

**Seattle Ethics and Elections Commission Special Meeting  
July 24, 2014**

A special meeting of the Seattle Ethics and Elections Commission convened on July 24, 2014 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Chair Bill Sherman called the meeting to order at 4:11 P.M. Commissioner Brad Axel was in attendance. Commissioners Rich Cohan and Kendee Yamaguchi joined by telephone. Commissioner Bruce Carter was not in attendance. Executive Director Wayne Barnett and staff members Anthony Adams, Polly Grow, Kate Flack and Gary Keese were present. Assistant City Attorney Carlton Seu was also in attendance.

**Action Items**

**1) Appeal of disposition of Case No. 14-2-0527-1**

Chris Leman, the appellant, joined the meeting by telephone. He faulted the Director for failing to have the Seattle Channel remove the *City Inside/Out: Council Edition* episode from its web site as soon as the Director had been alerted to the show's promotion of the Metropolitan Parks District. He said that the Director did not have a rational basis for making his decision in Case No. 14-2-0527.

Mr. Leman said that the Department of Information Technology had violated the Elections Code. He said the law did not permit the Executive Director to dismiss the complaint. He said this was a major misuse of City resources, because of the monopoly the City has on its television channel.

The Executive Director said that the matter did not lend itself to the exercise of the Commission's enforcement powers. He said that of the nine topics covered on the program, six related to ballot measures. He said that the format of the program lends itself to these types of problem arising, which he thought was better addressed through an advisory opinion issued by

the Commission explaining how the station should and should not operate when dealing with ballot measures.

Commissioner Axel asked if the Executive Director interprets SMC 2.04.300 to apply only to individuals and not agencies, and the Director replied that he did. The section applies by its terms to elected officials, their employees, or any person appointed to or employed by an agency.

The Chair asked the Executive Director to address the dispute over the application of the exemption in the law permitting elected official to respond to “specific inquiries.” Mr. Leman argues that the exemption shouldn’t apply.

The Executive Director said that the investigation showed that the show was not scripted, as Mr. Leman claims it was. The Councilmembers did not know the questions prior to taping the episode. The Director acknowledged that there is an agreement on the topics that will be covered in the program, but not the specific questions.

John Giamberso, the Seattle Channel’s General Manager, confirmed the Executive Director’s explanation.

Commissioner Axel asked Mr. Leman to address the wording of SMC 2.04.300 that makes it a violation to use public resources “for the purpose of” promoting or opposing a candidate or ballot measure. Commissioner Axel said he didn’t see any evidence of intent to promote the ballot measure.

Mr. Leman disputed the Director’s and Mr. Giamberso’s contention that questions aren’t shared with the Councilmember’s before the taping.

The Director told Commissioner Axel that the Commission's 2006 opinion relating to Mayor Nickels's use of City resources said that the Commission need not have evidence of specific intent, but can infer intent from the elected official's or employee's actions.

Commissioner Axel said that he was not persuaded that the Executive Director had made his decision without a rational basis.

The Chair asked for clarification as to why contractors weren't subject to the Elections Code, and the Director said that only the Ethics Code had been amended to apply to contractors, not the Elections Code. The Chair said that he was interested in exploring that question in the future. He agreed with Commissioner Axel that the Executive Director had a rational basis for his decision.

Vice-Chair Cohan asked whether the Executive Director and staff had seen the scripts mentioned by Mr. Leman. The Director said that the office had provided those documents to Mr. Leman in response to a Public Disclosure Request.

Commissioner Axel made a motion to affirm the Executive Director's disposition in the matter of Case No. 14-2-0527-1, and to begin working on an advisory opinion at the Commission's September meeting. Vice-Chair Cohan seconded the motion. The motion was unanimously approved.

The July 24, 2014 Special Meeting of the Seattle Ethics and Elections Commission adjourned at 4:57 P.M.