

**Seattle Ethics and Elections Commission Regular Meeting
June 6, 2012**

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on June 6, 2012 in Room 1600 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Bill Sherman called the meeting to order at 4:00 p.m. Vice-Chair Tarik Burney, Commissioners Bruce Carter, Rich Cohan, Lynne Iglitzin and David Mendoza were all present. Executive Director Wayne Barnett and staff members Anthony Adams, Bob DeWeese, Kate Flack, Polly Grow, Gary Keese and Chris Thomas were present. Assistant City Attorneys Jeff Slayton and Gary Smith were also in attendance.

1) Public Comment

Jeff Reifman asked the Commission to amend the Elections Code rule requiring that campaigns provide the Commission with the authorization code for individual credit card contributions. He said that the low-cost credit card processing sites do not provide authorization codes to users, making these low-cost providers off-limits to small, grass-roots campaigns.

The Chair said that the Commission had addressed this issue a few years ago, but that it had dropped off of the Commission's radar screen. The Executive Director noted that, when Commission staff researched this issue a few years ago, the Commission was requiring the same information than the PDC required. He said that has now changed, and the Commission's rules require campaigns to collect more information than the PDC does.

The Chair asked staff to analyze the issue and report back to the Commission at its July meeting. Commissioner Cohan said that he was interested in knowing the risks associated with eliminating the requirement that campaigns get authorization codes.

The Chair then invited Councilmember O'Brien to address the Commission, noting that the Councilmember had another engagement, and would need to leave the meeting at 4:30.

Councilmember O'Brien said that he was interested in establishing a period in which officials were not simultaneously engaged in policymaking and fundraising. He also said that he was interested in reducing the amount of funds that candidates could roll over from one campaign to the next, or eliminating rollovers altogether.

The Chair asked Councilmember O'Brien how he had arrived at the \$5,000 cap on rollovers. Councilmember O'Brien said that number was based on the law in Alaska. Commissioner Cohan asked the Councilmember how he had arrived at January 1 as the start date for fundraising. Councilmember O'Brien said that the research shows candidates currently conduct the vast majority of their fundraising after that date. Commissioner Carter asked the Councilmember why it was not sufficient to simply require candidates to get the consent of contributors to carry over their contributions. Councilmember O'Brien said that timing is the problem there. He does not believe candidates should be asking for money until close to the election. Councilmember O'Brien said that he saw a lot of benefits from candidates all starting from scratch at January 1 of the election year, and that he didn't see a lot of downsides.

The Vice Chair asked Councilmember O'Brien how he saw his proposal working in the aftermath of the *Citizens United* opinion. If a candidate knew three years before the election that moneyed interests were going to spend heavily to defeat him, does it make sense to handcuff that candidate's fundraising until the election year? Councilmember O'Brien said that hypothetically there is some possible trade-off, but the evidence suggests that that doesn't happen.

The Chair asked Councilmember O'Brien how he saw his proposal affecting current campaign treasuries. Councilmember O'Brien said he was focused on the long-term, but that if commissioners had strong feelings about how to handle existing treasuries, he would be interested in hearing them.

Action Items

2) Approval of minutes of the April 4, 2012 meeting

The Executive Director pointed out a couple of typographical errors, following which Commissioner Cohan motioned to approve the minutes as amended. Vice-Chair Burney seconded. The minutes from the April 4, 2012 meeting were unanimously approved as amended.

3) Approval of minutes of May 2, 2012 meeting

Commissioner Mendoza motioned to approve the minutes from the May 2, 2012 meeting. Commissioner Carter seconded. The minutes from the May 2, 2012 meeting were unanimously approved.

4) Request for reconsideration of the Commission's May 23, 2012 decision regarding the City Attorney's explanatory statement for the library levy.

In light of the number of people in attendance to speak to the proposed changes in the Elections Code and Rules, the Chair held Item 4 to be addressed later in the meeting.

5) Public hearing and possible vote on changes to Election Code Rules 4 and 11 regarding transfers of campaign funds.

City of Seattle Attorney Jeff Slayton summarized the proposed rule changes for the Commission. There was no testimony offered on the amended rules.

Commissioner Carter moved to adopt the amended rules. Commissioner Cohan seconded. The amendments to Elections Code Rules 4 and 11 were unanimously approved.

Discussion Items

6) Request from the City Council for advice on (i) limiting the time period in which candidates can solicit and receive campaign contributions, and (ii) limiting transfers of campaign funds

John King, President of Washington Public Campaigns, said that the organization supported Councilmember O'Brien's proposals. He said that they would reduce the possibility

of undue influence. He pointed out that rollovers give candidates the ability to intimidate other candidates out of a race.

Toby Guevin from OneAmerica spoke next. He spoke to the capacity of war chests to stifle competition. He said that OneAmerica was in favor of Councilmember O'Brien's proposals. The Chair asked Mr. Guevin what he made of the argument that any restrictions on fundraising necessarily advantage incumbents, who have many non-financial advantages. Mr. Guevin was unpersuaded by that argument. He pointed out that the research shows that incumbents conduct most of the early fundraising in Seattle races. Commissioner Carter asked Mr. Guevin if he was concerned that starting the fundraising window on January 1 would place state officeholders who might seek City office at a severe disadvantage. Mr. Guevin said that he was sympathetic to that concern.

Nancy Amidei, a former UW professor, said that it has been her experience that students and others that she deals with associate politics with corruption and money. She said that the proposals on the table would help to start a conversation on these issues, and she recommended that the Commissioners give the proposals their endorsement.

Former Councilmember Peter Steinbrueck spoke in favor of capping rollovers and limiting the time period for fundraising. He said that some donors may not want their contributions going to support a candidate's future campaigns. He spoke of the extraordinary power of incumbency. He also said that he believes candidates are making a strategic choice to amass funds with an eye toward rolling them over and preserving their advantage in the next election.

The Chair suggested that Commissioners offer their views or a motion to structure the discussion. Commissioner Mendoza said that he supported the proposals, and said that they met

the stated purposes of reflecting donors' intent and curbing the appearance of corruption or actual corruption. He also said that it frees up time for elected officials to do their jobs without the distraction of fundraising.

Commissioner Iglitzin made a motion that the Commission supports limiting the time period in which candidates can solicit or receive campaign contributions, as well as supporting the concept of limiting transfers and rollovers of campaign funds. Commissioner Mendoza seconded the motion.

Commissioner Cohan said that he supported the motion, but questioned how the Commission could supply the level of specificity required to make the Commission's input valuable. The Vice Chair questioned whether the Commission should wade into the details, or whether it was sufficient to endorse the Councilmembers' goals and leave it to the City Council to fill in the details.

Commissioner Carter queried whether it wouldn't be helpful to hear from Commissioners on what kind of fundraising window they would support. Commissioner Mendoza said that he was satisfied with the research that shows that campaigns don't get underway until January 1 of the election year.

Commissioner Iglitzin asked whether it made sense to gather more data and delay giving advice until the following meeting. The Chair said that given Councilmember O'Brien's desire to move forward with the proposal, he personally was reluctant to hold the issue yet another month. The Chair then said that he had approached the proposals initially with a great deal of skepticism, not as to the goals, but as to the ability of these proposals to accomplish those goals. But he said he had come around to supporting the proposals. He said that the proposals serve their stated goals. Limiting rollovers honors donor intent. It empowers contributors to decide

that a candidate whom they no longer support will not benefit from their prior contribution. And establishing a window for fundraising minimizes the perception of corruption that comes with lawmakers making law and raising money at the same time. He said that the proposal was akin to the fundraising blackout currently in place at the State level when the legislature is in session.

The Commission then discussed the appropriate length of the window for fundraising. Commissioner Iglitzin amended her motion to endorse a fundraising window commencing 12 months prior to the primary election, and Commissioner Carter seconded Commissioner Iglitzin's amended motion.

The Commission then moved into a discussion of the rollover provision. Commissioner Iglitzin's motion was again amended, this time to state that the Commission endorsed limiting rollovers to future campaigns to "a minimal amount."

A member of the audience posed a question to the Commission, asking whether the amended fundraising window would permit candidates to raise funds in the third quarter of the year prior to an election, noting that incumbents raised significant funds in that quarter prior to the 2011 campaigns. Mike Fong from Central Staff said that as the window gets pushed farther back, the impact on campaigns will be less and less. Approximately 85 percent of fundraising takes place after January 1 of the election year, and moving the starting date back farther will likely capture approximately 90 or 95 percent of funds raised.

Commissioner Carter stated for the record that he questioned whether requiring candidates to return money to contributors and then resolicit those funds was preferable to requiring candidates to get consent from contributors to roll over their contributions. He questioned whether the benefit of doing that outweighed the inefficiencies involved.

The Chair called for a vote on the motion, and it passed unanimously.

(The Commission then moved to take up Agenda Item #4, which it had earlier held to the end of the meeting.)

4) Request for reconsideration of the Commission's May 23, 2012 decision regarding the City Attorney's explanatory statement for the library levy

Chris Leman said he was only asking for one sentence to be changed. The Chair directed everyone's attention to the existing sentence, which stated: "The funding provided through Proposition 1 would be spent in four categories." He then read Mr. Leman's proposed substitution, which stated: "Section 5 of the levy ordinance states that 'Levy investments will be made in the following four categories of Library services.'"

Mr. Leman asked whether the Commission planned to deliberate in executive session, and the Chair replied that he did not expect that they would.

Mr. Leman then explained his concerns to the Commission. The Chair asked Mr. Leman to confirm that his concerns were that the existing sentence gave voters assurances that just weren't there. Mr. Leman replied that the Chair had accurately stated his concerns.

Commissioner Mendoza said that he didn't see the need for changing the operative word from "would" to "will." Commissioner Carter agreed with Commissioner Burney that the Commission needed to hear from Mr. Slayton on Mr. Leman's proposal.

Mr. Slayton said that he agreed with Commissioner Mendoza. He said that the goal is not to repeat the language from the ordinance, but to make simple sentences accessible to readers.

Mr. Leman asked to finish his statement. He said he had worked hard to get assurances built into the ordinance, but that the City Council had not done so.

Commissioner Mendoza asked Mr. Leman to explain why his sentence was better.

Mr. Leman reiterated that unless the sentence is changed, voters will believe that there is more certainty attached to the levy than there is under the ordinance.

The Chair said that it was time to close the public comment period and move to a vote. Mr. Leman asked for the opportunity to comment again, and the Chair gave him one minute. At the close of Mr. Leman's comments, Mr. Slayton said that Mr. Leman had convinced him, and he would favor Mr. Leman's amended sentence quoting directly from the ordinance.

The Vice Chair made a motion that the Commission adopt the proposed change. Commissioner Cohan seconded. Commissioner Iglitzin suggested that the introductory phrase relating to the section of the levy defeated the goal that the explanatory statement be in simple language. Mr. Slayton said that language could direct readers to consult the entirety of the levy ordinance. The motion to adopt the proposed change to the explanatory statement was unanimously approved.

Discussion Items

7) Creating a private right of acting in the Whistleblower Protection Code

This agenda item was held over until the July Commission meeting.

8) Executive Director's Report

The Executive Director reported that Commissioner Ranade had officially resigned his position to devote his energies to his work on the Public Disclosure Commission. The Executive Director also noted for the record that the regular date for the Commission's July meeting fell on July 4. The Commissioners tentatively agreed to meet on July 11.

The Regular Commission meeting for June 6, 2012 adjourned at 6:16 p.m.