

Seattle Ethics and Elections Commission Regular Meeting

April 3, 2013

The Seattle Ethics and Elections Commission convened on April 3, 2013 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Bill Sherman called the meeting to order at 4:06 p.m. Vice-Chair Rich Cohan and Commissioner Bruce Carter were present. Commissioners Brad Axel and David Mendoza joined via telephone. Commissioners Lorena González and Kendee Yamaguchi were not in attendance. Executive Director Wayne Barnett and staff members Anthony Adams, Bob DeWeese, Polly Grow and Kate Flack were present. Assistant City Attorney Gary Smith was also in attendance.

1) Public Comment

There was no public comment.

Action Item

2) Approval of minutes of February 6, 2013 regular meeting

Vice-Chair Cohan motioned to approved the minutes from the February 6, 2013 regular meeting. Commissioner Carter seconded. The minutes from the February 6, 2013 regular meeting were unanimously approved.

3) Approval of minutes of February 13, 2013 special meeting

Commissioner Carter motioned to approve the minutes from the February 13, 2013 special meeting. Vice-Chair Cohan seconded. The minutes from the February 13, 2013 special meeting were unanimously approved.

4) Approval of minutes of March 6, 2013 regular meeting

The minutes from the March 6, 2013 regular meeting were unavailable for review.

5) Advisory Opinion 2013-01

The Executive Director explained that this opinion dealt with when the post-employment restrictions begin to run for an employee who takes leave and then does not return from that leave. In 2009, the Commission issued an opinion that dealt with when the post-employment restrictions begin to run when an employee leaves the City's workforce but remains on the payroll using accrued vacation leave. The 2009 opinion said that the post-employment restrictions start to run when an employee leaves with no expectation of returning.

The Executive Director explained that while that phrasing made sense in the context of the 2009 opinion, it did not anticipate the question posed in this request for advice. The draft opinion explains that when an employee is on leave and does not return, the post-employment restrictions start to run on the date that they began their leave.

Commissioner Carter asked what the result would be if an employee was on leave but still participating in City matters. The Executive Director pointed out that the last sentence in the opinion anticipated the question, and said that when employees are still participating in City matters – even when they are on leave – the post-employment restrictions begin to run after they stop participating in City matters.

Commissioner Carter made a motion to approve Advisory Opinion 2013-01, and Commissioner Axel seconded. Advisory Opinion 2013-01 was unanimously approved.

6) Enforcement matters

a) Settlement in Case No. 13-0123-1

The Executive Director explained that the employee in this matter had sent approximately 1,800 e-mails dealing with an Avon business over close to two years on her City e-mail account that. The employee had agreed to pay a \$500 penalty, and the Executive Director recommended that the Commission approve that settlement.

The Chair asked for an explanation of how the Executive Director had arrived at a \$500 penalty. The Executive Director said that in 2001 the Commission had approved a settlement with an employee who was running an EBay business from their City office under which the employee had paid \$300. Taking into account inflation, and a recent \$1,000 penalty against an employee who had continued to conduct private business from her office after being told not to do so, he believed a \$500 penalty was appropriate.

Vice-Chair Cohan asked what Commission staff was doing to educate the City's workforce about using City resources to conduct private business, since this was the second case the Commission had seen in four months. The Executive Director said he would work to schedule a training for the work group in which this employee worked. The Executive Director noted that there is not annual ethics training in place for City employees, and the Vice-Chair said that he would be happy to share his experience in the private sector on implementing on-line training.

Vice-Chair Cohan made a motion to approve the settlement, and Commissioner Carter seconded. The settlement in Case No. 13-0123-1 was unanimously approved.

b) Scheduling a hearing in Case No. 11-1216-1

The Executive Director distributed a Charging Document in Case No. 11-1216-1. The law requires the Commission to schedule a hearing within 60 days of the Charging Document.

Vice-Chair Cohan made a motion to schedule a hearing to coincide with the May 1, 2013 regular Commission meeting. Commissioner Carter seconded. The motion carried unanimously.

Discussion Items

7) Monitoring campaigns that organize to promote or oppose public financing

The Commission discussed the tension between its proposal of a plan for a public financing ballot measure, and the fact that such a measure would increase the Commission's budget and staff, and its role in enforcing the Elections Code against campaign committees organized to promote or oppose that ballot measure.

The commissioners spoke in favor of deferring when possible to the Public Disclosure Commission (PDC), which has concurrent jurisdiction over Seattle campaigns. The Executive Director said that he would discuss the issue with his counterpart at the PDC.

Commissioners also discussed their role as the final arbiter of the City Attorney's Explanatory Statement. Assistant City Attorney Gary Smith said that one option was for any ordinance placing the measure on the ballot to assign to another authority the Commission's role in reviewing the Explanatory Statement. The commissioners spoke in favor of such a plan.

The Chair asked the Executive Director to draft a policy for how the office would handle Elections Code related matters, so that campaigns would be apprised of the Commission's role.

Executive Director's report

Vice-Chair Cohan asked if there was any indication of when the City Council would take up consideration of the Commission's public financing proposal. The Executive Director said that it was his understanding that the Council planned to create a Committee of the Whole to take up the proposal, and that the Committee would likely hold its first meeting by the end of April or early May.

The Regular Commission meeting for April 3, 2013 adjourned at 4:52 p.m.