

## Seattle Ethics and Elections Commission Regular Meeting September 2, 2009

The regularly scheduled meeting of the Seattle Ethics and Elections Commission convened on September 2, 2009 in Room 4096 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, and Bill Sherman were present. Commissioner Michele Radosevich joined the panel after item 2. Executive Director Wayne Barnett and staff members Bob DeWeese, Kate Flack, and Mardie Holden were present, as was Assistant City Attorney Gary Keese.

### 1) **Public Comment**

There was no public comment.

### **Action Items**

#### 2) **Approval of minutes for July 1, 2009 regular meeting**

Commissioners Nancy Miller and Tarik Burney moved and seconded adoption, and the Commission unanimously approved the minutes from July 1.

### **Discussion Items**

#### 3) **Dismissal of Case No.09-1-0710-1 (Complaint about firefighters collecting money for charity)**

Executive Director Wayne Barnett reported that the citizen's complaint about City Firefighters "passing the boot" for charity was dismissed because the City Council last year, in consultation with Commission staff, had passed a resolution designating this campaign as a City purpose. The dismissal was not appealed.

**4) Dismissal of Case No.09-2-0726-1 (Complaint alleging electioneering at Tunnelfacts.com)**

Kate Flack reported that this citizen complaint alleged that the Tunnelfacts.com web site published in June 2009, was an independent expenditure of the Michael McGinn mayoral campaign, or that the persons posting the web site were a political committee working in collaboration with the McGinn campaign. The investigation did not establish any collaboration between Michael McGinn or his campaign and the web site, or any intent to promote or oppose any campaign, so the complaint was dismissed. Ms. Flack also researched the State Public Disclosure Commission advisories and rulings and federal electioneering case law, and found them in line with this dismissal. The complainant is not appealing the dismissal.

The Chair acknowledged that when the complaint came in the Executive Director disclosed his personal friendship with someone involved with Tunnelfacts.com. The Chair asked the Executive Director to recuse himself from the office's handling of the case.

Commissioner Sherman agreed with the findings in this case, but pointed out that other cases may come to the Commission that lead to a different result, due to different facts. For example, we might find differently if a web site had in fact advocated on behalf of a particular campaign or ballot measure, or if there were officers in common to a web site and a campaign. While neither was the case in this situation, these issues will most almost certainly arise again in the future.

Ms. Flack said that the State Public Disclosure Commission's records also indicate that they may revise their own interpretation in future cases.

The Executive Director suggested that since the federal law along these lines is still very unsettled, and that we should hold off on new rules along this line until the federal cases are settled.

**5) Memo regarding application of rule barring candidates from discussing their opponents.**

The Executive Director submitted a list of several examples of passages from voters' pamphlet statements that we considered to be in violation of the rule barring candidates discussing their opponent(s.) The list showed approved alternatives. In response to a complaint we received about language that was allowed in the primary election guide, we are disallowing future statements such as "I am the only candidate in the race who..." and encouraging statements about one's own credentials. Statements about "City Hall" are considered broad references to the institution, and are not prohibited.

**6) Executive Director's Report**

**a) Status report on Ethics and Elections Code changes**

The Executive Director reported on outreach efforts staff has been making to inform interested parties about changes in the Code regarding City contractors. He distributed an FAQ on the Ethics Code to contractors at a City-sponsored Vendor Fair, they both have presented information on the changes to City staff involved in contracting and purchasing, and they will be meeting with a Chamber of Commerce group. A new brochure on the Ethics Code is in development, as well.

The City Council also recently passed technical changes to the Elections Code that cleaned up outdated language and raised the threshold of mini-filing from \$3,500 to \$5,000 in keeping with State law.

Staff is also discussing potential changes to the Whistleblower Code.

**b) Budget issues**

We anticipate meeting our required 8% cut for 2010 by right-sizing the voters' pamphlet expenses next year; reclassifying the administrative position from Administrative Staff Assistant to Administrative Specialist II, saving about \$14,000 in salary; and relinquishing the \$2,500 previously set aside for the Commission to, at its discretion, award the Executive Director a pay increase in 2010. We have resisted a reduction in force, partly in view of not having grown at the rate of similarly sized organizations in the City. We will also be taking furloughs, even though we are not required to, being an independent agency.

**c) Staff opening**

The Executive Director reported that we received over 800 applications for our vacant position, thinned down to 10 for interviews. Approximately 50 were internal to the City, and many were from the banking industry which reduced forces in the area.

**d) Video Voters' Guide viewing statistics**

The Seattle Channel has reported that the Video Voters' Guide had received 3,594 hits on their web site. By comparison, most of their weekly shows receive 300-500 views. We also have received several calls on our phone line thanking us for the opportunity to hear the candidates' statements unfiltered.

Bob DeWeese submitted a memo detailing the number of people who have viewed the Voters' Guide on our web site. This number has plateaued a bit, and we lost some hits to the County Elections web site since they have embedded statements and videos on their site without a link to our web site. He has ensured that our site comes up first whenever someone types

“Seattle Voters’ Guide” or similar phrases in Google. The Executive Director will explore with County Elections linking directly to our site.

We did not purchase \$15,000 bus ads this year, and are pursuing other less costly means of promoting the guides.

The Chair acknowledged that the Elections web site has been recognized by many on-line publications recently, and the data is well presented.

The Executive Director reported that there have not been recent concerns from campaigns about our enforcement of the credit card rule, or PayPal contributions. He assured the Commission, though, that staff work on the rule will continue, and that input from treasurers will be solicited.

The Chair adjourned the meeting at 4:33 p.m.

Minutes respectfully submitted by Mardie Holden.