

Seattle Ethics and Elections Commission Regular Meeting

June 5, 2024

The June 5, 2024, Seattle Ethics and Elections Commission (SEEC) Regular Meeting convened in Seattle Municipal Tower Conference Room 4080 and remotely. Vice-Chair Susan Taylor was present. Chair Kristin Hawes and Commissioners Zach Pekelis, Richard Shordt, and Chalia Stallings-Ala'ilima participated via Webex. Commissioners David Perez and Hardeep Singh Rekhi were absent. Executive Director Wayne Barnett and staff members Fedden Amar, Cliff Duggan, Randal Fu, Polly Grow, and Renée LeBeau were present. Staff Chrissy Courtney and Neelam Shaw participated via Webex as well as Assistant City Attorneys Joe Levan and Gary Smith.

The Chair called the meeting to order at 4:01 p.m.

Discussion of Written Public Comment

A letter dated June 4, 2024, from community leaders, organizations, and members of the People Powered Election Washington coalition to the Seattle Ethics and Elections Commission was distributed to Commissioners on June 4. The Chair recommended comment on the letter be held until Discussion Item No. 1.

Final Action Items

1. Adoption of May 1, 2024, Commission Regular Meeting minutes

The Chair asked if there were any comments, questions, or revisions regarding the minutes. The Vice-Chair recommended for clarity that “replacement forms” be added to the second to last line of Page Two. The Chair asked for a motion to adopt the minutes. The Vice-Chair made the motion to adopt the minutes, and it was seconded by Commissioner Pekelis.

The May 1, 2024, SEEC Commission Special Meeting minutes as noted were adopted by unanimous vote.

2. Review of opinion given to Councilmember Tanya Woo

The Chair stated this matter involved the Commission's review of an opinion issued by Director Barnett to Councilmember Tanya Woo regarding her involvement with the Council's consideration and vote on Council Bill 120775, which is related to compensation for app-based workers. The Commission will consider this matter in a quasi-judicial role. So as to avoid the appearance of improper influence, the Commission will not accept public comments on this agenda item but will limit consideration to the testimony of Director Barnett and Councilmember Woo or her designee as she is the individual who requested this review.

The Director reviewed his assessment of Councilmember Woo's query and the advice he provided to her. The Director met with the Councilmember and her staff the week of May 27 regarding the request for advice on whether she could participate in the upcoming consideration of the app-based worker bill.

The Director considered the Ethics Code to be very clear on barring covered individuals from participating in matters in which they or an immediate family member have a financial interest. [SMC 4.16.070] The definition matter includes legislation.

"Immediate family" includes parents, siblings, and children, as well as the spouse or domestic partner and their parents, siblings, and children. Financial interest is not defined, but the Director looked to a definition from the Code of Federal Regulations which refers to a close causal link between the matter and financial interest. With each element of the section satisfied, the Director advised Councilmember Woo to refrain from participating in voting on the Council's app-based worker bill.

The Director also looked at whether any exceptions to law applied. One exception is for an interest that is shared with a substantial segment of the population. In 2010, the full Commission advised one councilmember that they could vote on legislation affecting areas of the City's Low-Rise 3 (LR3) zoning, even though they themselves lived in a LR3 zone as one-third of the City was zoned for LR3. Also in 2010, a councilmember was advised they could not vote on the City's landlord tenant legislation. The councilmember was a landlord; landlords made up only five percent of the population.

The Director looked at the number of restaurant business licenses to see if it was broad enough for the Councilmember to qualify for an exemption. The Director believes there are roughly 4,000 business licenses for Seattle restaurants, not near the level of 75,000 needed to potentially qualify.

At the conclusion of his written advice, the Director noted that the Councilmember had the ability to ask for an opinion from the full Ethics and Elections Commission.

The Chair thanked the Director and then welcomed Councilmember Woo asking if the Councilmember would like to make her presentation to the Commission.

Councilmember Woo thanked the Director and the Commission for the opportunity to speak. The Councilmember said she is doing her due diligence in making sure to get the opinions of the Commissioners. In full transparency, the Councilmember told the Director that her family owns a small neighborhood restaurant in the Chinatown-International District and contracts with an app-based delivery service. The restaurant is a legacy business over 50 years' old owned by the Councilmember's father-in-law with her husband having a financial stake in the business as well.

The Councilmember said that when the minimum payment ordinance became effective in January of this year, there was a steep drop in sales when it came to single orders or double orders. However, there was a big rise in large orders – it balanced out with revenue staying the same. The Councilmember wants to make sure that she will be able to vote on the app-based delivery legislation going forward. She established that this legislation is about worker compensation and how to incentivize network vendor fees and lower delivery costs. Much of the legislation is how the Council looks at minimum wage per workers. The Councilmember believes that their small business benefit is unclear, and that it is basically an indirect connection.

The Councilmember said if this legislation were to go through, it is unclear how businesses would be affected, if there would be more sales or less sales financially. The Councilmember asked for the Commission's thoughts and opinions, and to pose the question if the SEEC Commission finds how the financial interest in legislation makes changes to pay for app-based workers.

The Chair thanked Councilmember Woo, and opened the floor to questions or comments from the other Commissioners on the information provided by the Director and Councilmember.

Commissioner Stallings-Ala'ilima asked to clarify if this was a question of the Councilmember voting or if it was a question about being part of discussions and looking into the issue and being part of the dialogue. The Director said that "participating" under the law includes both voting and discussing the matter. Participation is defined in the Ethics Code to mean "to consider, investigate, advise, recommend, approved, disapprove, decide, or take similar action."

Commissioner Pekelis asked the Director if there is a *de minimis* exception implicit in the definition of financial interest to the extent that an employee's interest was so small that it could not conceivably be perceived as a motivating factor in their decision making. The Director responded that there is not a *de minimis* exception.

The Vice-Chair asked the Councilmember if her father-in-law owns the entire business, or if they are sharing in a broader group of people unknown to the Commission. The Councilmember responded that it is her father-in-law's and her husband's business. The Vice-Chair is in agreement with the Director's opinion. In the Vice-Chair's view, if there is the possibility of a dual loyalty that people might perceive between the loyalty to family and the responsibility to citizens, it would not be appropriate to participate.

The Chair mentioned that the Councilmember phrased this as a worker compensation issue. It is the Chair's understanding of the statute is that the proponents would also suggest that it will boost restaurant sales. That is not the Commission's job to make that determination. The general standard is whether a financial interest exists that is not subject to the exception that was previously discussed. In this instance, given the Councilmember's husband's ownership and father-in-law's ownership, and the fact that there is an established relationship with DoorDash and perhaps other companies, it appears that the conflict is established. Commissioner Shordt stated he also is inclined to agree with the Director.

Commissioners Pekelis and Shordt commended the Councilmember on being transparent about their interest at stake, and for approaching the Director and the Commission.

The Chair stated the Commission has reviewed the Director's advice and the Director's advice stands. The Commission is not issuing a decision with respect to this instance, but

appreciates the comments and input. The Commission will be mindful of the information going forward and will look forward to seeing if there are other regulatory interpretations that might be beneficial in addressing these issues in the future.

Councilmember Woo thanked the Commission for their comments. The Councilmember said she understands and will accept whatever the Commission thinks is best.

Discussion Items

1. Proposed modification of Elections Code Rule 16.J Regulating the Collection of Democracy Voucher Replacements Forms

The Chair noted that the potential changes to Rule 16.J were discussed at the June 5 Commission Regular meeting. The Chair also acknowledged that the June 4 letter from a coalition of community organizations and individuals endorses the modifications to the Democracy Voucher Program specifically that rule governing collection of replacement vouchers. The Chair asked if there was any public comment

Community activist Rory O’Sullivan spoke on behalf of the People Powered Elections Washington coalition. Mr. O’Sullivan articulated the coalition’s support for the work the Commission Staff has done on the proposed regulation.

The Chair thanked Mr. O’Sullivan for his comments. Regarding the June 4 letter, the recommendation is that there could be two paid staff for districtwide elections and five for citywide elections who could be compensated for soliciting Democracy Vouchers and campaign replacement forms. The Chair asked how those numbers were arrived at for the split for the respective races.

Mr. O’Sullivan responded that the coalition supports the numbers provided by the Commission Staff. The Chair asked Ms. LeBeau to share conversations she and Staff had with respect to the rule changes and the proposed modifications.

Ms. LeBeau said she and Ms. Grow worked on the project and reached out to people who have been working with Democracy Voucher candidates and non-candidates in this area for the entire life of the Program. There was a basic proposal of a variety of items to discuss, and then it was whittled down into a method that can allow for more people to collect campaign replacement forms so that more residents’ vouchers get counted.

The difference in campaign staff numbers is really just the size of a district versus the size of the City of Seattle. Ms. LeBeau and Ms. Grow came up with some guidelines and worked with Assistant City Attorney Gary Smith to incorporate the information into the existing rule to be presented for Commission discussion.

Per the Chair’s request, Ms. LeBeau gave a short run through of the individual changes to the Rule. [The Chair noted that Commissioner Stallings-Ala-ilima had been dropped from the Webex call.]

Regarding an effective date, it is something Staff could try to get the infrastructure built and functioning this year and potentially be ready to go into the 2025 Election Cycle.

The Chair thanked Ms. LeBeau and Ms. Grow. The Chair believes the proposed revisions provide a path forward to what seems like a more workable option for collection of the campaign replacement forms. The Chair requested Mr. Smith to wordsmith the Rule to reflect the discussed changes before a Notice of Public Hearing was submitted ahead of the next Commission meeting.

1. Democracy Voucher Program report

Ms. LeBeau reported all four City Council Position 8 candidates are in the Democracy Voucher Program. Over 6,600 Seattle residents have turned in vouchers. Outreach events include a Juneteenth Celebration with the Africa Community Land Trust and the Vietnamese Summer Festival on June 30. A “Final List of Candidates” media blast will go from June 5-19. Ms. LeBeau and Ms. Amar will be discussing RFPs for the upcoming 2025 Election Cycle Community-Based Organizations.

2. Executive Director’s report

The Director mentioned that the next Regular Meeting is scheduled for July 3. Because of the Fourth of July holiday, the Director will canvass the Commissioners’ availability to reschedule the meeting during the second or third week of July. The Chair agreed on finding a date when there will be enough people attending to vote on the proposed Rule 16.J.

At the completion of the Director’s report, the Chair thanked everyone for their time. The June 5, 2024, SEEC Commission Regular Meeting was adjourned at 4:55 p.m.