

## **Seattle Ethics and Elections Commission Regular Meeting**

**February 6, 2019**

A regular meeting of the Seattle Ethics and Elections Commission convened on January 9, 2019 in Room 4096 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Brendan Donckers called the meeting to order at 4:04 p.m. Commissioners Nick Brown, and Eileen Norton were present. Vice Chair Hardeep Rekhi and Commissioner Bruce Carter participated via telephone. Commissioners Vicki Rawlins and Charlene Angeles were absent. Executive Director Wayne Barnett was joined by staff members René LeBeau, Annie Tran, Polly Grow, Marc Mayo and Chrissy Courtney. Assistant City Attorney Gary Smith was in attendance. Commissioner designate Susan Taylor was also in attendance as an audience member.

### **1) Public Comment**

Kevin Topping, a Seattle resident and part of an organization called Speak Out Seattle, (but not present on behalf of the Speak Out Seattle organization formally) made comment on two matters. The first matter was related to the Speak Out Seattle plans to put on candidate forums, and their interest in finding out when and how to coordinate those meetings with the Democracy Voucher Program rules. They have found staff suggestions useful so far.

Mr. Topping also wanted to bring up that he was a resident in District Four and he has great concerns about his representative taking another job while still a councilmember. Mr. Topping wanted to know if there was a written agreement between the councilmember and the Ethics and Elections Commission due to the potential impact of the new position the councilmember will take.

The Chair directed Mr. Topping to the formal ethics complaint process and noted that the matter would be premature at this time for decision by the Commission. Mr. Topping was invited by the Chair to listen in when the Commission covered the debate rules.

Alex Tsimmerman also provided public comment.

### **Action Items**

#### **2) January 9, 2019 special meeting minutes**

There was a motion to adopt the January 9, 2019 special meeting minutes by Commissioner Norton. Commissioner Brown seconded, and the motion passed unanimously.

#### **3) Rule listing employees required to file Financial Interest Statements**

The Director was asked to explain the rules regarding the Financial Interest Statements, governed by SMC. 4.16.080. The Director presented a binder of names prepared by each department of those who have been identified to meet the threshold requirements for filing. Commissioner Brown asked what the threshold was, and the Director indicated that there were a few different requirements. Those who are Assistant City Attorneys, Department Heads, those who report directly to Department Heads, those who have the authority to participate in contracting decisions that are worth \$5,000 or greater, all of which means roughly 20 percent of the city employees are required to file.

Commissioner Norton moved to adopt the list of filers. Commissioner Brown seconded the motion. All voted in favor, with no opposition and no abstention.

## **Discussion Items**

### **4) Debate Requirement**

The Director noted that this topic was something that came up last year when the rule that public spaces be made equally available to all comers was imported into the Democracy Voucher Program rules. One of the lessons learned in 2017 was that the rule would make for some crowded debates. In a race such as the Mayoral election in 2017, 21 candidates would share the stage. Each candidate would receive less than 10 minutes of speaking time over a three-hour event. The thought is that there should be a contributor threshold, similar to the voucher program qualification thresholds, which would require a candidate to have a certain number of contributors in order to participate in a debate as defined by the Democracy Voucher Program participation rules. When the numbers were analyzed, eight of the twenty-one candidates that ran for Mayor in 2017 would have met the newly proposed threshold and been able to participate in debates that qualified for the Democracy Voucher Program participation requirements.

Commissioner Norton asked for confirmation of the numbers, that for the Mayor's race, they need 600 contributors to participate in the Democracy Voucher Program and for the City Attorney's race 150, the At Large District seats 400, and District Council 150, and those numbers were confirmed. The staff recommendation is that City Council and City Attorneys be required to have 50 contributors to be required attendees at debates and candidates for Mayor have 100 contributors. Commissioner Norton asked why these were not more equal numbers, since it would require a third of the qualifying contributors for the district seats, but less than that for the others, but agreed that a threshold makes sense. Commissioner Norton said that perhaps it should be a lower threshold.

Commissioner Brown asked if there was a negative impact to lowering that threshold, and the Director responded that the 50 seems to indicate that you are not a vanity candidate, and it seemed a reasonable minimum. Commissioner Norton noted that she would hate to see a threshold that is too high for someone who does not yet have name recognition, especially since the district races can have candidates who need exposure like a public debate. Commissioner Brown asked whether there were more or fewer candidates that ran for the district elections as opposed to the citywide races. The Director indicated that there could be more candidates for the districts than the at large seats, especially if there are more open seats.

Commissioner Carter supported screening the candidates but noted that we would need to make sure that the candidates knew about the rules in advance and that these rules would give the candidates the ability to meet such screening conditions. The Director agreed that if a new rule was adopted there would be education around the new rule and how and when it would be implemented.

The Chair acknowledged there appears to be consensus support for the general proposition, but the specifics need to be worked out. Commissioner Brown asked the Director to provide a few different proposals. Commissioner Norton also asked for staff to review the numbers from previous races to see if a particular threshold would jump out, particularly for those who never met the threshold. Polly Grow, Campaign Finance and Lobbying Auditor, said that she would review those numbers and the Director said that staff could provide a graph without names that could show the clustering of the data. Commissioner Norton noted that the difference between the at large candidates and the district candidates may be very different in the data, since we have prior data from an at large race, but not one with the districting. The Director clarified that staff could provide a graph of the data that would show the spread of candidate

contributors for prior candidates over time, but while keeping the data candidate blind to keep anyone from judging the numbers based on the individual candidates.

Commissioner Brown offered that a lower threshold would still allow a long shot candidate the opportunity to be heard. The Director offered three different spreads of data that could be reviewed next meeting. Commissioner Carter added that we do not want to exclude any serious candidate who can gather support, but asked at what point do we want to draw the line on this threshold, and could the threshold be met at a later point in time and the candidate be able to join the debates after a certain point. The Director noted that we did not keep that granular a level of data, and that would be a difficult task. Commissioner Carter said he understood and withdrew the request. The Chair noted that the timing of the debates could make an impact and invited Mr. Topping for his comments on the topic. Mr. Topping responded that his main concern in organizing debates currently that would be held in March would be in trying to offer to a campaign the assurance that the debate would meet the requirements of the Democracy Voucher Program. Mr. Topping was concerned that they would hold an event that they believed to be compliant but because they were unable to invite every single candidate to the forum, then the event would not be considered compliant as a result. Mr. Topping also agreed that they would not want disruptive candidates to be required to be invited to their events in order to qualify the event for the Democracy Voucher Program.

Commissioner Norton asked if the filing week must be closed before the debates would count and the Director indicated no, that is not currently a requirement. Commissioner Carter said that non-voucher participants were not meant to be penalized and the Director agreed that when it comes to debates no one wants to discriminate against candidates who do not participate in the Democracy Voucher Program.

The Chair said that he agreed that policy should not be made on fact specifics, but Commissioner Carter has a point that the timing of the debates are not irrelevant based on filing schedule. The Director said that future versions of the rule could address the issue of the timing of the debates. The Chair asked if Commissioner-designate Susan Taylor would like to comment as well. She asked what would happen if we removed the word “all” from the definition. The Director answered that the risk to that would be an organization that could have something more like a rally than a debate, which would not meet the spirit of the Democracy Voucher Program. The Chair asked for any further staff comments and there were none. The Director offered to advertise public hearing so that public comment can be heard on the topic for the next regular Commission meeting and to provide some alternative thresholds and some more data.

**5) Harmonizing City and State campaign finance laws**

This item was tabled due to snow delay in preparation.

**6) Lobbying Law**

The Chair asked for a refresher of the context. The Director answered that last year David Mendoza came to the Commission and asked for clarification regarding those who are lobbyists and also campaign consultants, but that the request came at the end of the year during a very busy time and the issue fell to the wayside. However, it has resurfaced and there was a request to revisit this issue due to a recent *Seattle Times* article. The Director asked if there were known problems that the Commission would like to see fixed, and then would ask Law to review.

Commissioner Norton asked why the definition of lobbying covers only legislation and not regulations. The Director answered that this was a pilot program to begin with and if the mission was expanded beyond lobbying, the office may have a difficult time meeting that

expansion with the current level of staff. Additionally, the lobbying currently works at least partially on the honor system and adding to the definition of lobbying could make the administration more difficult than it is already. Commissioner Brown asked whether the current definition administered by the City of Seattle Ethics and Elections Commission is in step with the definition at the State level and the Director confirmed that it was.

The Chair offered that he has been thinking about these issues from a few different viewpoints. One aspect is the relationship between a campaign consultant and a candidate and then if the candidate is successful in winning the position, the consultant later lobbies their former client as the elected official and whether that relationship should be restricted or further regulated in some way. Another thought is whether that relationship should be made more transparent or more openly disclosed. The Chair recollected that several Commissioners from the previous discussion had concerns about limiting First Amendment rights, in terms of a bar on such relationships. The City of Los Angeles has certain disclosure requirements that are trying to make such relationships more transparent and easier for people to understand.

Commissioner Norton noted that this aspect is obviously part of a broader issue. The campaign consultant reporting is through the C4 process and the campaign while the lobbyist reports through their own mechanism. Commissioner Norton asked if there was a way to link that information to make it easier and more transparent, like what the City of Los Angeles does currently, and put the reporting obligation on the lobbyist. Commissioner Norton said that it would be nice to have more transparency and the combining of lobbying and campaigns has come to be more prevalent over the last 15 years. Commissioner Brown asked if Mr. Mendoza had a specific plan, like the one in Los Angeles. The Director said no, he didn't have a specific plan that he had put forth, and Commissioner Norton added that Mr. Mendoza was looking for

something even more restrictive than Los Angeles. Commissioner Norton said that she thinks reporting is one of the better ways to shine the light on this issue. Commissioner Brown said that he would also prefer transparency and reporting requirements as a starting point and an absolute prohibition may be too far without having more information.

The Chair asked Attorney Gary Smith if he could provide some high level information regarding an Arizona case that had been discussed in the past, that had implicated free speech. Mr. Smith said that at a very high level, proposed restrictions or limits on a person's ability to lobby are going to be more suspect and face more challenges than a reporting or transparency requirement. Commissioner Carter said that he would like to follow up on what Commissioner Norton was saying about revisions to regulations, and wondered whether changes to an existing regulation could be something the City Auditor could be asked to investigate. Commissioner Carter thinks there are some very significant interests in the community who want to revise certain regulations and that should be subject to sunlight if it can be done relatively easily. Commissioner Carter also offered that his own belief that sunshine provisions in general have been treated better in the courts than prohibition and he would be in support of sunshine provisions. Vice Chair Rekhi agreed that an initial approach of using sunshine provisions instead of prohibitions makes sense. He agreed that looking at similar jurisdictions would be helpful.

The Director noted that he had spoken to Paul S. Ryan, vice president of Common Cause, and Mr. Ryan is looking at this issue and is willing to give the Commission some assistance. Commissioner Brown noted that as the City of Seattle moves from a small city to a big city, he feels like transparency is the first step, even if prohibition is where we end up, because Seattle is a smaller market for such services. The Chair asked if the legal issues could be revisited, and Attorney Smith agreed a legal review could be prepared.

The Chair offered that there appears to be consensus on transparency, and the Commission would like to have some more research on the topic. The Chair asked for clarification on his earlier idea from Commissioner Carter, and Commissioner Carter noted that if the regulations that exist are revised, then he would like there to be some kind of oversight or notification of disclosure. The Director asked about situations where the regulations are being abolished or added or something other than revision is occurring, and whether those situations would be of concern. Commissioner Carter said that he would need more information about the regulatory process itself to know what aspects of changes to regulations would need more transparency. Commissioner Carter said he would need more information regarding the formulation of regulations, and that might be something that should get more sunshine. Attorney Smith offered that he believes that Commissioner Carter is referring to expanding the definition of lobbying to include regulations. Commissioner Norton noted that having been an auditor, she knows it would be an enormous task to take on such regulations. Commissioner Carter noted this was of interest, but acknowledged it could be very burdensome for staff, it is hard to know based on his current level of information. Commissioner Brown would like more information about the legal concerns and more information about how other jurisdictions handle this type of situation and thinks this topic should have continued attention.

**7) I-122 report**

Annie Tran, Senior Communication Specialist with the Democracy Voucher Program, provided new resident brochures and a small poster that has been updated for the February 12, 2019 launch date, along with an updated Frequently Asked Questions document. Ms. Tran informed the Commission that two new interns were recently hired, one undergrad student and

one graduate student, and they have been helping with the social media and developing content for Instagram, Facebook and Twitter.

A media plan has also been developed with spending target of twenty thousand dollars, and eighteen different ads targeting various ethnic media outlets in print, web, tv, radio and social media, and about eight thousand dollars were spent with general media outlets. If there are any specific media outlets at the request of the Commissioners, those outlets will be contacted.

Ten community based organizations have been awarded contracts and two trainings have been held so far to train the organizations to provide accurate education and outreach materials to their communities. There are several one-on-one trainings being done as well and materials were recently provided for the South Park Information and Resource Center, and there is a meeting with the Eritrean Association board members scheduled for tonight. It has already been a valuable addition to the outreach and education effort this year.

A Democracy Voucher Program advisory committee meeting was held last week, and four new members were onboarded and feedback was provided on the media outlets to target and how best to reach unsheltered communities and those in the process of reaching legal residency.

Commissioner Norton asked how many participants were in the Democracy Voucher Program currently and Program Manager, René LeBeau answered that there are forty total candidates so far, twenty four of which have pledged to be in the Democracy Voucher Program and two who have completed the qualification process and one with their qualification documents in review.

The Chair asked if he could be provided a list of the media outlets, and Ms. Tran offered to email the Commissioners the full list. Commissioner Norton asked how we will measure the

success of this media blitz and Ms. Tran noted that there has been an analyzation of some of the metrics that the various ad venues offer and so there is a potential idea of how many people would be exposed as a result and what communities would get exposed to the advertising. Commissioner Norton indicated that she would like to see a direct question of which media resources were seen and Ms. Tran and Ms. LeBeau indicated this could be addressed during the closure surveys and the community-based organizations could be very helpful in gathering that information as well.

The Chair asked whether the brochure was being mailed out, and Ms. Tran said they are not being mailed, they are being handed out currently, but we have contracted with a poster service and any gaps in the neighborhoods being covered will also be addressed by the interns.

Commissioner Norton asked who has final approval on social media messaging and Ms. Tran answered that she is normally the one who provides those messages to the interns to post. Commissioner Norton offered caution in light of the way social media has been seen to cause issues for various people and wanted to make sure that the program is careful with their messaging. Ms. Tran reassured Commissioner Norton that the messages are reviewed before and after posting and certain messaging is also vetted by the Director and Program Manager LeBeau.

Ms. LeBeau noted that the mailings are ready to go, and there about four hundred and sixty five thousand vouchers and around thirty thousand inactive voters who will get a postcard inviting them to reactivate their registrations. The vouchers should be mailed on February 12, 2019 and some residents could receive them by that afternoon, but we are anticipating most will be delivered on February 13. Temporary staff is being hired and one of IT department analysts will be available for go live. Unfortunately, there is a problem with the online portal, and the new launch date for that portal will be February 28, 2019. The functionality is there but the language

pages are not quite ready so there will be a delay in launching the portal. There will be messages on the website regarding the delay for the online.

The qualification process has been improved and the forms have been simplified and there has been positive feedback from the campaigns and King County Elections. The additional district validation process hasn't taken too long, but it is an effort. Commissioner Norton asked how the validations were being done. Ms. LeBeau answered that there are different ways to validate, the primary way for registered voters is via the King County Elections office and for those who are not registered voters, through a separate validation process handled by staff.

#### **8) Executive Director's report**

Commissioner-designate Taylor and the Director went to the Governance, Equity and Technology committee yesterday and her nomination was approved 3-0. Councilmember Mosqueda had questions regarding the strategies for improving the participation from the under-represented populations identified from the last election cycle and was pleased to hear about the community based organization outreach efforts and requested more information on that further along in the process. The Director submitted the applications and resumes from the candidates for Commissioner Angeles's seat to Council President Harrell and those are under review and that situation will continue to be monitored by the Director.

**The Regular Commission meeting of February 6, 2019 adjourned at 5:14 p.m.**