically limiting contributions to PACs, having some level of regulation on foreign ownership of companies that are playing in city politics, and there were some specific concerns raised, and asked if the commission was ready to craft a letter that outlines what is supported and what there are questions on still, or since the LCC language is new, if the commissioners wanted another meeting.

Commissioner Brown offered that it seemed hard to get another meeting together and asked if the Director and staff could pull together the thoughts of the commissioners as expressed so far in a letter, and if that could be circulated instead of requiring the commission to come together. The Director offered that his understanding was that as long as he did not invite all the commissioners to be part of a conversation online that it would be okay. Commissioner Norton asked the Councilmember when the letter would be helpful and valuable, understanding that she would probably want something sooner rather than later. Councilmember González said that if there could be something by December 2nd, when she goes into executive session, that would be helpful to her, but she knows the commission is a little busy right now.

The Chair asked if anyone had a problem with staff drafting a letter summarizing the comments and concerns from the commission. No concerns were expressed, and Commissioner Brown moved to have the Director and staff to write a letter to Councilmember González on their behalf and circulating it for the commission to review and comment by December 2 and the motion was seconded by Commissioner Norton. The Chair asked if there were any further comments, and Vice Chair Rekhi asked counsel if the commissioners could circulate the letter. Attorney Gary Smith answered that the commissioners should avoid collective discussion the matters amongst themselves. Attorney Jeff Slayton further clarified that the Director would take the comments and the commissioners can indicate to the Director if they agree with the

comments but not to each other. The commission will attempt to finalize their comments prior to the next meeting, and if the letter is deemed unacceptable, then there could be a telephone meeting. The motion was passed unanimously, with no opposition, and no abstention.

Councilmember González thanked the commission for their willingness in a busy time to make the space to have this conversation and she feels strongly that this bill is critical to continuing to protect the democracy and the massive influx of independent expenditures since the passing of I-122 threatens the democratic process. The Councilmember continued that many Seattle voters are seeing what is happening now and are wondering whether this democracy is going to continue to represent their interests and their voices, and she appreciates the commission taking this seriously, and the counsel that they have given her as a policymaker, and trying not to create other unintended consequences in this space. When the Councilmember thinks about how in 2013 there was only about \$556,000 dollars being spent in independent expenditures and now, to date in the current election cycle they are at about \$3.1 million dollars in just six short years, that signals there is an epidemic of big money in the elections in spite of the Democracy Voucher Program and there is a unique opportunity to correct course and to get back on track to focus on the people who live in the city and who expect to have a government that is accountable to them and their votes, and she appreciates their time and attention.

Items still subject to appeal

6) Case Nos. 19-2-1014-1 and 19-2-1016-1

An appeal has been filed and will be on the next agenda.

The Special Commission meeting of October 30, 2019 adjourned at 5:18 p.m.