

**Seattle Ethics and Elections Commission Special Meeting  
November 2, 2017**

A special meeting of the Seattle Ethics and Elections Commission convened on November 2, 2017 in the conference room in Suite 4010 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Eileen Norton called the meeting to order by telephone at 2:02 p.m. Vice-Chair Brendan Donckers and Commissioners Charlene Angeles, Bruce Carter, and Hardeep Singh Rekhi were all present by telephone. Commissioner Vickie Rawlins was absent. Executive Director Wayne Barnett and staff members Rene LeBeau, Polly Grow, Jenna Smith and Annie Tran were present.

**1. Petition for Release from Spending and Contribution Limits – Holmes for Seattle**

The Chair invited the Holmes campaign to briefly address their request, and a campaign representative made the case for releasing the campaign from both the spending and contribution limits.

The Chair next invited Scott Lindsay to address the Holmes committee's request. Mr. Lindsay said that he had been working deliberately to limit his fundraising to less than the spending cap. He said the Holmes committee should have been reporting unredeemed vouchers, and had it done so it would have exceeded the spending cap approximately one month ago.

The Chair next asked the Director for his advice and recommendations. The Director said that the Lindsay campaign had spent and obligated to spend \$149,267 as of October 31, and that the Seattle Police Guild had made an independent expenditure opposing Pete Holmes's reelection totaling \$8,600. He said that based on those figures, the Holmes campaign should be released from the spending limit. He also said that the Holmes committee should not be released from the contribution limit because the law does not give the Commission the authority to

forecast campaign spending, only to evaluate what has been spent. And on that basis, the Lindsay committee has not exceeded the spending cap.

Commissioner Angeles asked Mr. Lindsay what he was planning to do to remain under I-122's spending cap. Mr. Lindsay said he had no other fundraising events planned, and would turn off the donate button on his web page when he approached the spending limit.

In response to a question from the Chair, the Director said staff includes redeemable vouchers when calculating a participating candidate's spending towards the limit, but does not include those that are incapable of being redeemed.

In response to a question from Commissioner Angeles, the Director said that if the Commission released the Holmes committee from the spending limit, under SMC 2.04.630(f), the Committee would be eligible to redeem democracy vouchers up to the spending limit, or \$150,000.

In response to a question from Commissioner Rekhi, Mr. Lindsay said that if he is faced with an infusion of more than \$30,000 to his opponent's campaign, he would need to gather with his team and decide how to respond. He said it was a distressing situation to face a game changing influx of money into the Holmes campaign.

Commissioner Angeles noted that the text of SMC 2.04.630(f) differentiates between releasing democracy vouchers as the result of a campaign going over the limit and a campaign combined with an independent expenditure going over the limit. The former triggers the release of democracy vouchers, and the latter does not. The Director said he had not noticed that textual difference up until that point.

The Director said that the staff had released democracy vouchers to the Grant and Mosqueda campaigns when the Nelson campaign and independent expenditures had exceeded the spending limit.

Commissioner Angeles asked the Director whether the Commission was bound by its actions vis-à-vis the Grant and Mosqueda campaigns. The Chair said she didn't think the Commission could treat campaigns differently than they had been treated already this campaign cycle.

Commissioner Rekhi said it was the Commission's role to enforce the rules as written. He did not think the Commission was bound by the actions taken with regard to the Mosqueda and Grant campaigns.

In response to a question from Commissioner Angeles, the Director said that the Commission had been silent on the question it was wrestling with now, and that he did not think the Commission was bound by the staff's actions.

Commissioner Carter also said that the Commission was charged with administering the law as written, and that if it had identified an issue that had been missed previously, he did not have a problem with choosing a different course.

Erin Schulz from the Holmes campaign said that the campaign had made strategic decisions based on the Commission's decisions with the Mosqueda and Grant campaigns, raising additional funds from donors rather than redeeming additional vouchers. Mr. Lindsay said the Holmes committee had gamed the system by banking vouchers, and that if the Commission released vouchers it would have very significant consequences.

In response to a question from the Chair, the Director said that staff had only included vouchers capable of being redeemed when calculating the spending cap for participating candidates.

In response to a question from Commissioner Carter, the Director said he thought that reading the section the way Commissioner Angeles had suggested put it on firmer constitutional footing. He said the Supreme Court in the Arizona case had found unconstitutional releasing public dollars over and above the spending cap because of the speech of a third party.

The Chair suggested the Commission deal with the request before it on release from the spending limit, and then provide direction on the question of releasing vouchers.

She moved that the Commission release the Holmes campaign from the spending limit but not the contribution limit. Commissioner Angeles seconded and the motion passed unanimously.

The Chair then clarified with the Director that the Mosqueda and Grant campaigns had been treated the same.

The Vice Chair then spoke about the canon of statutory construction that requires that a statute not be interpreted in a way that would render the statutory scheme, taken as a whole, absurd. He wanted to explore that. He questioned whether the word “also” in the second sentence was intended to incorporate the democracy voucher clause in the first sentence. The Chair said that the section was not well-written.

The Vice Chair then asked whether the Holmes campaign had specifically requested the release of voucher proceeds. The Director said that neither communication from the campaign requested the release of democracy vouchers.

In response to a question from Commissioner Angeles, the Holmes campaign said that they thought that it was likely that an independent expenditure would be made, pushing the Lindsay campaign over the spending limit. Because of that, instead of redeeming vouchers as they went along, held more vouchers at the City than they otherwise would have, and spent time raising money from individual donors to get to their spending cap. She said that if they had not had the expectation that vouchers would be released to them if the spending limit had been breached, they would have made different choices.

Commissioner Rekhi asked the campaigns if the Commission chose to release the vouchers, how would that serve the purpose of the Voucher Program. The Holmes campaign said that it would vindicate the interests of individuals who had assigned their vouchers to the Holmes campaign.

The Chair expressed her displeasure with the Holmes campaign's decision to bank vouchers. She said it did not serve the purposes of the program.

The Vice Chair said he was uncomfortable making a decision to release vouchers simply because staff had done that in the past. He said he was not convinced that the Commission had to make a decision because the Holmes campaign had not asked specifically for the release of the vouchers. He wanted time to think about the question and did not see a reason the Commission was obligated to rush its decision.

The Chair said she would be more comfortable with direction from counsel and said that she would talk to the Director about how to obtain that counsel.

**The Special Commission meeting for November 2, 2017 adjourned at 3:10 p.m.**