

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

**January 8, 2020**

A special meeting of the Seattle Ethics and Elections Commission convened on January 8, 2020 in Room 4080 of the Seattle Municipal Tower, 700 Fifth Avenue. Commission Chair Brendan Donckers called the meeting to order at 4:01 p.m. Vice Chair Hardeep Singh Rekhi and Commissioners Nick Brown, Eileen Norton, and Susan Taylor were present. Commissioner Richard Shordt participated in the meeting via telephone. Executive Director Wayne Barnett was joined by Assistant City Attorneys Gary Smith and Teresa Chen, along with staff members Chrissy Courtney, Polly Grow, René LeBeau, and Annie Tran.

### **Action Items**

- 1) Minutes for October 30, 2019 special meeting**
- 2) Minutes for December 2, 2019 special meeting**

Commissioner Norton moved to approve the minutes for the October 30, 2019 special meeting, Vice Chair Rekhi seconded the motion, and it was approved unanimously.

Commissioner Norton also moved to approve the minutes for the December 2, 2019 special meeting, Commissioner Taylor seconded the motion, and it was also approved unanimously.

- 3) Election of officers**

The current Chair, Brendan Donckers, stated that he enjoyed his two years as Chair and that he would nominate Commissioner Brown for Chair, Commissioner Norton seconded the motion, and Chair Donckers asked if there was any discussion. Commissioner Norton asked if Commissioner Brown would be willing and Commissioner Brown said he would be happy to serve as Chair. Commissioner Brown noted that the remainder of his term was until the end of 2020. Vice Chair Rekhi said he thought there should also be a new Vice Chair, as he was going

to resign from Vice Chair since his term was coming to an end and he believed the new Chair should have a Vice Chair that would be able to support him through the end of the Chair's term. Commissioner Brown said he would prefer to defer that decision until next meeting. Vice Chair Rekhi agreed to remain Vice Chair for the time being. The nomination of Commissioner Brown to Chair was approved with the newly elected Chair abstaining from the vote.

**4) Personnel matters (Executive Session possible)**

The Chair noted that there were personnel matters held over from the last meeting and it still made sense to address those in an executive session. Commissioner Norton offered that items 5 through 11 on the agenda appeared to be rather quick and suggested that they deal with those first and then go into executive session. The Chair said that made a lot of sense to him, and Commissioner Donckers pointed out that he believed Commissioner Shordt would have to leave at 5 p.m. The Director asked Commissioner Shordt how long he would be able to attend and Commissioner Shordt answered that he could stay until 5:30 p.m. The Chair noted that the bulk of the remaining items on the agenda seemed fairly short, so it was hoped they could be done before Commissioner Shordt needed to leave, and turned to discussion items 5, 6, and 7.

**Discussion Items**

**5) Late-filing penalty letter for Seattle for Strauss**

**6) Late filing penalty letter for Heidi Wills for Seattle**

**7) Late filing penalty letter for People for Shaun Scott**

The Director noted that these were 3 late filing penalties issued in 2019. The Director also stated that there was a scrivener's error in the first paragraph of the Strauss late filing penalty letter, which stated that the fine was \$150 where the final paragraph stated that the fine was \$200, and the Strauss and the Wills campaigns were both fined \$200. Commissioner Norton

asked if the fines had been paid yet and the Director answered that yes, all three campaigns have paid the fines. No further action required by the commission since no one appealed the fines or the dismissals. Commissioner Norton asked if the Scott campaign was also fined \$200 and the Director answered that the Scott campaign was only one day late and so only received a \$150 fine, where the other campaigns were multiple days late with their filings. The Chair asked if there were any further questions. Hearing none, he moved forward with the next item.

**8) Dismissal of Case No. 19-2-1018-1 (Alleged violations relating to campaign fundraiser)**

The Director stated that it was alleged that an over the limit contribution was taken by the Wills campaign from a restaurant undercharging for the restaurant's use, but there was no evidence of a violation. The "comp" given in the complaint was for a late December holiday season event, but the fundraiser was held in mid-October, so there was no evidence that the restaurant undercharged. The complaint was dismissed and not appealed, so no action was needed by the commission.

**9) Dismissal of Case No. 19-2-1023-1 (Alleged violations relating to rental of campaign headquarters)**

The Director noted that this allegation involved the Orion campaign. The complaint was that the campaign had also accepted over the limit contributions due to the rental value on the campaign headquarters being too low. The campaign was headquartered in an abandoned gas station and very little of it was usable for office space, and the rent was not found to be below market value. The Chair asked about the procedure, noting that the letter talked about the investigation being done, and wanted to know if the Director went to the space to observe it in this context. The Director answered that they looked at the County Assessor's records, which showed a drawing of the space, where there were hydraulic lift bays for cars, and there was very little that was usable as office space. The Director asked if Polly Grow, Campaign Finance

Auditor, had visited the space and Ms. Grow answered that there was a drive by of the building, but by the time the office was investigating, it was no longer being used a campaign space.

Commissioner Donckers asked if there was a context for the characterization for inadvertent and minor. The Director answered that it was a provision under the law where a complaint can be dismissed, and the Director felt that at that late phased of the campaign, knowing that the treasurer was not used to reporting rent, the omission would have been inadvertent, and the \$500 over \$55,000 in expenditures was proportionally not major. The Chair asked if there were any further questions on the case and there were none.

**10) Dismissal of Case No. 19-2-1028-1 (Various allegations)**

This Director said this complaint was alleging several violations by the Strauss campaign, one of them triggered the \$200 penalty, and the rest were either not violations or were found to be inadvertent and minor.

**11) Dismissal of Case No. 19-2-1029-1 and -2 (Various allegations)**

The Director stated that this complaint was alleging several over the limit contributions, and it was explained to the complainant that when a campaign receives a contribution, they have to deposit it, and then process a refund, and as long as the refunds are done in a timely manner, there is no violation. Each of the refunds in this case were done in a timely manner, and it is unavoidable for campaigns to have their reports show at some point that they have accepted an over the limit contribution. It is the nature of the business.

The Chair asked for context, if the number and types of complaints related to post-election activity, are standard with what would normally be seen in a given election year. The Director answered that he did not think it was outside the bounds, and explained that historically there are a lot of complaints in the last week, and most of them turn out to be unsubstantiated and

attempts to get an “October surprise” and this was not an unusual year. The Chair asked if there were any other questions regarding the dismissals. Hearing none, the Chair stated that rather than going into executive session now, he would rather continue with the agenda unless there was some reason not to and asked for the Democracy Voucher Program report.

## **12) I-122 report**

Democracy Voucher Program Manager René LeBeau reported that the work is continuing with BERK on the Program evaluation. Staff are working on the Biennial report, which will be a nuts and bolts report about the program, and it is hoped that will be completed by February 1st. There is also a Community-Based Organization (CBO) final report being prepared, with a final summary of what happened with the CBOs and changes they would like to make to that part of the program. Commissioner Norton asked how the information was gathered on the CBO contracts. Ms. LeBeau said that the CBOs were asked to complete a final report and they also met with the CBOs individually to get a narrative perspective. Commissioner Norton asked what kinds of questions the CBOs were supposed to answer on the report; was it how many meetings they held, how many bodies, that kind of information. Ms. LeBeau answered yes, what were the outreach activities, who were the audiences, what challenges were faced, and then in the narrative they were able to go into some of the details about what the experience was like for the CBOs and how to improve the contracting process in future.

Ms. LeBeau noted that Monday, January 6 was the deadline for campaigns to file their final reports. For voucher candidates who had an excess, the program has received about \$20,000 back, and it is unlikely there will be much more returned.

Ms. LeBeau stated that they are also currently working on getting geared up for candidates who may be getting ready for the qualification process for the next election cycle. For

materials with dates, they are updating, while knowing that there could be unanticipated upcoming changes that arise from the BERK report or outside interest in the current process.

In addition, Ms. LeBeau noted that they are preparing for possible legislative or code changes, and anything that comes from the external evaluation. Another item being worked on is launching the pre-registration process, to get residents to sign up to use the portal, so they can use their vouchers online instead of being mailed paper vouchers. They are also working on completing the requirements for updating the technology to increase efficiency.

Ms. LeBeau asked if the commission had any questions. The Chair asked to be reminded of the timing for the BERK report. Ms. LeBeau responded that May 1 is the date for the final BERK report, and they should have a good idea of any legislative issues that may need to be brought before the commission. Commissioner Taylor asked if there would be anything from BERK by the next meeting, or March or April. Ms. LeBeau stated that they may have an idea about the candidate feedback, since they have spoken with 17 candidates thus far and there is a meeting with BERK tomorrow. The Director cautioned that he doubted there would be anything received from BERK by February 5 that could be used as the basis for taking legislative action. The Chair asked if there were any further questions, and hearing none, thanked Ms. LeBeau and asked the Director for his report.

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

The Director began with personnel matters. Chrissy Courtney has now gone officially over to the voucher team and is no longer administrative support. Interviews were completed for the front desk position, and they are expecting to make an offer this week, and hopefully by February there should be a new administrative support person. Shannon Leung, who was one of the technical support people who worked with Bob DeWeese, left to join the Seattle IT

department and they are beginning the search for a new tech support person. Tomica Ransaw, the temporary campaign finance auditor who worked with Polly Grow, will be leaving soon as well, as her assignment is coming to an end. Everyone did tremendous work, and the Director thanked Ms. Leung especially for staying with the office through the end of the election year.

There has been a city council reorganization, and Councilmember González is now Council President González. The Director thinks she is having her baby today or very soon and so she will be out for the first quarter. For the commission, this means that there is not expected to be a hearing for the committee that the commission answers to until she returns in April, since historically the commission has been under the council president's committee structure. This means the lobbying legislation is unlikely to be taken up, and Commissioner-Elect Tobin's hearing will not likely be held until the return of Council President González, and Commissioner Rekhi will continue to serve until he is replaced. Commissioner Norton and Commissioner Donckers terms expired on December 31<sup>st</sup>, but no change to the composition of the commission is expected until after April. Ms. Tobin asked that if commissioners serve for three years, then why are commissioners falling off after a year, and whose prerogative is it that they are leaving. The Director answered that he did not believe they had anyone leave after a year. Ms. Tobin said that the previous Chair had stated he was leaving, and the Director and current Chair clarified that it was not after one year, it was after one term.

The Director informed the commission that the campaign finance legislation that Councilmember González brought to the commission last fall is being split into three separate pieces of legislation. One of them dealing with the limits on PAC contributions, and one dealing with the foreign influences in corporations, and a third one dealing with new requirements on commercial advertisers. The advertising and foreign influenced corporation pieces were voted

out of committee yesterday and could be heard by the city council as soon as next Monday. The PAC legislation is on hold for now, because the Council President said that they wanted to get it right, and that right was more important than fast, so that legislation remains under consideration. Vice Chair Rekhi asked if the advertising one was brought before the commission too. The Director answered that it was part of the legislation, but it was just a single piece. The Director thinks that what it will do is tie in with the grassroots lobbying where the advertising is not necessarily about a candidate, but an issue, such as the employee hours tax, the commercial advertiser will now need to keep records on those ads, the same way they now keep records on campaigns. Vice Chair Rekhi asked so issues will now also need monitored and the Director concurred. That piece is anticipated to be voted on next Monday.

The Director then addressed the 2019 budget. There are a few costs budget-wise, such as IT, HR, facilities, and insurance costs that need to be allocated between the part of the office that is funded by the general fund and the part that is funded by the voucher fund. Once that work is done, then the commission will be under budget. Commissioner Donckers asked the Director if the money would then revert back to the general fund. The Director said that the money in the voucher fund accumulates and rolls over for the voucher program, but any unspent funds from the general fund would go back into the general fund. Commissioner Donckers asked if that meant it could be saved and earmarked for a new position if needed next election. The Director answered no, the general funds operate more as use it or lose it, but he believes that the office has a good reputation as stewards of public funds and not spending every dollar available.

The Director stated he would be traveling to Olympia, weather permitting, to attend a forum Public Disclosure Commission forum on January 16, and he will report back to the commission in February what transpires there.



Looking ahead to the next commission meeting in February, there is one big item upcoming. Before every election cycle, there is supposed to be an inflation adjustment to the contribution limits, which is a requirement under I-122. It was previously eliminated in 2009, and unfortunately this year, it will be done a little late, but there will be a rule before the commission to raise the contribution limit to \$550, and also a corresponding change to the contribution limit for voucher candidates. The Director would like the commission to consider what the voucher contribution limit should be, whether it should continue to be half, which would make it \$275, or whether it should be \$250 less than the other candidates, which would make it \$300. The Director cautioned the commission not to talk about it, since it is not on the current agenda, but to just be thinking about it for next meeting. The Director noted this is an inflation adjustment, purely a function of the Consumer Price Index, rounded to a dollar that makes sense to the public.

The Director concluded his report by saying that in February the commission will also hopefully be adopting the rule for the Financial Interest Statements. Losing Ms. Courtney to the voucher program has complicated things a bit, so it may be March, but it is hoped that will be ready for the February meeting.

The Chair asked if there were any questions from the commission about the Director's report and there were none. The Chair asked the Director if he would like to address the dismissal still subject to appeal and the Director answered no, since there was still a possibility of appeal.

**4\*) Executive Session for the evaluation of the performance of a public employee.**

The Chair stated that the commission would be going into executive session for 15 minutes beginning at 4:29 p.m. and returning by 4:45 p.m. The Director asked if the commission

would like him to stay or to go, and the Chair answered that the Director should go for the beginning and then the commission could decide whether to call him in.

The Chair resumed the regular session at 4:43 p.m. The Chair stated that last meeting there were conversations about the Director's compensation and asked if there was any conversation or motions related to that issue. Commissioner Norton moved to increase the annual salary to \$177,000, the motion was seconded by Commissioner Donckers. The Chair asked if there was any discussion on the motion. Commissioner Donckers said that he appreciated the Director's hard work this year and he knows that it was a complex year and the Director always put his job and his commitment to the city first and he wanted to thank the Director. Commissioner Donckers also lauded the Director for keeping the team together in a challenging election year and thanked the staff for acting in support as well. The Chair noted that the thing most people associate with the commission is the Democracy Voucher Program and it is in its infancy still and it has been going great, and the Director's leadership around that has been remarkable especially in light of the last year and the Chair is happy to see the program grow and thanked the Director for his work on the program. The Director thanked the commission and the commission thanked the Director. The motion passed unanimously. The next scheduled meeting is for February 5. The Chair asked if there was any further discussion from the commission, and thanked the commission for elevating him to Chair. He said he would be reaching out to people individually to see if they would be interested in being the next Vice Chair, and they could elect a Vice Chair at the next meeting.

**The Special Commission meeting of January 8, 2019 adjourned at 4:51 p.m.**