**Open and Accountable Elections Meeting**

*August 12, 2020*

**Present:** **Members**: Berk Nelson, Amy Sample Ward, Norman Turrill, Susan, Anahi Rodriguez, Courtney Helstein, Amy Ruiz. **Staff:** OAE Director Susan Mottet and Deputy Director Daniel Lewkow. **Public:** Cristina Nieves, Common Cause Oregon

**Absent**: **Members**: Ricardo Lujan, Sabra Purifoy, Serin Bussell

Agenda

7:05-7:10: Housekeeping

* Review of July meeting minutes
* Request for updated OAEC member bios

OAEC members unanimously approved the July meeting minutes

7:10-7:20: Program Updates

* Budget:
	+ Total amount spent in the Special Election
	+ Total amount spent so far in the regularly-scheduled elections
	+ Honest Elections and future budget allocations

The Special Election for Commissioner #2 had concluded on Aug 11th. OAE spent $914k in matching funds for the entire Special Election, including Primary and Runoff. None of the candidates received the maximum amount of matching funds, which saved the OAE program resources. Fmr. County Commissioner Loretta Smith received $102k in matching funds in the Runoff, and Commissioner-Elect Dan Ryan received $176k in matching funds. Commissioner-Elect Ryan will be the first candidate to take office having fun under the OAE program. In terms of terms of the Regularly-Scheduled Elections, the OAE program spent under $1.5m in matching funds. OAE will likely have around $1m to roll over to the 2022 elections, even if the candidates for Mayor and Commissioner #4 receive the maximum amount of public funding.

The OAEC will need to consider what recommendation to make to the Portland City Council for the next budget cycle. The program may need a larger allocation, because more candidates might run under it since the Honest Elections contribution limits are now being enforced. It is also challenging to base any amount requested on what the candidates raised in the 2020 races, since the COVID pandemic skewed fundraising strategies. We may need to increase the ask to $1.2m. Commissioner Ruiz asked about raising the qualification bar to limit entry to the program and thus reduce costs. Director Mottet said that staff can later provide data on how easy or difficult it was to get certified. OAEC briefly discussed other potential changes, such as changing the six-to-one match rate, modifying the match cap, and adjusting the number of required contributions for candidates running for auditor.

* Website Transfer Update

Staff finished the transfer of content from the old Portlandoregon.gov site to the new Portland.gov site. The content is being reviewed by Commissioner Fritz’s office. Once that is finished, staff can send a link to the OAEC for feedback. The site is currently not public. OAEC discussed whether it was better to make the transition live before of after the election. It was also suggested that the news section be updated.

* User Research Project Update

The contract for the user researcher is still being evaluated and adjusted.

7:20-7:30: Program Location

* Commissioner Fritz’s proposal

Commissioner Fritz suggested amending the code to allow the Mayor to assign the OAE office to whichever location he chooses. OAE Commissioner Turrill said that he did not see a reason to change the idea that the OAE program remain in Commissioner #1’s office. OAE Commissioner Helstein also believes that it should be under Commissioner-Elect Carmen Rubio, particularly since Rubio ran under the program and is familiar with it. Turrill said that this discussion might be taken up by the Charter Review Process, so it could be moot if the CRP decides to move it somewhere else.

7:30-7:45: Complaints and Penalties

* Review of the complaint against candidate Loretta Smith

OAE staff received two complaints against Fmr. County Commissioner Loretta Smith, who was running in the Special Election.

The first complaint was that Smith’s campaign manager had not reported about $6,000 from 24 anonymous donations within the two week reporting deadline. Smith’s campaign manager claimed that he was unable to drop them off at the campaign’s treasurer due to a medical emergency. When he later returned from the hospital, it was unclear who the envelopes were from, and thus how to report the donors. The campaign manager asked the Oregon Election Department’s office for guidance, and OED advised that the campaign record the donation as anonymous, and donate the $6000 to charity, which the campaign did. OAE staff did its own investigation and determined that the campaign manager’s account was likely accurate. There was still the question of how to penalize the campaign for the late reporting. OAE could have fined the campaign half of the total amount—or $3,000—for each of the late donations. But this seemed excessive for what appeared to be a mistake. The OAE Director decided to fine the campaign for one $250 donation, or $125 in fees. Smith’s campaign then filed a Motion to Reconsider, along with evidence of the medical emergency. And the OAE Director then dismissed the complaint

OAE Commissioner Turrill asked if the $6,000 donations were made in cash. OAE Director Mottet confirmed that the donations were cash. Commissioner Turrill said that the amounts would have then been around $240 per donation, which was suspiciously high. Director Mottet said that the fact that the donation was proactively disclosed by the campaign to OAE staff suggested that there was no attempt to hide the donation, and therefore no wrongdoing on the campaign’s part.

The second complaint was that Smith’s campaign received a $9,000 in-kind donation from the International Brotherhood of Electrical Workers, which in addition to her previous donations, would have exceeded the $20,000 in-kind donation limit per election. However, it appeared that it was a mistake, since the treasurer accidentally reported the donation as during the Runoff when it was made during the Primary. OAE staff confirmed this account with IBEW and determined that no violation had occurred.

These complaints were also filed with the Auditor’s office, since the donations allegedly violated the $500 Honest Elections limit. Typically, the Auditor’s office waits for OAE to make a determination and then follows soon. However in this case, the Auditor’s office continued their investigation. OAE staff has connected with the Auditor’s office to get on the same page about the process and the findings.

OAE staff does get complaints that lack evidence. And these take up time and staff attention to resolve and investigate. Staff asked if it could dismiss a complaint for lacking evidence. OAE Commissioner Ruiz suggested researching how other offices deal with frivolous complaints. Perhaps staff could set up a baseline screening to weed out meritless complaints? Commissioner Sample Ward suggested establishing a checklist, especially if this was an issue that staff already investigated.

7:45-7:55: Public Comment open on the Auditor’s rules

The Auditor’s office recently issued rules about how it will enforce Honest Elections. And it is currently taking public comment on those rules. OAE Director Mottet pointed out that those rules could benefit from additional details and further clarification, since for example there is no cure period and no definition of what a small donor committee is. OAEC member should feel free to offer public comment or invite an organization to offer public comment

7:55-8:05: OAEC Report

* Review of the introduction outline

The goal is for the OAEC report to be finished and published in early 2021. Hopefully OAEC members can include the results of the user research work in the report. OAEC Commissioner Sample Ward suggested flagging the process for receiving complaints.

* Discussion of collaborating with C&E Systems for certain data points

OAE staff discussed the issue of how to collect contribution data from candidates who did not participate in OAE, for comparison purposes. Staff shared the idea of asking the commonly-used campaign treasurers (C&E Systems and Imperium Political Strategies) to share the data of non-OAE candidates from 2020 and previous election cycles. The information does not need to include information about the donors. Just a broad list of who they gave to, how much the donations were, and what zip codes they came from. OAE Commissioner Sample Ward asked if we ‘d pay the treasurers for this info, but Director Mottet explained that we would just ask since we have a strong relationship with them. Commissioner Ruiz suggested explaining exactly what the program would do with the data, to reassure candidates before they share it. Ruiz suggested not reporting on all candidates but focusing on the candidates in the runoffs. Ruiz also suggested breaking down the data by precinct and Commissioner Turrill suggested by neighborhood. Director Mottet pointed out that Hack Oregon, which runs the OpenElectionsPortland.org site, has no way of bringing quality control to the geo-coding process.