City of Seattle

Ethics and Elections Commission

February 5, 2008

Councilmember Sally J. Clark, Chair
Planning, Land Use & Neighborhoods Committee
Seattle City Hall, Floor 2
Seattle, WA 98124

Dear Councilmember Clark:

Pursuant to Ordinance 122242, passed by the City Council on September 18, 2006, I am hereby submitting a report on the effectiveness of changes to the Ethics Code's treatment of advisory committee members. Specifically, Ordinance 122242 requires the Commission to report on:

- The timeliness and nature of advisory committee members' disclosure under SMC 4.16.070.6.b.
- A summary of any violations of the Ethics Code by advisory committee members and Commission-recommended actions on those violations.
- The administrative burden imposed on the Commission in enforcing Ethics Code provisions for advisory committees.
- A description of the training opportunities offered to advisory committee members and information about the relative success of efforts to provide existing advisory committee members with training regarding changes to provisions of the Ethics Code and to provide new members training regarding the overall Ethics Code.
- Any suggestions for further revisions to the Ethics Code provisions related to advisory committees.

Background

By its terms, the Ethics Code applies to appointees to every "board, commission, or committee of the City," excluding only appointees to "public corporations and ad hoc advisory committees." SMC 4.16.030.D.

On April 2, 1992, the Commission issued a binding advisory opinion exempting from the Ethics Code the members of ***all*** advisory committees, not just ad hoc advisory committees. On May 4, 2005, the Commission rescinded the 1992 opinion, finding that it went beyond the plain language of the Ethics Code. Subsequent to rescinding the opinion, the Commission

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promulgated rules explaining which advisory committees would be considered ad hoc and which would not.

In the wake of the Commission's 2005 adoption of the rules, members of some advisory committees petitioned the City Council and the Mayor for changes to the Ethics Code's treatment of advisory committee members. An ad hoc group met to discuss the issue, and those discussions ultimately led to the enactment of Ordinance 122242, which permits advisory committee members to *disclose* activities that would, to a reasonable person, appear to impair their independent judgment. (Without the change, advisory committee members would, like City employees, be required to *disqualify* themselves from their advisory committee's work when a reasonable person would believe their independent judgment was impaired.) The bar on advisory committee members providing advice on matters in which they had a financial interest was left in place.

Discussion

1. *The timeliness and nature of advisory committee members' disclosure under SMC 4.16.070.6.b.*

More than 100 disclosures have been filed since changes to the Ethics Code became effective in October 2006. Approximately 90 percent of the disclosures have come from Planning Commission and Design Commission members, who on a quarterly basis, disclose facts relating to items on those Commissions' workplans for the upcoming quarter. Planning Commission staff members compile those disclosures into a single form which they provide to the Ethics and Elections Commission. Design Commissioners complete individual disclosures, which staff compile and forward to the Ethics and Elections Commission.

Most advisory committee members are disclosing their line of work or their employer, and the potential stake for current or future clients in the advisory committee's work. On the whole, my experience suggests that disclosures are being made in a timely fashion. We will, nevertheless, continue to work with staff for the various advisory commissions to see that written disclosures are forwarded to the Ethics and Elections Commission consistent with SMC 4.16.070.6.b.

2. *A summary of any violations of the Ethics Code by advisory committee members and Commission-recommended actions on those violations.*

Commission staff has not received any complaints against advisory committee members, nor have we initiated any investigations into the conduct of advisory committee members.

3. *The administrative burden imposed on the Commission in enforcing Ethics Code provisions for advisory committees.*

The administrative burden has been light. Commission staff developed a brief brochure for advisory committee members, but most of that brochure mirrors the brochure developed for

City employees. (The disclosure of appearances of conflicts is the only substantive difference between the law as it applies to advisory committee members and the law as it applies to City employees.)

Commission staff also developed a disclosure form for advisory board members to fill out when they have an appearance of a conflict to disclose. We have shared the form with staff for the various advisory committees, and it is available on our web site as well.

Commission staff has also provided advice to advisory committee members on the application of the Ethics Code, usually involving whether the committee member has a financial interest in a matter before their board, and should disqualify him or herself, or whether disclosure is sufficient.

4. *A description of the training opportunities offered to advisory committee members and information about the relative success of efforts to provide existing advisory committee members with training regarding changes to provisions of the Ethics Code and to provide new members training regarding the overall Ethics Code.*

The Commission's trainer and I, working closely with the Mayor's Boards and Commissions Administrator, held two training sessions to acclimate advisory committee staffers to the new rules, so that they could advise their members. In addition, since the changes to the Ethics Code became effective, I have personally spoken at meetings of the Arts Commission, Citizens Telecommunication and Technology Advisory Board, Construction Codes Advisory Board, Design Commission, Design Review Board, Fire Code Advisory Board, Human Rights Commission, Board of Parks Commissioners, Planning Commission, Seattle City Light Advisory Board, Seattle Commission for Sexual Minorities, and the Women's Commission.

I believe that the lack of complaints, coupled with the numerous requests we have received for advice, are evidence that advisory committee members are aware of their obligations under the City's Ethics Code and are complying with the Code. I am, however, somewhat surprised by the paucity of disclosures filed by advisory committee members who sit on boards other than the Planning and Design Commissions. We will continue to conduct outreach and provide training, so that advisory board members know of their obligations and know how easy it is to comply with the law's disclosure requirements.

5. *Any suggestions for further revisions to the Ethics Code provisions related to advisory committees.*

At this time, I have no suggestions for further revisions to the Ethics Code provisions related to advisory committees, nor have I heard any suggestions from Commissioners or others.

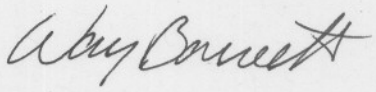
Conclusion

I believe that, to date, the changes to the Ethics Code have worked to strike an appropriate balance between the public's expectation that advisory board members will not

provide advice that is colored by their self interest, and the City's desire to attract engaged and active citizens to serve on City advisory boards. I also believe that the changes to the law affirm the valuable role that disclosure can and should play in the Commission's administration of the Ethics Code. Sunlight, as the saying goes, is a powerful disinfectant.

Please do not hesitate to let me know if there is any other information that the Commission can provide to the City Council on this issue.

Very truly yours,



Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission
Michael Gilmore, Boards & Commissions Administrator