

DRAFT MINUTES

Seattle Ethics and Elections Commission Regular Meeting November 7, 2007

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on November 7, 2007 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue, Seattle, WA. Commission Chair Michelle Radosevich called the meeting to order at 4:04 p.m. The Chair, Vice-Chair Mel Kang and Commissioners Tarik Burney, Lynne Iglitzin, Robert Mahon and Nancy Miller were present. Executive Director Wayne Barnett and staff members Harley Anders, Bob DeWeese, Gwen Ford, and Mardie Holden were present.

1) Public Comment

There was no public comment.

2) Approval of meeting minutes for October 3, 2007 regular meeting

The Chair called for approval of the minutes for the October 3, 2007 meeting. Commissioner Miller stated that on page 4, Rule 10 the last sentence that reads “the amendment passed unanimously” should be corrected to say “The amended motion passed unanimously.” Commissioner Mahon made a motion to accept the corrected minutes, which was seconded by Commissioner Miller. The motion passed unanimously.

3) Appeal of dismissal of Case No. 07-1-1012-2 (Allegation that Councilmember Jean Godden misused City resources for campaign purposes)

The Executive Director said that he had received an email from David Coons that he would not be able to attend today’s Commission meeting. Mr. Coons requested that the appeal be put off until the Commission’s December meeting. The Commission agreed to grant the request and to put the appeal on the agenda for the December 5, 2007 meeting.

4) Selection of finalists for seventh Commission position

The Commissioners reviewed the letter of interests and resumes for all of the candidates. Commissioner Mahon asked whether or not any of the candidates could enhance the diversity of the Commission. The Executive Director said that he did not know whether any of the candidates were people of color. Commissioner Mahon made a motion to bring in the top four candidates to the next Commission meeting on December 5, 2007. The motion was seconded by Mel Kang. The motion passed unanimously. It was decided that each candidate would be interviewed for 15 minutes, with an option to make a 3 minute opening statement. The Commissioners agreed to submit their questions to the Executive Director, who would take responsibility for compiling the questions into a list. Each Commissioner will get a chance to participate. The questions are due to the Executive Director no later than Monday, November 26, 2007. The Executive Director will look at the questions for duplication and examine the wording of each. At the next meeting the Commissioners will spend approximately five minutes going over the mechanics of the process before the candidates' presentation.

5) Nomination of Officers for 2008

Commissioner Iglitzin nominated Commissioner Radosevich as Chair and Commissioner Miller seconded the nomination. There were no other nominations for Chair. Commissioner Miller nominated Commissioner Mahon as Vice Chair and Commissioner Kang seconded the nomination. There were no other nominations. The Commissioners will vote for these offices at the next SEEC meeting on December 5, 2007.

6) Discussion and possible vote on amendments to Elections Code Rules and Administrative Rules

Commissioner Miller pointed out that on page 6 of the Administrative Rules K.I.b., the semicolon should be replaced with a period. The Executive Director stated he was proposing one substantive change to the rules, adding a sentence to make explicit the authority during the investigative phase for him to ask questions of witnesses under oath. The enabling ordinance just speaks to his authority to make investigation, but does not clarify his authority to require testimony under oath. Under the Elections Code, SMC 2.04.510, it is clear that the Executive Director may require individuals to give information under oath. However, the Ethics Code is silent on this issue. The Executive Director's thoughts are that he needs to have as much confidence as possible in a case he brings it to the Commission.

The Executive Director said that he had checked with Assistant City Attorney Jeff Slayton before he suggesting the provision. Commissioner Kang asked what would happen if someone did not provide information under oath. The Executive Director said that he would be more likely to bring charges before the Commission if a subject declined to be interviewed under oath, and less likely to bring charges if the complainant refused to provide evidence under oath.

Commissioner Miller stated that she noticed references to the PDC in the rules, but did not see any place where the acronym was explained. The Executive Director said the ordinance makes clear that PDC refers to the Public Disclosure Commission. She raised the same concern regarding Public Office Funds, and the Executive Director responded that this, too, is addressed in the ordinance.

Commissioner Mahon asked how dissents on the various rules would be reflected. The Executive Director said that the minutes of the meeting reflect the votes of each individual

Commissioner on individual rules. Commissioner Miller made a motion to adopt the Elections Code Rules as presented to the Commission, which was seconded by Commissioner Iglitzin. The motion passed 5 to 1, with Commissioner Mahon dissenting.

Commissioner Miller then made a motion to adopt the Administrative Rules, which was seconded by Commissioner Iglitzin. The motion passed unanimously. The Executive Director said that the rules are not official until they are filed with the City Clerk on December 11, 2007.

7) Voters' pamphlet rule barring candidates from discussing their opponents.

Commissioner Kang asked to have this item placed on the agenda to have this rule reconsidered. He gave a brief history of the Commission's history with the rule. Commissioner Kang stated that the issue here isn't whether the Commission *can* bar candidates from mentioning their opponents – that question has been settled by the Ninth Circuit. The question is whether it is a good idea, does censorship make any kind of sense from a policy perspective. He stated that he was against the rule when it came up the first time and is still against the rule today. He is asking the Commission to consider whether it is a good idea. The Voters' Pamphlet is the only document that is mailed to each household in the City that has a registered voter. This is a very important vehicle for those candidates that cannot raise a lot of money to communicate with the electorate, and for those reasons he believes that the Commission should consider eliminating the rule. As for the State law that says you must talk about yourself in the Voters' Pamphlet, the state has never tested that, and to his knowledge they have never rejected a statement because the candidate has not talked about him or herself. The City Council left this clause out and left it up to the SEEC. It used to be a city law but no longer is that the case.

Commissioner Iglitzin said she did not support the rule. She stated that the purpose of the Voters' Pamphlet is education and thinks that challengers should be able to point out the

incumbent's failings. She was persuaded by the initial ruling by Judge Lasnik, which the Ninth Circuit reversed.

The Chair said that she was a strong proponent of the rule. She came from a state where there was not a Voters' Pamphlet. It is a great way to educate the people, but she thinks that allowing it to be used for negative campaigning will diminish the value of the piece in the voters' eyes and in the eyes of the candidates.

The Executive Director reiterated that state law requires local jurisdictions that produce a Voters' Pamphlet to have a rule that candidates can discuss only themselves.

The Chair said that the Commission seemed split on this issue, and requested that this discussion be set over to the first calendar that has a full Commission.

8) Late filing penalty for Al Runte (\$500)

The Executive Director reported that Al Runte's campaign was initially fined \$1,000 for late filing, but after meeting with Mr. Runte he decided to change the penalty to \$500. He was persuaded that our office could have alerted the candidate to the campaign's reporting deficiencies earlier in the process.

9) Executive Director's Report

The Executive Director reported that he had a conversation with Councilmember Clark about the Public Office Fund Legislation and was receptive to sponsoring the bill. Once the budget is done, she will have central staff start looking at it.

The Executive Director put in a request for supplemental budget authority of approximately \$31,000 for the fourth quarter. This year we produced three voters' pamphlets, but our budget only funds two. The Executive Director didn't foresee any problems with the

request, since the City Council and the Mayor both understand that the SEEC has no control over the cost of the Voters' Pamphlets.

The Executive Director acknowledged that today is Commissioner Lynne Iglitzin's birthday.

The meeting adjourned at 5:40 p.m.

Minutes respectfully submitted by Gwendolyn Ford, Administrative Staff Asst.