

**Seattle Ethics and Elections Commission Regular Meeting
March 1, 2017**

A regular meeting of the Seattle Ethics and Elections Commission convened on March 1, 2017 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Eileen Norton called the meeting to order at 4:00 p.m. Vice Chair Brendan Donckers and Commissioners Charlene Angeles, Bruce Carter, Vickie Rawlins and Hardeep Singh Rekhi were in attendance. The seventh commission position is currently vacant. Executive Director Wayne Barnett and staff members Polly Grow, Rene LeBeau, Marc Mayo, Jenna Smith and Annie Tran were present. Assistant City Attorneys Jeff Slayton and Gary Smith were also present.

1) Public Comment

There was no public comment.

Action Items

2) February 1, 2017 regular meeting minutes

The Vice Chair made a motion to adopt the minutes and Commissioner Rekhi seconded the motion. The motion passed unanimously.

4) Advisory Opinion 2017-01 (Seattle Public Library's participation in a debate coalition)

The Chair, with the consent of her fellow commissioners, took Agenda Item #4 out of order, saying that the appeal on the agenda was likely to take some time.

The Director introduced the advisory opinion, noting two changes, one correcting a typographical error and the other making it clear that the only Coalition discussions the library could not take part in prior to a decision to exclude a candidate were discussions about the bases on which to exclude candidates.

The Chair then invited City Librarian Marcellus Turner to address the Commission. Mr. Turner thanked the Commission for the advice and answered questions posed by commissioners.

Following discussion, Commissioner Carter made a motion to approve the advisory opinion with the suggested amendment distributed at the meeting, and the Vice Chair seconded the motion. The motion carried unanimously.

***) Appeal of dismissal in Case No. 17-1-0115-1**

The Chair invited the appellant, Ms. Susan Rubstello, to present her appeal.

Ms. Rubstello told the Commission that the Director's dismissal of her complaint was arbitrary and capricious. She told them that Councilmember Sawant's efforts were an effort to interfere with the President's 2016 election, and thus violated the City's Elections Code. She also told them that the Director incorrectly concluded that the Councilmember's anti-Trump activities did not violate the bar on using City resources for other than a City purpose. She told them that City Councilmembers have no role in carrying out City policies, but are limited to making policies.

The Director told the Commission that only the Ethics and Elections Codes are under the Commission's jurisdiction, not State law and not the City charter. He also told the Commission that the Elections Code refers to a campaign for office, and that the law had never been interpreted to include activity after all votes had been counted. With regard to the Ethics Code, the Director read from the resolution adopted by the City Council opposing the new President and said he thought the resolution provided a basis in the law for Councilmember Sawant's activities. He ended by saying that City government has never operated with a limited scope of an elected official's role.

The Chair asked how Socialist Alternative was organized, and the Director and Ms. Rubstello both said that they did not know. The Chair said that if Councilmember Sawant's husband is an officer of Socialist Alternative and City resources were used to promote the organization, she would want more information.

The Chair said she did not see this as an Elections issue.

Commissioner Rekhi asked Ms. Rubstello where Socialist Alternative was mentioned in her materials, and she referenced her exhibits. Commissioner Rekhi pointed out that Socialist Alternative is not referenced on the poster at issue.

Commissioner Angeles asked Ms. Rubstello whether she was familiar with the resolution that the Director read from. Ms. Rubstello said the resolution is a statement of values but does not authorize any of the activities in which Councilmember Sawant engaged.

The Chair asked whether it would be permissible if Councilmember Sawant identified herself as a socialist on her blog, and Ms. Rubstello said that she should be able to do that but shouldn't be permitted to promote her business.

Commissioner Rekhi asked Ms. Rubstello what was wrong with the Resist Trump posters. Ms. Rubstello replied that it had nothing to do with City business.

The Chair reminded everyone that the Commission is limited to the record on this appeal.

Commissioner Angeles said that she was concerned about conflating the Resist Trump efforts with Socialist Alternative.

Ms. Rubstello said that Councilmembers have no role beyond making policy, that they are not to take on the causes of their constituents. She said that the City is essentially subsidizing Socialist Alternative.

Ms. Rubstello said that the City Council's role is making policy, not implementing it. She cited the Municipal Research and Services Center for that position. She said that Mayor is the City's Chief Executive. The Chair said that the City is not bound by guidance from the Municipal Research and Services Center.

Commissioner Carter said that Ms. Rubstello was calling for limitations on councilmembers that have never been recognized before. He said that not long ago the City Council was telling the Bonneville Power Authority how to run their dams in Eastern Washington.

The Vice Chair said there is one thing about which he is curious: is Socialist Alternative a campaign organization, is it supporting a campaign, and is there some evidence that suggests that City resources are being used to benefit either Councilmember Sawant or a member of her family. He said he saw protesting federal law as within the scope of both the executive's and the Council's authority.

Commissioner Angeles also expressed her concerns with whether Councilmember Sawant's husband is employed by Socialist Alternative, but said that is not before us on this appeal.

The Chair asked the Director whether he had any comment before closing, and he said that the complaint was solely about the poster, and he said it was clear that there was a rational basis for his dismissal.

The Chair then suggested the Commission go into executive session to discuss the appeal. The Commission went into executive session for 15 minutes.

After emerging from executive session, Commissioner Rekhi made a motion to affirm the Director's dismissal and Commissioner Rawlins seconded the motion. The Chair then opened the floor for discussion of the motion.

Commissioner Angeles thanked Ms. Rubstello for her work as an engaged citizen. Both she and the Chair and Vice Chair all said that they were mindful of the limitations imposed upon them at this juncture, which were solely whether the Director had correctly dismissed Ms. Rubstello's complaint about the poster.

The Chair called for a vote on the motion, and the motion to affirm the Director's dismissal was unanimous.

Ms. Rubstello asked what options are available when someone believes there is a violation of the City Charter. The Chair said that she suspected that a person could bring a court action.

3) Rule identifying employees required to file CY2016 Financial Interest Statements

The Director introduced the Financial Interest Statement filing process, and asked the Commission to adopt the rule. The Director clarified that departments compile the list, and there is no Commission staff review of the list. The Director said that the section of the law that sets out the financial interest statement filing process was due for review.

The Chair made a motion to accept the list of filers provided by departments, with the proviso that if the lists later turns out to be incorrect that departments need to correct their lists. Commissioner Angeles seconded the motion, and the vote in favor was unanimous.

Discussion Items

5) I-122 status report

Rene LeBeau told the Commission that the program had already received more than 5,700 vouchers assigned to candidates. She said the staff was focusing its efforts on vouchers assigned to candidates participating in the program. She said \$30,000 had already been disbursed under the program.

She said that 75 percent of vouchers are coming back in the postage-paid envelope mailed with the vouchers and the other quarter are being turned in by campaigns. She said that more than half of the people who've submitted vouchers so far have submitted all four at the same time, and generally all four to the same candidate.

She said that calls and emails were continuing to stream into the office from people with questions about the voucher program. She detailed the staff's recent outreach efforts.

Ms. LeBeau told the commissioners that work would begin soon on the online voucher submission process that needs to be online by 2019.

6) Executive Director's report

The Director told the Commission that the Mayor's office was still searching for a replacement for Commissioner McKay. He encouraged commissioners to get in touch with him or the Mayor's office if they had people they thought should be considered.

The Director then asked the Commissioners whether they were comfortable with the Commission's website linking to a voter guide sponsored by the Municipal League. Commissioners were not comfortable with the idea. They were worried about the appearance of endorsing an organization that will pick and choose among organizations whose endorsements it will highlight, totally outside of the Commission's control.

The Director corrected an error he had made at the February meeting, when he had told the Commission that funds unspent at the end of 2016 would roll over to the Commission's 2017 budget. In fact, the \$10,000 that the Commission underspent its budget in 2016 reverts back to the general fund.

The Regular Commission meeting for March 1, 2017 adjourned at 5:50 p.m.

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