

Seattle Ethics and Elections Commission Regular Meeting

April 1, 2015

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on April 1, 2015 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Bruce Carter called the meeting to order at 4:04 p.m. Vice-Chair Kendee Yamaguchi and Commissioners Rich Cohan and Brendan Dockers were in attendance. Commissioner Eileen Norton joined via telephone. Commissioners Brad Axel and Bill Sherman were absent. Executive Director Wayne Barnett and staff members Anthony Adams, Kate Flack, Polly Grow and Gary Keese were present. Assistant City Attorney Jeff Slayton was also in attendance.

1) Public Comment

John King urged the Commission to recommend the elimination of Office Funds. Mr. King believes Office Funds are not necessary, especially since Seattle is the only government entity in the State of Washington where they are actively used. According to Mr. King, Office Funds present a very significant loophole in the system.

Action Items

2) Meeting minutes for March 4, 2015

Commissioner Cohan moved to approve the minutes for March 4, 2015. Commissioner Donckers seconded the motion. The minutes for the March 4, 2015 Special meeting were unanimously approved.

2a) *IBEW, Local 77 vs. City of Seattle* (Executive session on pending litigation possible)

Due to current and pending litigation, the Seattle Ethics and Elections Commission went into executive session to discuss this item.

2b) Staffing for the 2015 elections

Based on the increased workload resulting from the record number of candidates participating in the 2015 elections, the Executive Director said that the staff would benefit from the addition of a new part-time staff member.

The Chair asked whether there was evidence to support the request for funding. The Director said that the numbers were starting to trend upward and said that it was important to act before the staff was overwhelmed.

Commissioner Cohan made a motion to endorse a .6 FTE (full-time employee) to join the Commission staff. Vice-Chair Yamaguchi seconded. The motion to approve the staffing request was unanimously approved.

Discussion Items

3) District elections and the exception to the Ethics Code for widely shared financial interests

The Director introduced the subject by saying that with the transition to District elections, the Ethics Code has the potential to deny some City residents a say in City decisions that may affect them. When a resident's District representative is disqualified, that has ramifications with which the Commission needs to carefully grapple.

The Executive Director spoke of two potential changes to the Ethics Code. First, the code could be redrafted to make the relevant population the number of residents represented by the elected official as opposed to the City's population. Second, the code could be redrafted so that it did not apply to the consideration of legislation, either broadly or specifically by elected officials.

Commission Donckers asked whether there was a mechanism for elected officials to disclose these kinds of conflicts and participate. The Director said the Commission could recommend some hybrid solution, under which a change to the recusal rules was coupled by a robust disclosure requirement.

Several commissioners said they wanted more time to think about the issue. The Director said he would bring back the item at the following meeting.

4) Good Faith and the Whistleblower Protection Code

Kate Flack said that staff would like guidance on whether good faith – as that term is used in the Whistleblower Protection Code – requires a good faith belief that the facts one is reporting are true or whether it requires a good faith belief that what one is reporting is in fact an improper governmental action. Under the State law, an employee who makes a report of activity that is not an improper governmental action is not protected from retaliation. Under federal securities laws, a person is protected if they have a reasonable belief that the activity that they are reporting violates the law.

Commissioner Cohan said that he had been involved in the development of the whistleblower protection code from the outset and said that he believed that the intent was to protect employees who in good faith reported something that they believed to be wrong. He said that whether or not that activity ultimately turned out to be wrong under the law should not matter, in his opinion. The commissioners present all concurred that protections afforded to employees

should not turn on whether or not there is a legal determination at the end of the day that the conduct about which the employee complains does in fact meet the definition of an improper governmental actions.

Jeff Slayton said that he would advise the Commission at a future meeting on whether or not this could be accomplished by a Commission rule or interpretation or whether the Code would need to be amended.

5) Executive Director's report

a) Whistleblower Protection Code training update

The Director reported that more than 5,500 City of Seattle employees – approximately half the City's workforce – had taken the whistleblower training. At this point, staff is working with the Department of Human Resources to track down people who are required to take the training but have not yet done so.

b) Draft Office Fund

The Executive Director shared the latest draft of the Office Fund rule, and said that staff would begin working to engage the public and the officeholders in reviewing the draft.

The Chair said he did not believe City employees should be soliciting office fund contributions. The Director said that the focus of the staff's work to date has been on defining permissible office fund expenditures. Once this work is done, the staff can focus on other changes to the office fund rules.

c) Commission legislation

The Executive Director reported to the Commission that staff had delivered to the City Council legislation to increase the late filing penalties under the Elections Code.

The Regular Commission meeting for April 1, 2015 adjourned at 5:44 p.m.