

## **Seattle Ethics and Elections Commission Regular Meeting**

**November 4, 2009**

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on November 4, 2009 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Robert Mahon called the meeting to order at 4:00 p.m. Commissioners Tarik Burney, Ed Carr, Lynne Iglitzin, Nancy Miller were present at 4:00 and Bill Sherman arrived at approximately 4:15. Commissioner Michele Radosevich was absent. Executive Director Wayne Barnett and staff members Anthony Adams, Bob DeWeese, Kate Flack, Polly Grow and Mardie Holden were present, as was Assistant City Attorney Ted Inkley.

### **1) Public Comment**

There was no public comment.

### **Action Items**

#### **2) Approval of minutes for October 7, 2009 regular meeting**

Commissioner Iglitzin pointed out that the amount of the fine levied against Parks and Recreation's Superintendent Tim Gallagher was missing from the minutes. In response the minutes were amended to show that the fine was \$300. Commissioner Iglitzin moved and Commissioner Miller seconded the motion to approve the minutes, which were unanimously approved as amended.

### **3) Confirmation of Anthony Adams as the new Administrative Specialist II for the Seattle Ethics and Elections Commission**

The Executive Director introduced Anthony Adams as the Commission's new Administrative Specialist II, and noted that Anthony emerged from a pool of 800 applicants. He noted that Anthony was a 2008 Seattle University graduate, that he'd come to us from the Associated Recreation Council where he'd been teaching computer skills to young people, and said that staff was thrilled to have Anthony on board.

Commissioner Miller moved to confirm the hiring of Anthony Adams, and Commissioner Burney seconded the motion. The motion passed unanimously.

### **4) Advisory Opinion on the Applicability of Ethics Code to the Seattle Police Pension Board**

The Chair deferred this discussion until Commission Sherman joined the meeting.

### **5) Case 09-1-0819-1 (Alleged falsification of documents and abuse of process)**

The complainant alleged that his department had falsified documents and filed a complaint about his use of City resources with the Seattle Ethics and Elections Commission in an effort to keep him from forming an employee organization. The Executive Director dismissed the complaint because the department's actions did not raise issues under the Ethics Code. The Executive Director informed the Commission that the complainant had not appealed the decision within the allotted time frame.

#### **6) Late filing penalty assessed against the Tom Carr for City Attorney Committee**

On October 9, 2009 the Tom Carr for City Attorney Committee filed a C-3 and reported campaign contributions totaling \$400 that were made May 2009. One of the unreported contributions was a \$200 check from Gil Levy. This would have been Mr. Levy's first accepted contribution in several election cycles. In 2005, the two campaigns to which Mr. Levy contributed refunded his contributions. The Executive Director felt these unreported filings were not insignificant, and so he assessed a \$125 penalty, or 60% of Mr. Levy's contribution. In addition, the committee on its own initiative refunded the two \$200 contributions.

[Commissioner Sherman joined the meeting.]

The Executive Director also noted that our standard practice on late filing letters, is to make them publicly available when we send out the agenda for the meeting in which they will be discussed. The Commission asked the Executive Director to explore using the Commission's web site to make Commission actions available to the public in a timelier manner.

#### **4) Advisory Opinion on the Applicability of Ethics Code to the Seattle Police Pension Board**

The Executive Director said that Advisory Opinion 09-03 had been prepared by Assistant City Attorney Ted Inkley, who was available to answer the Commission's questions. The Chair had two questions. The first was in regards to legal representation being provided to the Board by the City's Attorney's Office, as it appeared on page 1. Ted Inkley referenced RPC 1.13 which suggests that government lawyers generally represent the City as a corporate entity, not as a collection of agencies. But if one of the agencies or sub agencies wishes to hire outside counsel, the default under RPC 1.13 allows counsel to represent that particular agency or sub agency. The

Chair took issue with the ambiguity within the citation of rules and professional conduct on the RPC website and asked for clarification on whether this was a misstatement or just misleading. Following a discussion of the Rules of Professional Conduct, the Chair proposed deleting the reference to the RPC.

The second question was in regards to the section of the opinion that said that five of the seven pension board members were subject to the City's ethics code by virtue of their City employment. The Chair questioned whether this discussion was necessary in light of the strength of the first section.

Ted Inkley said he would have no problem with deleting the discussion from the opinion if the Commission was comfortable with relying solely on the conclusion that the Pension Board is a City agency. The Commission agreed to remove the second section of the draft opinion.

The Executive Director added there were two technical changes made. The first was to the reference on the first page to "RCW" Chapter 4.16, which should be "SMC" Chapter 4.16. On the bottom of page four; in the reference "city agency," "City" should be capitalized.

Commissioner Sherman moved to approve the advisory opinion as amended, Commissioner Iglitzin seconded the motion, and it passed unanimously.

#### **7). Report to City Council on Lobbying Law**

The council passed a lobbying law, which included a mechanism that the SEEC would provide a status report one year after the law's effective date. As the report shows, a greater number of lobbyists have registered since the law was enacted than initially anticipated, and the funds spent on lobbying are not insubstantial. No enforcement actions have been initiated to date,

although we have heard concerns some people that should be registered with us are not. The Executive Director said he planned to double down and identify those lobbyists that should be registered whom are not. The Chair suggested sending a letter of inquiry rather than an investigation to increase the registry rate. The Executive Director concurred, saying the goal of this program was public disclosure and to the extent possible he'd like to increase awareness and compliance through education, not the threat of penalization. Commissioner Sherman applauded the efforts of the SEE.C in getting this information out to the parties that need it.

### **8). Executive Director's Report**

The Seattle Channel statistics show there were 8,726 hits on the Video Voters' Guide section of the Seattle Channel website before the general election. Bob DeWeese reported there were 12,000 unique visits to the Commission's elections guide, which was twice what we had in 2007 and three times what we had in the primary. The day before the election there were 2,700 visits. One of the reasons that the numbers were down during the primary is because the King County website, did not have a link to the SEEC, which the County graciously added for the general election.

On October 22, 2009 there was a suit filed against the Public Disclosure Commission by the opponents of Referendum 71. It challenged the state's law barring contributions of more than \$5,000 within twenty one days of an election. The Executive Director proposed that the Ethics and Elections Commission monitor the progress of this case and consider joining as an amicus since there is a comparable provision in City law.

The Meeting was adjourned at 4:43 p.m.