

## **Seattle Ethics and Elections Commission Regular Meeting**

**March 3, 2021**

A regular meeting of the Seattle Ethics and Elections Commission (SEEC) convened remotely. Commission Chair Richard Shordt called the meeting to order at 4:01 p.m. and Commissioners Bruce Carter, Brendan Donckers, Susan Taylor, and Judy Tobin were present. Vice Chair Hardeep Singh Rekhi was absent. Executive Director Wayne Barnett was present and was joined by staff members Chrissy Courtney, Polly Grow, René LeBeau, Marc Mayo, and Annie Tran, along with Assistant City Attorneys Teresa Chen and Gary Smith.

### **Action Items**

#### **1) Minutes for January 6, 2021 regular meeting**

The Chair moved to the first order of business, the minutes from the January 6, 2020 regular meeting. The Chair asked if there were any comments or edits to the minutes and there were none. Commissioner Taylor moved to approve the minutes and Commissioner Donckers seconded the motion. The motion was approved unanimously.

The Chair decided to move to Items 3 and 4 before proceeding with Item 2.

#### **3) Rule designating Financial Interest Statement (FIS) filers**

The Director informed the commissioners that the Financial Interest Statements for city employees and those working on Boards and Commissions were underway for the year. The Director noted that a rule that must be adopted for the approximately 1,800 employees who need to disclose their finances to the city. The department lists were sent to the commissioners, so the only action needed today is for the commissioners to adopt the list. Commissioner Tobin moved to approve, and the motion was seconded by Commissioner Taylor. The motion to adopt the rule designating the FIS filers was approved unanimously.

#### **4) Rule regarding Candidate Introductions**

The Director presented a rule regarding the candidate introductions; the introductions were introduced in 2019 as a part of the Democracy Voucher Program. Since the Voters' Pamphlet does not come out until people are voting, in order to help residents learn about the candidates prior to the primary, the office has been soliciting statements from all candidates and providing them to the public and this proposed rule change would to increase the number of words allowed within the introductions submitted by the candidates from 150 words to 200 words, and to allow for a photograph of the candidate to be included. A motion to approve was made by Commissioner Carter, seconded by Commissioner Tobin, and the motion was approved unanimously.

#### **2) *In re Sawant status conference***

In re Councilmember Kshama Sawant; this matter has been pending for just over a year. The Director filed charges alleging material violations of the Ethics and Elections Code, saying that the City resources were used to promote a ballot issue, and the charges were filed just prior to the closure of the offices due to the Covid pandemic. Soon thereafter the parties agreed to postpone the matter from April to a date that would be agreed upon, when in person gatherings were allowed. A year later, there were still no in person gatherings, so a letter went out to the parties earlier this month to discuss this matter. Both parties were present for the discussion.

Commissioner Carter recused himself from this matter. Carolyn Boies was introduced as the counsel for the Director in this matter. Ms. Boies said there was a caveat, that there was a joint matter presented, and there is a question of case law that may determine the scope of the matter. Ms. Boies suggested that the legal matters be dealt with first but was ready to move forward. Dmitri Iglitzin was the counsel for Councilmember Sawant. Mr. Iglitzin said the theory

that Councilmember Sawant was misusing materials to support the ballot proposition was a nice clear legal issue and he looked forward to clarifying this position, but noted there was also a matter pending before the State Supreme Court regarding the recall matter, and there may be a court decision that would resolve the issue regarding the assistance that Councilmember Sawant gave to a group that was developing a potential ballot proposition, and whether that potential ballot issue was truly defined as a ballot issue under city law.

Mr. Iglitzin continued that if the Supreme Court said that the allegations against Councilmember Sawant were factually sufficient because the effort to prepare the ballot proposition met the definition of a ballot proposition, then there would be an effort to settle this case. But if the issue was decided the other way, then it would be clear that this matter would be decided, so letting this matter lie fallow for the next eight weeks would seem to make the most sense. The Chair asked if there were any questions. Commissioner Tobin asked if Mr. Iglitzin meant that the ballot proposition was not completed and so it does not count as a ballot proposition. Mr. Iglitzin said that there was no legal filing of a ballot proposition with the city. Commissioner Tobin asked what the event was that was being adjudicated and said if there was inappropriate behavior then it should be discussed. Ms. Boies said that if the matter of the ballot proposition was decided clearly, one way or another, that would not eliminate the entire matter, but she did not want to get into the merits or the facts of the case too deeply today. Ms. Boies continued that her proposal was to get the legal questions resolved and then to only adjudicate the matter before the commission. Mr. Iglitzin said that he was firmly of the belief that this matter would be resolved by the Supreme Court. The Chair said that whether there was a legal issue or not, the matter would not be resolved today, but a briefing schedule was being requested.

The Chair said he did hear there was consensus for a briefing schedule and asked whether it would be appropriate for Ms. Boies and Mr. Iglitzin to meet and hash out a schedule.

Mr. Iglitzin said that he believed that there would be a way to agree on a briefing schedule, but he would request four weeks after the Supreme Court decision and would like to know whether it should be done jointly. Ms. Boies said there was an additional aspect to the complaint that there was a misuse of city resources and was not just about the ballot measure. Ms. Boies asked if the Chair would like to have the matter decided by four weeks after the decision. The Chair said it made sense to him to wait until there was a decision from the Supreme Court, but he did not see that there was anything after the Court ruled that would prevent the commission from moving forward on this matter. The briefing schedule could be worked out sooner than a month after the Court decision. Mr. Iglitzin and Ms. Boies agreed.

Commissioner Donckers said that he wanted to note the ruling from the Supreme Court and two weeks afterwards was a really short window and he would recommend the four week window afterwards. The Chair said he agreed, and the parties should be allowed a reasonable schedule for both to have time to prepare for a hearing. A meaningful conference between the two attorneys would be helpful, especially if there were any witnesses. The Chair asked when the briefing schedule could be provided to the Commission. Commissioner Tobin asked if the Supreme Court was ready to decide the case. Mr. Iglitzin said he knew it would not be tomorrow, but there was no certain date. It was expected soon, since these cases were supposed to be fast tracked. Commissioner Tobin said the commission had been carrying this at least as long as she had been on the commission. Mr. Iglitzin said it was anticipated that the ruling would be coming in the next few weeks. The Chair asked if Friday, March 19<sup>th</sup> would be a good time to provide the commission with a briefing schedule. The Chair believed that the Supreme Court decision

would be helpful to have, so a briefing schedule that would take into account the time needed to receive that verdict would be preferred. Mr. Iglitzin and Ms. Boies said they would be amenable to the March 19th date to provide a briefing schedule. The Chair asked if the commissioners had any other questions and there were none. The Chair thanked Mr. Iglitzin and Ms. Boies.

**5) Request to post Democracy Voucher Replacement form online**

The Chair asked the Director to outline the issue. The Director said that in 2017 when they debuted the voucher program, one of the first items heard from candidates was a cry for help because they would go to a resident, engage them about the candidate, and at the end of the meeting, the resident would realize they did not have their vouchers and it was seen as unwieldy to ask the resident to request replacement vouchers online through the voucher website.

The campaign replacement form was then created, and that form was supposed to be limited to a face to face interaction, and that form should not be out in the wild for anyone to use to gather vouchers for just anyone. For the 2017 and 2019 election cycles that seemed to work fairly well. In 2017 there were roughly seven thousand campaign forms processed and roughly fifteen thousand in 2019. Since face to face campaigning was not on the table because of the public health concerns, the request received was to use the replacement form by putting it on a candidate's website, and the concern from staff was that it could turn anyone with a printer into a voucher issuer. The Director then turned it over to Katherine Bobman to make her case.

Ms. Bobman said that the Director summed it up great, the request was to put the campaign form on the candidate website and they have found that with multi-step processes the follow through was lost, so having the form active on the website would be a help. The same review process would be followed as with the paper forms, and it could easily be seen whether

there was any sense of foul play. There were concerns about bundling and they are very clear with their supporters and they were very cautious about that bundling concern and would not sign any forms as representatives if they looked inappropriate. Ms. Bobman asked if there were any other comments from her team. Erin Schultz said that it was hoped that since public interactions were so limited these days, the desire was to make things as accessible as possible. Commissioner Tobin asked if this was for the collection of the 10 dollar contributions. Ms. Bobman said no, this was for folks who have lost their vouchers or forgot they received them. Commissioner Tobin said there was a great video about the effect of these vouchers and the increase in participation, and Commissioner Tobin said she understood Ms. Bobman's concerns and wondered if this could be done only for the remainder of this year or this election cycle, only temporarily. Commissioner Tobin said that the voucher program was a leader in the nation, and she would hate to see it in any way reduced in its effectiveness. Ms. Bobman said she agreed, and the goal was to get more to send in their vouchers, and by and large, these are used by people who cannot find their vouchers and she would never want to replace the hard copy sent in the mail, these forms would be just a supplement.

The Director said that one of the goals of the program at the onset was to encourage candidates to move among the public to gather vouchers and he agreed with Commissioner Tobin that if the commission wanted to go in this direction, then this should be limited to the extraordinary circumstances that we find ourselves in today and once the campaigns can go door to door again, they should use the form in person. Ms. Bobman said she fully agreed, and this had only come up this year because of the limitations of the pandemic. The Chair said that as he understood it, the Mosqueda campaign had a web-based campaign and he wanted to make sure that if the commission agreed to making changes, it was mindful that could impact all the

campaigns, even those who were less tech savvy and he wanted to make sure no campaigns would be unfairly impacted. The Chair asked if there were any other campaigns that had made this request, and whether there were any technical hurdles that had already been identified.

Ms. Bobman said that the qualifying form was used by other campaigns, collecting signatures online digitally, and using Adobe Sign cost thirty-three dollars per month and mastering the Adobe Sign software was the biggest hurdle. The Chair asked René LeBeau, the Democracy Voucher Program manager, to address the concerns and whether this would be a challenge in terms of administration, but she was not able to be heard immediately due to a technical difficulty. The Chair asked the Director to speak instead. The Director said that the form as shown by Ms. Bobman, if it worked as advertised, would not require more work for staff, but there may be campaigns who could put up the form, who might not manage it as well, and there was a possible risk of this becoming a burden to staff in administering the program.

The Chair asked counsel whether the commission would need to make a rule, or whether the Director could issue guidance if the commission decided to make a change to the process. Attorney Gary Smith said that he had spoken with the Director about this, and he did think it was within the commission's authority, if there were straightforward and easy to understand guidance to staff on how to handle this, then it could just be done under the commission's inherent authority, and he did not think it would necessarily require an administrative rule. Mr. Smith added that the benefits of an administrative rule would be to have clear direction with the approval of the commission and there would also be a public comment period, that would allow the commission to hear from other candidates or organizations.

Commissioner Taylor said that she did not fully understand the operational side of the issuance of the Democracy Vouchers, but she was concerned about risks with fraud and forgery

and imposters and it seemed safer to have the paper mailed than just having the form posted on the website. Commissioner Taylor said that it seemed like there was a danger of campaigns being able to issue vouchers, and these could be used like a stack of gift cards left on someone's desk. The Director said that it was a concern always, but there were protections built in, and the signatures on these forms would still go to King County Elections for verification so there would still be a check against fraud. Abbot Taylor said that campaign representatives need to sign the forms before they can be accepted, so even if someone downloaded the form from the world wide web, it would still need to be signed by a representative of the campaign registered with the SEEC, and there were a number of steps taken before the form was submitted to the SEEC. Commissioner Taylor wanted to know the process for the current replacement process and asked why the replacement form was not hosted on the voucher website if it worked so well. Commissioner Taylor asked what was different between the process when the replacement request was made directly to the office as opposed to the campaign form being used.

Ms. LeBeau said that when a replacement request was received by the office, then the registration was looked at first, and there was a check to make sure the resident had not already used their vouchers, and she noted that they will contact the individual as well if they cannot find them. Commissioner Taylor asked if the candidates would need to do this as well if the campaign replacement form was used. Ms. Bobman said that they do look people up to make sure they are registered voters, and there was a Voter ID code applied to the form before it was submitted. Josie Olsen said that there was a little bit of a precedent for online signatures, and the emphasis on the digital form this year and the voucher staff was able to validate that the digitization of the qualifying form would work, and that pre-approval process could be done to ensure that campaigns are using the campaign replacement form correctly. The Chair asked Mr. Smith about



any potential changes to a rule, and how long that would take, approximately. Mr. Smith said that there would need to be a public comment period of 14 days, and then the rule could be adopted, and a meeting could be called outside of the regular meeting schedule. Commissioner Tobin said she would suggest that they do something that would make it very clear that this would be a very temporary thing because the way it was before was encouraging people to participate and this accommodation would be just due to Covid.

Commissioner Carter said he was concerned as to whether there was any unfairness to other candidates by approving this request by Ms. Bobman. The Director said he would like to hear Ms. Bobman's response. Ms. Bobman said that it was more prohibitive to campaign who were not tech savvy rather than those who did not have the funds. Commissioner Carter said he did not have a sense of tech savviness across the board and asked for staff input. Ms. LeBeau said that after the King Conservation District election, it was exciting to see that the technology could possibly be used to help with the qualifying process, so staff was able to look at a few signature companies and were able to easily set up a form for a drawn signature. Ms. LeBeau continued that staff was willing to help candidates set up the forms, but it did not really change that some campaigns would be more organized, and others would need more assistance, but staff was able to help and provide guidance where necessary. Commissioner Donckers asked if there was a reason why requesting the replacements from the voucher office directly isn't enough. Ms. LeBeau said that back in the 2017 cycle, when the campaigns had taken the time to engage the resident at their door, but they could not locate their vouchers, then this provided a mechanism for an immediate transaction. There was no sense of how often these forms would really be used, but they served both the campaigns and the residents, and she thought the forms were useful for

both audiences. Ms. Bobman said she agreed, especially in this digital environment, and it was a multistep process for the giver otherwise.

Commissioner Donckers said he understood, but wanted to now address the bundling question, and he asked whether this could be part of a bundling scheme. The Director said that the form he was shown by Ms. Bobman was not directly printable, but it could be done through a screenshot, which would take some work. The traditional hazards of bundling were a real concern to the Director, but if the form worked as well as it could, and we do not see bad actors emerging, then since the campaigns would still have to verify that this came from a resident, then it would take multiple bad actors and the risks are as mitigated as they could be against bundling. Commissioner Donckers then asked if it was appropriate for the commission as part of a potential rule, to impose a technological threshold is helpful to a campaign. The Director said he would compare this to 20 years ago when campaigns first started to have the opportunity to receive contributions online and those who were more tech savvy were advantaged, but he was not sure there was enough of a competitive imbalance to convince him the form was a bad idea.

The Chair said that he wanted to clarify what Ms. Bobman had said, that historically the form would be used when a campaign was speaking to someone directly and they did not have their vouchers with them and they could sign the form instead, but that now the campaign would like to email a link to the form to the residents directly. The Chair then asked if there was a plan to send the form to residents who had not previously interacted with the campaign, had not visited the website, and there was no personal touch. Additionally, the Chair asked if there was a plan to include some language where there has been an acknowledgement when someone was not found, and their campaign replacement form could not be accepted. Ms. Bobman answered that they would put the form up on the website about how to give your vouchers and they would

like to send the form out to their supporters on an email listing as well, with some language to clarify that the form was for those who were eligible for vouchers but do not have them.

The Chair said that it sounded like there were three options: do nothing, the commission could use its inherent authority to allow the Director to provide guidance, or the commission could proceed with rule making, and the Chair asked what the commissioners were thinking. Commissioner Donckers said that he was supportive of considering this, but he would like to hear from more campaigns. Commissioner Carter said he was skeptical at this point, because he was concerned that the situation would go from a resident meeting the candidate to it becoming a third or fourth hand process over email and he thought it would be best for the resident to come to the commission for assistance with a replacement request because it would be the most even handed. Commissioner Tobin said she was also skeptical because it has been shown in the past that the use of vouchers has greatly expanded the number of residents participating and this makes her nervous because it could be too much of a burden on staff and she hates to lose the personal contact between the campaigns and the residents, because in her personal opinion the in person exchange increases the resident interest in the campaign, it increases their interest in voting, and she would hate to see it wind up as meaningless. Commissioner Tobin continued that she would like to hear from other campaigns as well but wasn't sure they had the time for that since November was coming quickly, but with that said, even though she didn't like the idea, she thought they should do it. Commissioner Taylor said that some of her concerns were addressed regarding the lack of controls, and she would consider this as a during the pandemic only consideration and she would support formal rule making so that there would be time for public comment and to get input from other campaigns and to understand what controls might be put in place.

The Chair said he wanted to make sure they were allowing the greatest possible participation in the Democracy Voucher Program but he understood that given the current pandemic it was not possible to have as much face to face contact, but if there was a way to come up with a reasonable approach, it was worth exploring. The Chair continued that he understood the timing concerns, with filing week and the primary fast approaching but he was also inclined to go with a rule. The Chair asked the Director to reach out to the campaigns and ask if campaigns could proactively provide their thoughts and comments and then to draft a rule or written guidance so that if the commission did want to go forward with the rule, they could approve that language and have it posted for public comment. The Chair asked for the Director's or commissioners' thoughts about that approach, and then noted that there was a comment in the chat that Ms. Olsen and Mr. Taylor worked on multiple campaigns and he invited them to share their thoughts. Ms. Olsen said that she did have other campaigns in the City of Seattle and she believed that the campaigns she worked for would be interested in having an electronic form for the replacement requests to make things more accessible in the 2021 election cycle and most people are expecting things online at this time and online has become the norm in the absence of in person meetings, and the campaigns would be interested. Mr. Taylor said he agreed with Ms. Olsen and Ms. Bobman and they have been digitally campaigning since March 2020 and all events were online, everything was online and email friendly, and he said he did not seem like it was an appropriate subject for rule making.

The Chair asked the Director if it would be wise to solicit written opinions from other campaigns for working on a draft of guidance or proposed rule. The Director said yes, they could solicit the views of those who have filed their C-1s and give them the opportunity to respond within a week to provide guidance. The Chair said that sounded good, and if it seemed like the

commission was in a good spot to have a special meeting then they could be flexible and try to move forward on this as quickly as possible. Commissioners Carter and Tobin said they were supportive of the Chair and the Chair asked the Director to keep him apprised. The Director agreed and said he would move with all deliberate haste.

### **Discussion Items**

#### **6) Democracy Voucher Program Report**

Ms. LeBeau said she would share some numbers and then would send the document with the figures out to the commissioners after the meeting. Ms. LeBeau said she believed it was a year ago when the first candidate training was held in the Seattle Municipal Tower on site. Looking back at that time and seeing how different it was compared to now, and all the new tools that have been developed and are available now. There have been 20 trainings for various candidates, and 14 candidates out of 20 have pledged to join the program, and of those, two campaigns have qualified so far, there have been distributions to those campaigns.

Ms. LeBeau continued that some of the resources that have been prepared were around electronic signature gathering, there are training videos on how to set up forms for electronic signatures, and it is included in the one on one trainings. There is also a self-serve option for campaigns to learn about vouchers if they are curious before they are ready to have a training.

On February 9<sup>th</sup>, TRIO the print vendor, started to deliver the vouchers, and it took about five business days to get all the vouchers in the mail. Right around that same time, the 2019 online voucher users, as well as the people who decided to become online voucher users in 2020 were sent emails inviting them to use their vouchers through the online portal. To one of the Chair's questions previously, about what would happen to those emails that were kicked back,

there were about 46 delivery failures and those people were sent paper vouchers. There was a really good response from online users, with about 30% of the vouchers returned using the portal. Also, around the same time, those who are inactive voters in Seattle were notified by postcard, letting them know that they should contact King County Elections to update their registrations. Over eleven thousand vouchers have already been received. There have been 120 replacement requests and half of those were requests to become online voucher users. There were 56 new residents who have requested vouchers in a supported language, and over 400 phone calls have come in through the voucher line in the past three weeks.

The Chair asked if the calls that are coming in are requesting the replacements on the portal are because the residents are being reminded that the portal exists, and whether they are being directed to the online portal. Ms. LeBeau said that most of the phone calls that are coming in are usually from folks who do not have internet access, or who need additional information in their preferred language, so their requests for replacement vouchers are usually mailed. Lists of the candidates, and the candidate introductions are being mailed to those callers as well who have difficulty accessing the website. However, but the replacements requested on the web form hosted on the voucher website allow residents to choose paper or online.

There were about forty thousand social media impressions, and just under ten thousand dollars has been spent in advertising the launch awareness. The next media campaign will be around where to get information on the candidates and how to get replacement vouchers.

Ms. LeBeau said there are staff members back in the office. There is lot of space and there are three temporary staff members as well as three permanent staff members working in the office currently. The Chair asked if there were any concerns about the office, and if staff felt safe and comfortable and Ms. LeBeau said yes, the voucher team had taken over all the offices

available and they are keeping communication channels open around how interactions are managed and there is plenty of Personal Protective Equipment (PPE) and having Teams has made it easier to work together. The Chair asked if there were any other questions for Ms. LeBeau and hearing none from the other commissioners, the Chair thanked Ms. LeBeau and the staff for their work on the voucher program, saying that she and her team were doing fantastic work and thanked her for rising to the challenges of the current year.

**7) Executive Director's report**

The Director provided an update on the status of the various commissioner vacancies. Commissioner Carter's expired term was advertised by the City Council, and the application period recently closed, and those applications should be reviewed, and interviews conducted fairly soon to replace Commissioner Carter. The Director had also spoken with an individual who was interested in the seat formerly held by Chair Brown, so it was now up to the Mayor's office to decide whether they want to move forward with that individual. The Mayor's office was also supposed to replace Commissioner Donckers, as his term expired more than a year ago, and the Director thanked Commissioner Donckers for still being there.

The Director said he also wanted to thank René, Annie, Chrissy and the temporary staff for getting the program launched and he said that many of the calls in the early days are often from folks who are not fans of the voucher program and staff have done a good job of addressing those fears and concerns in a respectful manner even though they can be difficult conversations.

The Chair thanked the Director and said the regularly scheduled next meeting was the first week in April, but depending on the feedback received from the campaigns, he was looking to address the campaign replacement forms at the next meeting or sooner if needed.

**The Regular Commission meeting of March 3, 2021 adjourned at 5:38 p.m.**