

Seattle Ethics and Elections Commission Regular Meeting

December 2, 2009

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on December 2, 2009 in Room 1679 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Robert Mahon called the meeting to order at 4:00 p.m. Commissioners Tarik Burney, Ed Carr, Lynne Iglitzin, Nancy Miller, Michele Radosevich and Bill Sherman were present. Executive Director Wayne Barnett and staff members Anthony Adams, Kate Flack, Polly Grow and Mardie Holden were present, as was City Attorney Jeff Slayton.

1) Public Comment

See Discussion Item #7.

Action Items

2) Approval of minutes for November 4, 2009 regular meeting

Commissioners requested changes to some phrasing and punctuation in the November 4, 2009 minutes. Commissioner Miller moved to approve the minutes as amended, and Commissioner Iglitzin seconded. The motion to approve the minutes as amended passed unanimously.

3) Election of Officers

Commissioner Sherman nominated Robert Mahon to continue as the Chair of the Seattle Ethics and Elections Commission, which Commissioner Miller seconded. Commissioner Sherman also nominated Tarik Burney to continue as Vice-Chair of the SEEC, and

Commissioner Miller seconded that as well. The vote to re-elect the current officers was unanimous.

4) Reappointment of Ed Carr to a term on the Commission beginning January 1, 2010

Commissioner Iglitzin moved to approve this motion, and Commissioner Miller seconded. The Commission voted unanimously to reappoint Ed Carr to his current position.

5) Setting Executive Director's merit leave for 2010 (Possible Executive Session)

Commissioner Miller moved that the Executive Director should be awarded five merit leave days for 2009, and Commissioner Iglitzin seconded. The Commission unanimously adopted the motion.

6) Request for administrative dismissal of Case No. 09-2-1014-1 (Member of City Commission allegedly promoted ballot measure at City event)

The Executive Director noted that the SEEC's investigation substantiated the complaint filed in this case. The Executive Director sought an administrative dismissal, however, arguing that the minor nature of the violation did not warrant a hearing, especially since the subject of the complaint had relocated across the country.

Several commissioners voiced concerns with the Executive Director's decision to link the dismissal of the complaint to the subject's relocation. Commissioner Sherman objected to dismissing a substantive violation, especially in light of the Commission's decision to uphold a penalty for Mr. Kaplan.

Commissioner Radosevich moved to grant the motion for administrative dismissal, which Commissioner Carr seconded. The Commission voted 6 to 1 to administratively dismiss the complaint, with Commissioner Sherman casting the dissenting vote.

Discussion Items

7) Application of the Ethics and Elections Codes to City use of social media

Council staff published draft rules for council members and sought the Commission's input on the application of the Ethics and Elections codes.

Two individuals wished to make public comment, Councilmember Tim Burgess and Chris Leman of the Seattle Community Council Federation.

Councilmember Burgess spoke first. He said that communication by and with public officials is changing and we as a City need to embrace the technological evolution. He currently runs a private blog which he links to from his official City web page. He said he treated the blog like a City resource, and did not use it for campaign purposes. He believes that social media offers an opportunity to engage people in the governing process, and that it would be a mistake for the Commission to interpret the Ethics or Elections Codes to inhibit the use of social media. Councilmember Burgess said that he does not police comments about election issues on his Facebook page, and that he does not believe he should be required to do so.

The Chair said that once the blog was linked to the City website, in his opinion it was no longer a "personal" blog. The Chair believes that using City resources to link to non-City sites hosted by City officials raises real concerns under the Ethics and Elections Codes.

Commissioner Iglitzin said that these social media sites are comparable to a giant blackboard in City Hall, in which anyone can register their thoughts. She said that the Commission should foster such communications, not impede them.

Commissioner Radosevich agreed, likening the process to a virtual town meeting. She argued that the Commission should not be regulating in this area beyond rules that would bar officials from linking to campaign advocacy directly from their City web pages.

Mr. Chris Leman then spoke. He objects to Councilmembers using their blogs for political purposes and feels that this is an issue the Ethics and Elections Commission needs to take a hard look at. He also said that unlike a town meeting, citizens have to give their names and other personal information in order to participate in social media, and declare themselves to be “fans” or “friends” of the public officials in order to access these “public” discussions. This is not the town square according to Mr. Leman. Mr. Leman also said he was dismayed that the Commission was not taking an active role in ensuring compliance with the Open Public Meetings Act and the Public Records Act.

Commissioner Sherman closed the discussion by saying that he believes the Commission needs to issue an opinion on this issue that creates some bright lines, so that people know whether they are or are not getting themselves into trouble. He also said that Commission needs to stay grounded in the real world application of these rules it promulgates.

The Commission will revisit this topic when it reconvenes in January 2010.

8) Late Filing Penalty assessed against the MHK for Seattle committee

The Executive Director assessed a \$75 late filing penalty against Martin Kaplan, who was the treasurer of his own City Council campaign. Mr. Kaplan appealed the penalty to the full

commission. Mr. Kaplan's defense was that the error was inadvertent and that he always worked in good faith to comply with the elections code. The Executive Director acknowledged Mr. Kaplan's diligence in filing the reports, but said that he believes it is important to levy penalties for errors made in the final weeks of the campaign, even if they are inadvertent. The Executive Director noted that he had reduced the penalty from \$780 to \$75. Commissioner Radosevich made a motion to uphold the Executive Director's penalty, which Commissioner Iglitzin seconded. The Commission voted unanimously to affirm the Executive Director's penalty.

9) Late filing penalty assessed against McGinn for Mayor committee (\$420)

A \$420 penalty was assessed to the McGinn for Mayor Committee for a late filing. There was no appeal and the total amount was paid in its entirety.

9.5) Dismissal of Case number 9-2-1023-1 (Allegation that Forward Seattle's independent expenditures in support of the Rosencrantz campaign violated the Elections Code)

The complainant asked the Executive Director if it was too late to appeal the dismissal. The Executive Director invited the complainant to ask the Commission to hear an appeal in January of 2010.

10) Executive Director's Report

The Executive Director did not have anything to report for the December 2, 2009 SEEC regular meeting.

The December 2, 2009 Seattle Ethics and Elections regular meeting was adjourned at 5:57 p.m.