

Seattle Ethics and Elections Commission Special Meeting

January 9, 2019

A special meeting of the Seattle Ethics and Elections Commission convened on January 9, 2019 in Room 4096 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Brendan Donckers called the meeting to order at 4:03 p.m. Commissioners Nick Brown, Bruce Carter, Eileen Norton, and Hardeep Singh Rehki, were present. Commissioner Charlene Angeles joined by phone until she arrived in person at 4:23 p.m. Vice Chair Vickie Rawlins participated via telephone. Executive Director Wayne Barnett was joined by staff members René LeBeau, Annie Tran, Polly Grow, and Chrissy Courtney. Assistant City Attorneys Jeff Slayton and Gary Smith were in attendance.

1) Public Comment

Alex Tsimerman provided public comment.

Action Items

2) December 19, 2018 special meeting minutes

The Chair said the meeting minutes were very organized and thorough, and requested any comments. Commissioner Carter offered that the new minutes style was helpful since he had to miss the meeting. The Chair noted that there is a typo on Page 6 under Number 8) Rulemaking on line two, where the word 'to' was transposed to 'ot.' With that correction Commissioner Norton moved to adopt the minutes, and Commissioner Rekhi seconded. The motion passed unanimously, with Commissioner Carter abstaining.

[The Director asked if Item 5 could be addressed first, and the Chair concurred that Item 5 would be addressed first, followed by Item 3.]

5) Public hearing for rules regarding introductory statements

The Director introduced three options for the candidate introductory statement (which is modeled on the Voter Pamphlet) to address the main issue from last time regarding how to identify candidates as Democracy Voucher Program participants. Option 1 is to include a statement for every candidate that says the candidate is or is not participating in the Democracy Voucher Program. Option 2 is to include a statement to indicate only those candidates who were participating in the Democracy Voucher Program. Option 3 is to provide a list of Democracy Voucher Program candidates in a separate location, and provide a statement that indicates where that list can be found.

Commissioner Norton inquired as to whether there could be a fourth option that allows the candidates to self-identify their own participation in the program. The Director said the concern there would be a candidate who falsely identifies participation, or who was at one time a participant but then withdraws from the program. Commissioner Norton said she prefers to put the onus on the candidate to indicate their participation. Program Manager Rene LeBeau offered that she understands the concerns, and that the candidate could be the one to make the initial determination, and the rules could include a statement that warns any candidate who falsely identifies as a participant that inaccurate information will not be used. Commissioner Norton asked what the mechanism will be to indicate participation, and Ms. LeBeau indicated that there is no specific web form, the information that will be provided by the campaigns would probably have a single statement added below, which could be removed if the candidate withdraws. Commissioner Norton said there could also be a link above or below that would lead to a

statement that says whether that candidate was or was not participating, but she was simply uncomfortable with the Commission being the ones to identify the participating candidates in the statements. Commissioner Carter said that he thought the easiest way would be to maintain a page with the status shown for each candidate and so liked the third option. Commissioner Norton agreed that with Option 3 there is only one place to update the status.

Commissioner Rehki asked if the candidates were allowed to declare their participation within the body of their statements. The Director confirmed the candidates could include that in their statements, but the thought was that if that information is displayed elsewhere then they wouldn't need to waste the words duplicating that statement within their limited amount of space. Commissioner Rehki asked what would happen if a candidate put their declaration of participation in their statement and then withdrew. The Director said that if a candidate did put their participation in their statement and then if that statement were not true, the Commission would make a statement regarding the participation. Commissioner Rehki said that he thought it would seem to be easiest to maintain the status in a separate location, however, the concern is if the candidate writes it in the statement, and the candidate is dishonest in their text or the statement becomes untrue later on, then if someone did not click the separate link, they might not be aware of the change or the untruth. Commissioner Rehki would vote that if the statements themselves are allowed to contain the declaration of participation, then it would be best to have something at the bottom of their statement that verifies that participation. If the statements are going to be managed so as to not contain that declaration, then the status could be maintained in a separate location. The Chair indicated that he also had some comments regarding the management. Commissioner Brown asked the Director which option he preferred, and the Director replied that he preferred Option 1. He believes staff has coalesced around this option,

and feels it is the most user-friendly and informative to those people who are trying to decide what to do with their vouchers. Commissioner Brown asked the Director why Option 1 instead of Option 2 and the Director replied that Option 2 requires more work on behalf of a reader reviewing the candidates.

The Chair indicated that there is public hearing on this topic and comments from the public are welcome. Commissioner Rehki asked if there was a requirement for candidates to submit a statement and the Director confirmed that there was no requirement to provide the candidate statements. The Chair then asked if there were any legal concerns that the Commission would be providing an endorsement and Attorney Gary Smith said the participation statement is not an endorsement because it is a statement of objective fact. The Director also noted that there is no normative language describing the participation, such as “honest elections.” The statement is simply an indication of whether someone is participating in the program or not. The Chair noted that he has strong opinions on the matter, but they can be visited at another time in order to move on to the candidates awaiting interviews. There being no one from the public in attendance, the public hearing was then closed on the matter.

3) Selection of a new Commissioner

The Chair suggested that each interview be kept to 20 minutes and the same topics/questions be asked of all candidates. The Chair asked the candidates to introduce themselves and each Commissioner was given a chance to ask a question of each candidate.

There were four candidates selected for interviews by the Commission. At the conclusion of the interview process the Chair noted that the Commission would be going into Executive Session to discuss the candidates beginning at 5:37 p.m. and returning at 5:47 p.m. Attorney Jeff

Slayton noted that due to recent advice from the Attorney General the Commission should not reconvene prior to the time indicated.

The Commission reconvened at 5:48 p.m. and the Chair asked for any motions. Commissioner Norton moved to select Susan Taylor as the Commission-appointed Commissioner and Commissioner Carter seconded the motion. The Chair asked for any discussion and Commissioner Brown said that he would support Taylor, but she was his second choice of those who applied. The Chair indicated that they would vote on the current motion and asked for any further discussion. No further discussion ensued, and the vote was called. The Chair, Commissioners Norton, Carter, Angeles, and Rehki voted for the motion. Commissioner Brown voted no. Commissioner Rawlins was unable to vote under the enabling ordinance. The motion passed, and Susan Taylor was selected as the newest Commissioner. Commissioners Norton and Carter indicated the other candidates were all very qualified and should be passed on to the City Council as potential appointees. The Chair noted that these candidates could also be considered for positions on the advisory committees for I-122 if they are not selected for other appointments.

4) Election of officers

Chair and Vice Chair are the two positions open for election, and current Chair Donckers volunteered to continue in the role. Commissioner Carter moved for the re-election of Chair Donckers with Commissioner Rehki as Vice Chair. Commissioner Norton seconded and called for the vote. She said that Chair Donckers was a fabulous chair and Commissioner Rehki would make a great second, and asked for any discussions or questions for the two candidates. Four votes were required to pass the motion, and Commissioners Angeles, Brown, Carter, Norton, and Rawlins voted in the affirmative, and the motion passed unanimously. Commissioner Rawlins

was thanked for her service by the Director, Chair and Vice Chair and she offered her thanks and good wishes for the important work in their future as well.

Discussion Items

6) I-122 report

The Chair asked if the introductory statements that were discussed briefly should be taken up at the current meeting or held for another meeting. Commissioner Norton indicated that they could lay out the issues. Attorney Jeff Slayton said that the Commission may want to go into Executive Session at some point to receive legal advice about the rules, and Attorney Gary Smith noted that the Commission had some questions regarding the forum that was being established.

Commissioner Norton said she had some questions that she did not believe required legal advice, specifically whether section 3b was consistent with the Voter's Pamphlet language. The Director confirmed that it was. Commissioner Norton then asked about Item 5 in the guidelines, where the language is that the candidate is "encouraged" and would request that the encouragement be replaced with some language that is less directive. The Chair also noted his concerns about the Director deleting or modifying the language, and said that there should be provisions for due process. Commissioner Carter asked if section 4b met the due process requirement. The Chair said that it wasn't clear. Commissioner Norton stated her preference that if there is an appeal, it should start at the level of the Director, and then any further appeal would go to the Commission.

Commissioner Brown asked why 4b did not seem to cover the appeal. The Chair said that it was an issue of no prior notice. If the notice was given so the candidate did not have to wait to

see in print what they wished to appeal, then that might satisfy due process. The lack of prior notice language is in section 3b. Commissioner Brown said he understood the concern regarding prior notice. Commissioner Rehki asked if amending the language of 3b would resolve the issue. Commissioner Carter asked if the change could be made to 3b to give notice to the candidate. Commissioner Norton asked why the statement wouldn't simply be returned to the campaign if over the length instead of cutting off whatever is over the word count. The Director said that this was done to avoid gamesmanship, to keep someone from extending their deadline artificially.

The Chair noted additional concerns regarding the language standards and avoiding being political. Commissioner Carter asked if the same language restrictions regarding profane, obscene, etc. language was also in the Voter's Pamphlet and Attorney Jeff Slayton answered affirmatively. Commissioner Norton asked what would happen if a statement was submitted over the length required. The Director said that the policy has been that the final words over the limit would be omitted, once again, to avoid gamesmanship and to ensure that all candidates are meeting the deadlines as required. The Chair asked if it could be made explicit in the rules that anything over the limit would be cut and the Director confirmed that could be done. Staff member Polly Grow also indicated that if time allowed, staff could return candidate statements to the campaign and ask them to return something compliant with the rules.

Commissioner Norton asked what the final day to declare candidacy was, and whether it was the same day as the final day to declare intent to participate in the Democracy Voucher Program. The Director clarified that they were not the same day, but they were both in May. Staff member Annie Tran further clarified that the final week to file for candidacy was May 13-17 and the final day to declare participation in the Democracy Voucher Program was May 31 and Jeff Slayton indicated that the filing date is the Friday two weeks prior to Memorial Day

weekend, which means that it changes each year. The Chair said it seemed as though consensus had been reached and asked if there was a motion ready. Commissioner Norton also asked if there was consensus on the discussion of Option 1 from earlier, and the Commission agreed there was general consensus.

Commissioner Norton moved that the rules for candidate introductions as amended be adopted. Commissioner Brown seconded the motion. The Chair asked if there were any further questions or discussions. Commissioner Norton clarified that this would be for Option 1 of the earlier discussion as well. Chair Donckers, Vice Chair Rehki, and Commissioners Angeles, Carter, Norton, Brown voted affirmatively. Commissioner Rawlins phone connection had dropped, and she did not participate in the vote. The Director offered that a draft of the amended rules for the candidate statement would be drawn up and circulated amongst the Commissioners, and if needed another special meeting can be called.

The Chair noted that there was an article regarding consultants and lobbyists which will be taken up next meeting if it can be accommodated.

7) Executive Director's report

The Director noted that for the Democracy Voucher Program Outreach Education that was authorized last fall, eleven applications were received from a competitive solicitation process from community organizations and ten of those applications were awarded. The ten organizations that are being contracted with have been provided.

The Special Commission meeting of January 9, 2019 adjourned at 6:09 p.m.