

Seattle Ethics and Elections Commission Special Meeting

March 22, 2013

The Special meeting of the Seattle Ethics and Elections Commission convened on March 22, 2013 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Bill Sherman called the meeting to order at 4:08 p.m. Commissioners Brad Axel, Bruce Carter, Lorena González, David Mendoza and Kendee Yamaguchi were present. Vice-Chair Rich Cohan joined in via telephone. Executive Director Wayne Barnett and staff members Anthony Adams, Bob DeWeese and Polly Grow were present. Assistant City Attorney Jeff Slayton was also in attendance.

Public Comment

Four individuals signed up to give public comment on public financing – John King, Josepha Peha, Krista Camenzind, and Rory O’Sullivan.

Mr. King, the president of Washington Public Campaigns (WPC), spoke first, telling the Commission that the WPC was in favor of the third option on the table, because it required the least amount of additional funds that could be raised outside of the system, whereas Options #1 and #2 would still advantage candidates who were able to raise large sums of money privately. He said that the WPC saw as problematic the idea that participating candidates would be permitted to raise contributions of up to \$700 from other than Seattle residents.

Joseph Peha of Fair Elections Seattle spoke next, telling the Commission that the program should not permit participants to raise money outside of the program, and should not permit participants to raise money in sums beyond that which could be matched. He applauded the 6:1 match rate, saying that in New York City the 6:1 match rate led to significantly more

candidates running for office, and greater donor diversity. He also advocated for increasing the amount of contributions that could be matched to \$100.

The Chair asked Mr. Peha how limiting contributions to participants to \$100 would work for candidates who failed to qualify in the end. Mr. Peha replied that candidates who participated in the program would likely not be relying on contributors who could contribute in excess of \$100. The Chair was concerned that limiting participants to \$100 would work to the detriment of candidates who failed to collect enough contributions to qualify to participate in the program.

Krista Camenzind of Fair Elections Seattle spoke next, addressing whether the cap should be “liftable” or not. She said that candidates shouldn’t be placed at a disadvantage because they have participated in the program, so that the program should permit a participating candidate who is outspent, either by an opposing candidate or an independent expenditure committee, to spend beyond the cap to which they had agreed. In response to a question from Commissioner Carter, Ms. Camenzind said that Fair Elections Seattle’s proposal would be that participating candidates be permitted to raise up to \$700 from contributors in the event the cap was lifted.

Rory O’Sullivan from Fair Elections Seattle spoke next, telling the Commission that Fair Elections Seattle recommended that candidates be required to qualify for the program by the end of filing week, with no opportunity beyond that for candidates to qualify for the program. Mr. O’Sullivan also advocated for a program that had as a qualifying threshold a hard number of donors, and not an amount to be raised. He advocated for a program that would incrementally raise a \$210,000 cap once it had been exceeded. He also states that a liftable cap would encourage non-participating candidates to limit their spending to \$210,000.

Commissioner Gonzales said that she was concerned about linking lifting the cap to independent expenditures, because of the difficulty in tracking independent expenditures and determining whom they are intended to benefit.

Commissioner Mendoza was concerned that failing to take independent expenditures into account would actually create an incentive for independent expenditures.

Commissioner Axel said that the proposed \$250,000 spending cap was based on recent amounts spent by candidates, and that he was concerned that lowering the total to \$210,000 would create a disincentive for candidates to participate in the program. He asked whether Mr. O'Sullivan had any data on how much candidates need to spend to raise funds, which could provide a rationale for the lower spending limit.

The Executive Director then briefly explained the three options in the document before the Commission. Option #1 was the model suggested by the working group at the prior meeting. Option #3 was modeled after New York City's program, in which some commissioners expressed interest at the prior meeting. Option #2 was an attempt to craft a program somewhere midway between Options #1 and #2. Option #2 also shows the effect on the total number of donors required to meet one's thresholds if the program were to match contributions of up to \$100 instead of up to \$50.

The Executive Director outlined several arguments for keeping the contribution limit at \$700, instead of reducing it to \$100.

Commissioner Axel made a motion to use Option #3 as a template for the Commission's decisions, instead of Options #1 and #2. Commissioner Mendoza seconded. The motion carried unanimously.

Commissioner Axel then attempted to summarize the issues that he saw as still outstanding. First was the question of what thresholds were appropriate. Second was what spending cap was appropriate, either \$250,000 or something less. Third was whether the cap could be lifted and, if so, under what circumstances. Fourth was whether the contribution limit should be lower for participants. Fifth was what contributions should be matched, either \$25, \$50, \$100 or some other number.

The Chair said that he supported the 6:1 matching ratio because he thought it would lead to the most robust program. He did note that he was concerned about the total cost of the program, but said ultimately that was a question for the City Council to wrestle with, balancing the potential spending on the program with other spending priorities.

The first question the Commission tackled was whether the cap could be lifted under certain circumstances. Commissioner Axel said that he had changed his mind and now supported a program that would allow for the spending cap to be lifted. He said that would make the program more attractive to candidates considering participating. He also said that a liftable cap could encourage less campaign spending overall.

Commissioner Yamaguchi asked under what circumstances the cap could be lifted. Commissioner Gonzales said that she did not believe it was the Commission's role to get into that level of detail given the short amount of time allotted to the Commission to design a program. In response to a question from Assistant City Attorney Slayton, several commissioners replied that they believed that program with a hard cap was preferable to no program at all, although less desirable.

Commissioner Axel then introduced the question whether participating candidates should be permitted to raise funds beyond what was required to qualify for the match. The Chair said

that he preferred that a program that was more incentive-based than compulsory, and so was comfortable with the \$40,000 gap between the spending cap and the maximum amount that a candidate could collect after receiving all available matching funds. Commissioner Mendoza said that he conceived of the program as one intended to encourage candidates to pursue small donors and free them from the need to pursue \$700 donations. He ultimately said that he would support reducing the spending cap to \$210,000. The Director said that he was concerned that with a low spending cap and the opportunity for the cap to be lifted, the cap would prove to be illusory.

Commissioner Axel moved to set the cap at \$210,000, and Commissioner Mendoza seconded. The Vice-Chair and Commissioners Axel, González, Mendoza and Yamaguchi voted in favor of the motion, the Chair voted no, and Commissioner Carter abstained. The motion passed with a vote of five ayes, one no and one abstention.

Commissioner Mendoza moved that the cap be liftable. Commissioner Axel seconded the motion. The Chair, Vice-Chair, and Commissioners Axel, González, Mendoza and Yamaguchi voted aye. Commissioner Carter abstained. The motion carried.

Commissioner Axel then asked whether any of his fellow commissioners were in favor of a lower contribution limit for program participants. Commissioner Mendoza said that he would favor a \$100 contribution limit, coupled with a change that would make the entire \$100 matchable.

Commissioner Axel then recommended that the Commission take up the issue of what the maximum contribution eligible for a match would be. He said he thought \$50 was a good amount.

Commissioner González said that she thought requiring participants to collect 600 contributions of between \$10 and \$25 in order to qualify for the program, with the possibility to

ultimately get a match on up to \$100, was a good idea. She said she thought it would lead to a very different donor pool. The Chair said he was concerned that such a structure would actually lead to candidates spending more time fundraising than they do already. He didn't see why a candidate should be precluded from asking for \$100 initially.

Commissioner Carter said he thought limiting contributions to less than \$100 would serve one of the City Council's main concerns with the existing system, which was that the number of contributions of less than \$100 had fallen precipitously.

Commissioner Axel moved that the threshold for qualification be set at 600 donors contributing \$10 or more. Commissioner Mendoza seconded. The Chair, Vice-Chair, and Commissioners Axel, González and Mendoza voted in favor of the motion. Commissioners Carter and Yamaguchi abstained. The motion carried.

The Commission then took up the question of an appropriate contribution limit for participants. Commissioner Axel made a motion to not impose a lower contribution limit on program participants, and to match up to \$50. Commissioner González seconded.

Commissioner Mendoza spoke in favor of a \$100 contribution limit, all of which would be eligible for a match. He said he thought such a system would provide more incentives for candidates to reach out to small donors than the motion under consideration.

In response to a query from Commissioner Yamaguchi, Commissioner Mendoza said that under the motion on the table it was still the rational choice for candidates to pursue \$700 contributions. Under his proposal, a candidate would be in the same position after receiving a \$100 contribution as would a candidate who had collected a \$700 contribution.

Commissioner Axel withdrew his original motion to both maintain the current contribution limit and match up to \$50 in contributions, and offered a substitute motion solely to

match up to \$50 in contributions. Commissioner Yamaguchi seconded the motion.

Commissioner Mendoza asked why a \$50 match was preferable to a \$100 contribution.

Commissioner Axel said that candidates would require fewer contributors to reach the spending cap if the match was doubled from \$50 to \$100. The Chair called for a vote, and the Chair, Vice-Chair Cohan and Commissioners Axel and Yamaguchi voted to approve the motion.

Commissioner Mendoza opposed the motion, and Commissioners Carter and González abstained. The motion carried.

Commissioner Axel then made a motion to not impose a contribution limit on program participants lower than the \$700 limit currently in place. Commissioner Yamaguchi seconded. The Chair, Vice-Chair, and Commissioners Axel and Mendoza voted to approve the motion. Commissioners Carter, González and Yamaguchi abstained. The motion carried.

Commissioner Axel moved to adopt Option #3 as amended at the meeting. Commissioner González seconded. The Chair, Vice-Chair, and Commissioners Axel, González, Mendoza and Yamaguchi voted to approve the motion. Commissioner Carter abstained. The motion carried.

The Executive Director said that he would transmit to the Commissioners the materials that he would be sending to the City Council.

The March 22, 2013 special meeting of the Seattle Ethics and Elections Commission adjourned at 6:16 P.M.