

**Seattle Ethics and Elections Commission Regular Meeting
December 3, 2014**

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on December 3, 2014 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Bill Sherman called the meeting to order at 4:02 p.m. Vice-Chair Rich Cohan and Commissioners Brad Axel, Bruce Carter, Brendan Donckers, Eileen Norton and Kendee Yamaguchi were in attendance. Executive Director Wayne Barnett and staff members Anthony Adams, Kate Flack, 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 Items

2) Meeting minutes for November 5, 2014

Commissioner Carter moved to approve the minutes from the November 5, 2014 meeting, and Commissioner Norton seconded. The minutes from the November 5, 2014 meeting were approved 5-0. The Chair and Vice-Chair abstained from the vote because both were unable to attend the November meeting.

3) Election of officers

Commissioner Axel nominated Commissioner Carter as the new Chair, and Vice-Chair Cohan seconded. The motion carried unanimously.

Commissioner Sherman nominated Commissioner Yamaguchi as the new Vice-Chair. Commissioner Carter seconded the nomination. The motion carried unanimously.

Commissioners thanked Bill Sherman and Rich Cohan for leading the Commission.

4) Merit leave determination for Executive Director

The Vice-Chair moved to give the Executive Director a Level Three performance rating, and Commissioner Carter offered a friendly amendment to award the Director six days of merit leave. Commissioner Norton seconded. The merit leave determination was unanimously approved.

Discussion Items

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

The Chair summarized the Commission's deliberations over the span of the preceding three meetings, and said that he believed there was consensus around three of the five prongs of the Executive Director's September 2014 memo: (1) that election-related programming in which both sides are offered an opportunity to present their case does not violate the Elections Code, (2) that interviewing an elected official who is up for election is not a *per se* violation of the Elections Code, and (5) that the station may provide links to election-related materials, so long as it does so in conformance with neutral criteria. The Chair said that he did not believe the Commission was in a position to reach a consensus on the other two prongs of the Director's memo, and that he believed it was appropriate to tackle questions that arose under those two prongs on a case-by-case basis.

Commissioner Axel thought it would help expedite the process if the Commission voted to authorize the Director to develop an advisory opinion for the Commission's review and approval addressing Items 1, 2 and 5 from the memo.

Commissioner Carter said that he was concerned about *Ask the Mayor*. He believed that the format of the program was problematic.

Commission Donckers moved to authorize the Director to draft an Advisory Opinion based on the principles outlined in Items 1, 2 and 5 of the Director's September memo to the Commission. Vice-Chair Cohan seconded. The Chair, Vice-Chair, and Commissioners Axel, Donckers, Norton and Yamaguchi voted in favor, and Commission Carter opposed the motion. The motion carried 6-1.

The Seattle Channel's General Manager, John Giamberso, told the Commission that the Seattle Channel had changed the format of *Ask the Mayor*, so phone calls are no longer taken. The show is recorded on location in various communities, and now more closely resembles a televised community forum. Questions are posed either by audience members in attendance, or by email or social media.

Commission Carter asked Mr. Giamberso if the questions that are presented are predominantly election-related. Mr. Giamberso replied that the majority of the questions asked during *Ask the Mayor* deal with issues of local concern.

Commissioner Axel expressed doubts about the program's host asking questions about ballot measures. He worried that the answers would always be one-sided. Commissioners Yamaguchi and Norton said that they were concerned about advocates for a candidate or a measure generating a number of questions at a taping.

Vice-Chair Cohan moved that as it pertained to Items 3 and 4 of the Director's September memo, the Commission would not opine on either topic. Commission Carter seconded the motion. The motion was unanimously approved.

The Director said that he would begin drafting an advisory opinion for the Commission's approval shortly. He was unsure whether he could have something ready for the Commission's January meeting, but said he would do his best.

6) Office Funds

The Director told the Commission that the Office Fund Rule was the only Elections Code rule that was not amended in 2007. With changes to the Ethics Code in 2010, and more money flowing in to Office Funds since the Elections Code was amended in 2012, he urged the Commission to review the rule.

The Chair asked whether office fund reports are available to the public. The Director said that, just as with campaign reports, all office fund reports are available on the Commission's web site.

The Chair then asked the Director to clarify if his request for a review of the rule was driven by concerns over office fund spending to date or whether he wanted to clarify the rules going forward. The Director replied that he believed it was important to provide clearer guidance going forward.

Commissioner Carter asked what jurisdiction had office funds. The Director said it was his understanding that the City of Seattle was the only government body in the state that had office funds.

Commissioner Yamaguchi asked for additional details on which City officeholders had office funds and the size of those funds. The Director said that he would provide that information as soon as possible.

The Commission asked for a legal briefing on the status of office funds at its January meeting. Mr. Slayton said he would research the question and provide a briefing.

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

This dismissal was not appealed. There were no questions from the Commissioners.

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

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

The Commission discussed Agenda Items 8 and 9 together. The Director noted that each campaign had paid its penalty in full.

Commissioner Donckers expressed his concern that the fines were too low to serve as an effective deterrent, and asked when the penalty schedule had last been reviewed. The Director replied that the schedule had not been reviewed in at least a decade. The Chair also spoke in favor of revisiting the late-filing penalty schedule.

10) Executive Director's report

The Director informed the Commission that the new Whistleblower website was up and running, and thanked Kate Flack for her hard work in making that happen.

The Director also reported that 2038 employees had already taken the online whistleblower training, and that Gary Keese had trained approximately 500 employees on the new whistleblower code in 2014.

The Director told the Commission that the January meeting was scheduled for the 7th and asked whether there was interest in postponing the meeting for a week because of the holidays. Several commissioners were interested in postponing the meeting and the Director said that he would send an e-mail gauging everyone's availability the second week of January.

The Regular Commission meeting for December 3, 2014 adjourned at 5:16 p.m.