

Seattle Ethics and Elections Commission Regular Meeting
February 6, 2008

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on February 6, 2008 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue, Seattle, WA. Commission Chair Michelle Radosevich called the meeting to order at 4:05 p.m. The Chair, Vice-Chair Bob Mahon, and Commissioners Tarik Burney, Ed Carr, Lynne Iglitzin, Mel Kang and Nancy Miller were all present. Executive Director Wayne Barnett and Commission staff members Harley Anders, Gwen Ford, and Mardie Holden were present, as was Assistant City Attorney Jeff Slayton. Staff member Polly Grow was absent.

1) Public Comment

There was no public comment.

2) Approval of January 9, 2008 minutes

Commissioner Miller made a motion to adopt the minutes of January 9, 2008, which was seconded by Commissioner Iglitzin. Commissioner Kang proposed to change the fifth line of the last paragraph on the second page from “What *we* do right now...” to “What the *Executive Director* does right now....” The amended minutes passed unanimously.

3) Approval of January 23, 2008 minutes

Commissioner Miller made a motion to adopt the minutes of the January 23, 2008 Special SEEC Meeting as prepared, which was seconded by Commissioner Iglitzin. The motion to adopt the minutes passed with six in favor and Commissioner Mahon, who did not attend the January 23 meeting, abstaining.

Before moving on to the next agenda item the Commissioners welcomed Ed Carr, the newest Commissioner, to the Seattle Ethics and Elections Commission.

6) **Advisory Opinion 08-02 (Application of Ethics Code to former Councilmember's prospective consulting contract).**

The Chair suggested taking up Item #6 on the agenda, since Former Councilmember Peter Steinbrueck was in attendance. The Chair announced that she would not be taking part in the deliberation or on the vote as it relates to this matter because her law firm represents Children's Hospital. The Chair also indicated that she had not been involved in the matter on behalf of Children's Hospital.

Mr. Steinbrueck stated that he had not been involved in the City Council's consideration of Children's Hospital petition to expand its campus. Children's Hospital filed a petition in July 2007, which the City Council has not taken any action on.

Mr. Steinbrueck is proposing to assist CHRMC by acting as a mediator, problem-solver, and ombudsman, working between the hospital and citizens and organizations in the community who may have concerns with respect to Children's proposed expansion plans.

The Executive Director said that the draft opinion holds that since Mr. Steinbrueck is not assisting in the proceedings, but is assisting in dealing with the community in hearing their concerns with the expansion, Mr. Steinbrueck can act as an "ombudsman" without violating the Ethics Code. The Executive Director highlighted one change to the opinion since he'd first circulated it. The opinion now makes clear that even "behind the scenes" advice to Children's Hospital on how to effectively make their case to the Council would constitute assisting with proceedings.

Commissioner Kang asked how the Citizen Advisory Committee (CAC) fits into the process. Mr. Steinbrueck explained that the CAC is one element of the public involvement process. He stated that it is an adjunct process that serves as a way to advise and involve the community in the development of the Master Plan in order to keep it informed about the

community values and interests. The CAC is pretty independent and sets up its own rules. They are staffed by the City through the Department of Neighborhoods. There is quite a bit of back and forth between the City departments and Children's and this advisory committee but there is not interaction with the legislative process which would follow the Hospital's adoption of the Master Plan. Mr. Steinbrueck stated that if his role even to the Advisory Committee would be limited to whatever they request of him and if they want his input then that it is up to them.

Commissioner Mahon made a motion to adopt Advisory Opinion 08-02, which was seconded by Commissioner Miller. The Executive Director made it clear that the opinion only authorizes Mr. Steinbrueck to do the ombudsman work he described in his request for an opinion, and is based on the facts supplied by Mr. Steinbrueck. The motion passed with six in favor and the Chair abstaining.

4) Public hearing, discussion, and possible vote on rule establishing the list of positions and names of City officers and employees who are required to file Financial Interest Statements for 2007.

In response to a question from Commissioner Iglitzin, the Chair explained that the Financial Interest Statement (FIS) is a document that some City employees are required to fill out. The Commission must adopt the list of filers by rule. The Executive Director directed the Commission's attention to the binder containing the list of filers. The Executive Director said that the names are supplied by the departments. We tell them the criteria, and respond to questions, but it is ultimately the departments' responsibility to identify who needs to complete the FIS.

Commissioner Mahon made a motion to adopt the proposed rule establishing the list of employees who must file Financial Interest Statements for the Year 2007, which was seconded by Commissioner Kang. The motion passed unanimously. The Executive Director commended Gwen Ford for her excellent work compiling the binder, and the Commissioners thanked her.

5) Advisory Opinion 08-01 (Application of Ethics Code to Assistant City Attorney Supervisor serving as Judge Pro Tem)

The Executive Director said that many of the Commission's older opinions appear to limit what employees can do outside of their City work. This opinion confirms that this Commission role is to determine how an employee's outside activities impact what they can do in their official capacity. The Commission really does not have a role in telling employees what they can and can't do outside their City employment, with obvious exceptions for the misuse of their position and having a financial interest in a City contract.

The main thrust of this opinion is to make it clear that what this employee does as a Judge Pro Tem is not for this Commission to say. What the Commission can say is "if he takes these actions as a Judge Pro Tem this is how he has to conduct himself while doing City business." The opinion makes clear that if the employee judges someone's credibility, or makes decisions about an individual, then he cannot have any official dealings with that individual or the person whose credibility he determines in his City capacity.

The Executive Director stated that he did send his draft to the employee who requested it, who confirmed that the opinion was responsive to his request. Commissioner Miller made a motion to adopt Advisory Opinion 08-01, which was seconded by Commissioner Iglitzin. The motion was adopted unanimously.

7) Discussion and possible action on recommendation to administratively dismiss Case No. 07-1-1010-1 (Former Councilmember's misuse of City telephone for campaign purposes)

The Executive Director stated that this case grew out of the investigation into the allegation that Councilmember Della has threatened the Police Union President with retaliation for the union's support of Tim Burgess. During the investigation, we learned that Councilmember Della had called the union president from his City telephone. The Executive Director stated that he

didn't feel in light of the fact that Mr. Della lost his reelection bid that a single telephone call was worth a full formal proceeding or a settlement. But at the same time he didn't want to issue a report that noted that the former Councilmember inappropriately used City facilities but took no action at all on that fact.

Commissioner Kang inquired about the deadline for the appeal period and Executive Director Barnett responded that while the appeal period had not run, he had e-mailed both of the complainants and they had indicated they would not appeal the dismissal. The Executive Director explained that Item #7 asked the Commission to administratively dismiss the case involving misuse the City telephone, which was not an element of the complaint. If the Commission does not want to go forward with the item until the appeal period has fully run it can be postponed, but he believes that the Commission could act on this since the conduct was not an element of the complaint.

Commissioner Mahon made a motion to administratively dismiss Case No.07-1-1010-1, which was seconded by Commissioner Carr. The motion carried with six Commissioners in favor and Commissioner Kang opposed.

8) Dismissal of Case No. 07-1-1010-1 (Allegation that Councilmember misused his position to assist his campaign)

The Executive Director reiterated that the appeal process has not run but he has confirmed that the complainants will not appeal. The Chair stated that she felt it would be more appropriate to set this case aside until the next meeting.

9) Closure of Case No. 07-2-1011-1 (Investigation into potential reimbursement of campaign contribution)

The Executive Director stated that staff ran across some interesting patterns of contributions to Tim Burgess's campaign from the Seattle Firefighters Union. He stated that there were three contributions that interested us. One was a contribution from the Seattle

Firefighters Union VPAC to a Spokane Mayoral candidate, which was matched by a \$700 contribution from the Spokane Firefighters to the Burgess campaign. Another was a \$200 contribution from the Seattle Firefighters to a Puyallup City Council candidate, which was matched by \$200 to from Puyallup firefighters to the Burgess campaign. The third was a contribution from the South King County Fire Department to the Burgess campaign, which was followed by a check from the Seattle Firefighters to the South King County Fire Department. On the basis of this, staff launched an investigation.

Staff found that South King County had in August had a ballot measure in which they had expended approximately \$7,000, the bulk of which was funded through the Union to support a Levy Lid Lift. The testimony from both the Seattle Firefighters and the South King County Firefighters was that the \$700 check was for the purpose of the Levy Lid Lift campaign. Subsequent to the office's initiation of an investigation, the South King County Firefighters registered a campaign committee with the Public Disclosure Commission, and reported the check as a contribution.

Based on the law as it stands now and the testimony that was taken, the Executive Director determined that there wasn't sufficient evidence to charge anybody with concealment of a campaign contribution or exceeding the contribution limit. While the Commission agreed that the evidence in this case did not support an allegation that there had been a "quid pro quo" exchange, the Commission did believe that evidence of a quid pro quo exchange would violate the Elections Code. Assistant City Attorney Slayton recommended that the Commission adopt a rule clarifying this position. The Executive Director agreed to draft such a rule.

10) Potential Commission action to discourage individuals from serving as conduits for unlawful campaign contributions.

This issue arose during the Commission's hearing on the settlement with the Colacurcios. The Executive Director indicated that this issue comes up very rarely, and he does not believe further Commission action is warranted. The Commission did not wish to discuss the issue further.

11) Executive Director's Report

The Executive Director said that the Commission had used all but \$500 of its budget authority, mainly because of increased Voters' Pamphlet expenses in 2007. He secured a supplemental appropriation in the fourth quarter to cover some of the additional expenses.

The Executive Director said that a public financing has passed the House and is expected to go to the Senate this week. Based on the strong possibility that the legislation will pass this year, the Commission requested a briefing at its next meeting.

Meeting adjourned at 5:30 p.m.

Minutes respectfully submitted by Gwendolyn Ford, Administrative Staff Asst.