

**Seattle Ethics and Elections Commission Special Meeting
May 16, 2017**

A special meeting of the Seattle Ethics and Elections Commission convened on May 16, 2017 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Eileen Norton called the meeting to order at 4:03 p.m. Vice-Chair Brendan Donckers, Commissioners Charlene Angeles, Bruce Carter, Vickie Rawlins, and Hardeep Singh Rekhi were all present. Executive Director Wayne Barnett and staff members Anthony Adams, Polly Grow, Marc Mayo, Jenna Smith and Annie Tran were present. Assistant City Attorney Gary Smith was also in attendance.

1) Request for advisory opinion on Legal Defense Fund

The Vice Chair disclosed a relationship with the Mayor's husband's second cousin, Commissioner Angeles disclosed having worked with Paul Lawrence and Taki Flevaris, the attorneys representing the Legal Defense Fund ("Fund"), in the past on ballot measure campaigns, and the Chair disclosed having worked with Mr. Lawrence many years in the past.

Mr. Flevaris asked whether the Commission wanted to hear from someone who would be involved in administering the Fund. The Chair told Mr. Flevaris that first she needed to be persuaded that the Fund was consistent with the City's Ethics Code.

Mr. Flevaris made the case for anonymous contributions to the Fund. He said that if the Commission disagreed, the Fund would want to explore limited, disclosed contributions to the Fund.

Several commissioners asked questions about the proposed Fund, which Mr. Flevaris answered.

Commissioner Angeles asked who would enforce the non-disclosure agreement if there was a breach. Mr. Flevaris said that the primary entity would be the Fund. He said the

Commission would have a role to play if there were signs that there had been violations of the Ethics Code.

Commissioner Carter said that the Gift provision of the Ethics Code carves out campaign contributions from the Ethics Code. He asked if the Commission could create a detailed regulatory scheme without exceeding its authority. Mr. Flevaris said that the Fund was simply seeking a written advisory opinion that the proposal would not violate the Ethics Code.

The Chair then recognized the Director, who said that he did not believe anonymity cured the issue that a reasonable person would conclude other than that a gift from someone with an interest in City business to an elected official was motivated by an attempt to influence that City action. He stressed that the non-disclosure agreements were unenforceable.

He then referenced the fact that New York City's Ethics Board had recently ruled that legal defense fund contributions were to be treated no differently than anything else of value provided to an elected official. That meant that it was unlawful for an official to accept a contribution from a subordinate, to accept more than \$50 from anyone doing business or seeking to do business with the City, and that defense fund contributions from anyone other than relatives or close personal friends of the official were presumed to be motivated by the official's position. He said that he had communicated with several of his colleagues in other municipalities, and none of them had approved a legal defense fund structured like this one was structured.

The Chair said that if there was State or City law relating directly to legal defense funds we would be having a different conversation. But as she saw it the Commission was being asked to approve a method for an elected official to be able to solicit indirectly unlimited contributions from anonymous donors. She said there was no manner in which that fit within the City's and

the State's attitudes toward transparency, accountability, and disclosure. She said there had to be a statutory structure within which legal defense funds are permitted, and we do not have that.

Mr. Flevaris said how can it be that when an official has been sued in this kind of lawsuit that concerned citizens cannot ensure that official has the ability to defend themselves? He said there must be some path, and that they had laid one out, but they were willing to look at another path.

Mr. Lawrence asked the Chair whether her concern was primarily with anonymity. The Chair said that at this point she did not see any way to establish a legal defense fund consistent with the Ethics Code. She said that there had to be a statutory basis specific to legal defense funds in order for them to not violate the Ethics Code.

Commissioner Rawlins asked the Chair whether a concerned citizen could give \$50 to the Fund, and the Director confirmed that unless the person was involved in regulatory or contractual dealings with the Mayor's office they could contribute \$50 and comply with the Gift Rule.

Commissioner Angeles asked for an executive session. The Commission went into executive session to get legal advice at approximately 4:40.

At 5:05 the Chair called the commission back into session. The Chair made a motion that the Executive Director draft a document indicating that the proposal as presented does not meet the Ethics Code's requirements, that there is no legal basis for the Commission to create a regulatory structure, and that in the absence of such a regulatory structure the Commission's Gift Rule stands as guidance on what gifts officials can accept. Commissioner Carter seconded the motion, and it carried unanimously.

The Chair thanked Mr. Flevaris and Mr. Lawrence for bringing the request to the Commission. She said it showed respect for the City's Ethics Code, and she appreciated their coming to the Commission.

The Regular Commission meeting for April 5, 2017 adjourned at 5:08 p.m.

DRAFT