

Seattle Ethics and Elections Commission Regular Meeting

June 1, 2022

A regular meeting of the Seattle Ethics and Elections Commission (SEEC) convened in Seattle Municipal Tower Conference Room 4080 and remotely. Vice Chair Zach Pekelis called the meeting to order at 4:01 p.m. The Vice Chair and Commissioners Kristin Hawes, Richard Shordt, Chalia Stallings-Ala'ilima, Susan Taylor, and Jeff Winmill were present remotely; Chair Hardeep Singh Rekhi was absent. Executive Director Wayne Barnett was present and joined by staff members Chrissy Courtney, Cliff Duggan, and René LeBeau. Staff members Amar Fedden, Randal Fu, and Polly Grow, and Assistant City Attorney Teresa Chen joined remotely.

Vice Chair Pekelis greeted the Commissioners and introduced the new Mayor-appointed Commissioner Chalia Stallings-Ala'ilima. Commissioner Stallings-Ala'ilima works in the Washington State Attorney General's Civil Rights Division and is pleased to be joining the Commission. On behalf of the Commission, the Vice Chair congratulated the Commissioner on her appointment.

Action Items

1. Minutes for April 6, 2022, regular meeting

The Vice Chair introduced the first order of business: approving the April 6, 2022, Commission regular meeting minutes. After an opportunity for review, the Vice Chair welcomed a motion to approve by Commissioner Taylor, which was seconded by Commissioner Shordt. The motion to approve the April 6, 2022, Commission regular meeting minutes passed unanimously.

2. F-1 Modification Request

The second item of business is the request by Seattle City Attorney Ann Davison to modify her financial reports filed with the SEEC. Vice Chair Pekelis recused himself from the discussion to avoid any perceived appearance of bias as he works closely with the City Attorney's Office. The Vice Chair then asked Commissioner Shordt to conduct the discussion. Commissioner Shordt invited Director Barnett to provide some background information and comment on the request.

The Director explained that Ms. Davison is requesting to have her personal residence address removed from her submitted forms. The Director shared that State law provides to "judges, prosecutors, sheriffs, or their immediate family members" the option to substitute the physical address with other generic information. The Washington State Public Disclosure Commission (PDC) ruled at their April meeting to permit Ms. Davison to amend her State forms.

SEEC Administrative Rule 6, Section B.3, allows the Commission to accept form modifications granted by the PDC to City officers who have also filed a request with the SEEC. The Director recommended the Commission grant Ms. Davison's request. Commissioner Shordt asked if any Commissioner had a question for the Director.

Commissioner Hawes inquired if any other City Attorneys had requested similar modifications. Director Barnett said that no previous City Attorney had requested modifications; however, Mayor Durkan had previously submitted a request. Commissioner Winmill asked if there was any provision in the City Code that mirrors the State's confidentiality program. The Director responded there is no such provision and may not be

feasible as there is only one prosecuting City Attorney.

Commissioner Shordt requested a motion to approve the City Attorney's request. The motion was made by Commissioner Taylor and seconded by Commissioner Shordt. The Commissioners, with the exception of Commissioner Pekelis, unanimously voted to accept the City Attorney's request to modify the forms filed with the Commission.

Discussion Items

3. Open Public Meeting Act (OPMA) update

The Vice Chair called upon Assistant City Attorney Chen to lead a discussion on upcoming changes to the Open Public Meeting Act (OPMA). Ms. Chen reported that effective June 1, the Governor ended Proclamation 20-28 (Open Public Meetings Act and Public Records Act Proclamations). This removes the requirement for public agencies to default to remote meetings with in-person as an option.

The most significant change is a return to physical locations for meetings with the potential option to attend remotely. One part requiring the Commissioners' direction is to decide on virtual and remote options, anchored by a physical meeting location, for public comment. Public comment will be mandated for every regular meeting in which "final action" is taken. This can be as simple as a group consensus or approving meeting minutes. A regular meeting not requiring "final action" would be when presentations are given, only discussion items are on the agenda, or it is an appeals hearing.

Public comment may be received orally or in written format. If the written format is accepted, the Commission may set deadlines on how and when to receive comments. Public comment should be set up so that people who show up to the physical meeting room are able to participate. Written comments would need to be distributed in time for each Commissioner

to review before the meeting.

The amendment does confirm that the SEEC Commissioners may all attend remotely if they wish. However, there is still a need for a scheduled room and adequate staff to allow the public to attend and to facilitate remote oral public comment. The Vice Chair asked if public comment could be confined to a particular “final action”. Ms. Chen responded that the amendment does not set those requirements but is aware that the City Clerk’s Office and IT are potentially working through the logistics. Commissioner Hawes asked about the staffing requirement needed to accommodate the option for in-person public comments. Ms. Chen would defer to Director Barnett on the number of staff. Although staff may attend remotely, sufficient support is needed to ensure the meeting is fully operative in case there is public attendance. The Director confirmed that in the past there have been a couple of special meetings with just one staff person in attendance.

Commissioner Hawes asked if there was an option of preferring written comment for some meetings than affording an in-person oral option where there might be issues of greater concern to the public. The Commissioner wondered if there is a need to have a consistent policy for all meetings. Ms. Chen believes the Commission has flexibility in deciding the option and advised that it should be communicated in advance to members of the public who wish to participate and to make them aware of what comment format is being accepted.

The Vice Chair questioned if the Commissioners should have a discussion now regarding the methods favored going forward or to take some time to gather thoughts and discuss at the next regular meeting. Commissioner Taylor expressed interest in hearing Director Barnett’s perspective. The Director stated that with the difficulties in past live meetings with public speakers, he would lean towards accepting written public comment and

only in special cases have the opportunity for the public to give live comment. Ms. Chen advised to set a deadline for the duration of public written comments, i.e., comments would need to be received 24 hours before the next scheduled meeting. Commissioner Taylor raised the question of a required notice period if an agenda with a “final action” item is posted at the last minute. Ms. Chen responded that OPMA does not specifically require anything like that. It would come down to what the Commission believes is reasonable and then apply that standard equally to remote or in-person participation.

The Vice Chair expressed his belief that it makes sense for routine matters, like the approval of prior meeting minutes, to allow written comment. A default rule may be to publish the agenda and the previous meeting’s minutes a week in advance and ask for public comments no later than 48 hours before the next scheduled meeting. The Vice Chair also believes that any individual Commissioner could reach out to the Executive Director and Chair to express if they would favor oral comment for a particular meeting. The Vice Chair said the public certainly has a right to be heard, and there are many instances where it is not feasible to provide advanced written testimony on a subject. The Vice Chair would like to see a regular protocol, a default rule and then a particular protocol for modifying the default rule going forward.

Commissioner Hawes asked Director Barnett if disseminating public comments to the Commissioners for review prior to 48 hours before a meeting was a realistic timeline for the staff. The Director said yes and that 24 hours would work as well. The Vice Chair voiced concern that there may be circumstances where the volume of comments received may not be feasible to review within 24 hours. Commissioner Hawes also stated her support of having written comments as an initial default with the option to provide an oral comment mechanism

if the issue mandates or at the request of a Commissioner or the Director. Commissioner Shordt agreed that a written public comment default makes sense and to leave it up to the discretion of the Chair and Commission to allow oral public comments. Commissioner Shordt believes that once an agenda is posted, Commissioners will have a good idea of what comments might be expected. Commissioners Taylor and Winmill concurred with Commissioner Shordt.

The Vice Chair asked Ms. Chen if there was a need to take a more formal action to set this default protocol in place. It is Ms. Chen's opinion that sufficient direction has been provided to staff. Ms. Chen noted that the next scheduled regular meeting on July 6, and the Commission may start this option. Director Barnett said the staff can certainly do whatever is going to work best for the Commissioners and the staff. Ms. Chen reiterated that the public would need to have notice of when comments are due and to have the agenda posted in a timely manner. The Vice Chair thanked Ms. Chen for the briefing.

4. Democracy Voucher Program report

Vice Chair Pekelis called on Ms. LeBeau for the Democracy Voucher Program report. Ms. LeBeau talked about updating the 2021 Biennial Annual Report based on two questions from Commissioners at the previous regular meeting. First, on Page 10, a description was added on how people who access the Online Portal go through authentication. Second, the map on Page 12 was updated using the new 2020 Census data and tracks the number of people who were 18 years old and older with a percentage of who used their Democracy Vouchers.

Two analyses will be done with BERK Consulting, and with Georgetown University and Stony Brook University. A contract and scope of work has been finalized with BERK to

look at the candidate pool by gender and race with a focus on the election outcome and margins of victory for both the Primary and General elections. Also included will be a breakdown of candidate races with incumbents and those without. BERK can also look at voucher return demographics by neighborhood characteristics to provide guidance. Other reporting will be done by academics Jennifer Heerwig (Stony Brook) and Brian McCabe (Georgetown). They have been observing the Program since the beginning and agreed to take a detailed look at who the users really are to provide more in-depth demographics.

Ms. LeBeau reported on the Request for Proposals (RFP) for Community-Based Organizations (CBO). The Democracy Voucher Program has worked with CBOs during the last two election cycles. This is basically providing paid contract opportunities for groups to do outreach. A couple of modifications were made for this coming year. The budget is still set at \$225,000; however, the dollar amount of individual contracts has been reduced to a maximum of \$15,000. Also, up to \$150,000 of the money will be specifically focused on program education and enrollment for legal permanent residents who are not current voters but wish to use vouchers. To increase this participation, the CBOs will implement greater awareness of this opportunity. Discussions have begun with the Department of Neighborhoods' Community Liaisons to help spread the word ahead of the RFP launch on July 11. The RFP process will remain open through September 16.

Ms. LeBeau mentioned the next significant date for the Democracy Voucher Program is July 1 of this year when (2023) candidates may begin to submit their program registration packet, which includes qualifying contributions, filed C-3s, and a signed program pledge. The staff is updating all training resources to focus specifically on the 2023 election cycle.

Commissioner Hawes asked if the BERK data will provide an analysis portion that looks at the efficacy of past participating CBOs in reaching the different communities. Ms. LeBeau responded that the issue had not previously discussed and that it may be difficult to bridge those two components together and decide on how to measure. The upcoming RFPs will be asking for more metrics such as how many items are being distributed, where and to whom, which languages are being used, etc. The current goal is to cast a wider net to involve more of the City's numerous organizations.

5. Executive Director's report

Director Barnett provided an update on the submittal of CY2021 Financial Interest Statements. On May 4, 100 percent of required employee compliance was achieved although the statements were due April 15. Cliff Duggan did a wonderful job of tracking down and working with employees and departmental contacts to reach this goal.

The Director reported on the status of the 2023-2024 Proposed Budget. The Director stated that SEEC emerged with essentially the same budget numbers as last year even though the City Budget Office asked each department to make cuts given the budget climate. SEEC was successful in communicating to the Office that there was no excess to cut.

An update was given regarding the denied dismissal of Case No. 21-1-0901-1 discussed at the April 6 Commission regular meeting. The Director said the party involved in the complaint is out of the office and will return June 15. They will be contacted at that time regarding the dismissal being denied.

The next scheduled Commission regular meeting is July 6. The Director will be communicating with the Commissioners to gauge their availability or to determine if the meeting needs to be moved.

The Director shared that he will be attending a “Public Finance Administrators Gathering” to discuss state and municipal agencies’ campaign financing programs in Albuquerque July 14-16. The following week, the Director will be representing the City of Seattle at the German Marshall Fund of the United States’ “Cities Fortifying Democracy Forum” in Berlin July 18-23. The Forum will focus on topics including creative engagement practices, discussions around minimizing debilitating polarization in communities, how to bring youth into the effort to strengthen democracy, etc., of which the Democracy Voucher Program will be an important part of the conversation.

The Vice Chair thanked the Director for the update and asked if any of the Commissioners had further discussion items to at this time. Upon hearing none, the Vice Chair again welcomed Commissioner Stallings-Ala’ilima and thanked the Commissioners and staff for their time and participation. There being no further business, the Vice Chair adjourned the SEEC Commission regular meeting of June 1, 2022, at 4:42 p.m.