

**DRAFT SPECIAL MEETING MINUTES**

July 16, 2018

**I. Call to Order & Orders of the Day**

**Roll Call**

**PRESENT:** Chair Adrian Gonzales, Vice Chair Chris Peacock (arrived at 5:48 p.m.), and Board Members Thomas Goodwin, and Madhavee Vemulapalli

**ABSENT:** Board Member Amarpal Randhawa

**STAFF:** Deputy City Attorney Mark Vanni, City Clerk Toni Taber (arrived at 6:06 p.m.), and Sr. Deputy City Clerk Cecilia McDaniel

**OTHER:** None

**Call to Order**

The members of the San José Board of Fair Campaign and Political Practices convened at 5:42 p.m. in Room T-1734 of City Hall, 200 E. Santa Clara Street, CA 95113.

**Orders of the Day**

Action: Upon motion by Board Member Thomas Goodwin, seconded by Board Member Madhavee Vemulapalli and carried, the Board approved the adoption of the July 16, 2018 agenda. (3-0-2. Absent: Peacock and Randhawa)

**II. Closed Session – None.**

**III. Hearings**

- A. Hearing on Complaint filed by Ngoc Do on may 14, 2018 against Thomas Duong alleging violations of San José Municipal Code section 12.06.100-1030 (Electioneering Communications – Lawns Signs) (Independent Investigator/Evaluator)

Document Filed: Report from Hanson Bridgett LLP dated July 3, 2018 regarding Ngoc Do v. Thomas Duong, Complaint Filed May 14, 2018.

Discussion: Chair Adrian Gonzales opened the public hearing. No representative for Complainant Ngoc Do nor Respondent Thomas Duong were present so no testimony given.

Vice Chair Chris Peacock arrived at 5:48 p.m.

There was no public comment. Evaluator Steven Miller summarized the Complaint, his report, and his recommendations to the Board. The Board discussed the matter.

Action: Board Member Thomas Goodwin moved that the Board find sufficient evidence to establish that no violation occurred, and that the file in this matter be closed without further action. Board Member Madhavee Vemulapalli seconded the motion, which carried. (4-0-1. Absent: Randawa.)

Action: Upon a motion by Board Member Thomas Goodwin, and seconded by Vice Chair Peacock and carried, the Board moved to direct the City Attorney to draft a resolution on the Board's findings, and further, that the Board authorize the Chair to approve and sign the resolution. (4-0-1. Absent: Randawa.) Chair Adrian Gonzales declared the hearing on this matter closed at 5:54 p.m.

- B. Hearing on Complaint filed by Mimi Dang on May 14, 2018 against Le Pham and CM California Magazine alleging violations of San José Municipal Code section 12.06.910 (Reporting Requirements for Independent Committees) (Independent Investigator/Evaluator)

Document Filed: Report from Hanson Bridgett LLP dated July 3, 2018 regarding Mimi Dang v. Le Pham and CM California Magazine, Complaint Filed May 14, 2018.

Discussion: Chair Adrian Gonzales opened the public hearing. No representative for Complainant Ngoc Do nor Respondent Thomas Duong were present so no testimony given.

There was no public comment. Evaluator Steven Miller summarized the Complaint, his report, and his recommendations to the Board. Evaluator Steven Miller reported that further investigation is needed and it is more likely than not that a violation occurred. Based on the preliminary investigation, the Evaluator recommends the complaint be amended to include additional respondents. The Board discussed the matter.

Action: Chair Adrian Gonzales moved to direct the Evaluator to continue its investigation of the Complaint and that the Complaint be amended to include the following additional Respondents: Omar Vasquez, Johnthan Fleming, Chris Le, and Thomas Duong. Board Member Thomas Goodwin seconded the motion, which carried. (4-0-1. Absent: Randawa.)

Action: Upon a motion by Board Member Madhavee Vemulapalli, and seconded by Vice Chair Peacock and carried, the Board moved to continue the hearing to a future date. (4-0-1. Absent: Randawa.)

- C. Hearing on Complaint filed by Robert Imhoff-Dousharm on May 31, 2018 against Re-Elect Magdalena Carrasco for City Council D5 2018 alleging violations of San José Municipal Code section 12.06.100-1030 (Electioneering Communications – Social Media) (Independent Investigator/Evaluator)

Documents Filed: 1) Report from Hanson Bridgett LLP dated July 3, 2018 regarding Robert Imhoff-Dousharm v. Re-Elect Magdalena Carrasco for City Council D5 2018, Complaint Filed May 31, 2018; and 2) Response by Respondent Magdalena Carrasco dated July 11, 2018.

Discussion: Chair Adrian Gonzales opened the public hearing. Complainant Robert Imhoff-Dousharm was present. No representative for Respondent Magdalena Carrasco was present.

Complainant Robert Imhoff-Dousharm provided public comment in support of his Complaint in lieu of providing testimony. Evaluator Steven Miller summarized the Complaint, his report, and his recommendations to the Board. The Board discussed the matter.

Action: Chair Adrian Gonzales moved that the Board dismiss the Complaint for lack of sufficiency, and close the file in this matter without further action. Motion not seconded; motion failed.

Action: Upon a motion by Board Member Thomas Goodwin, and seconded by Vice Chair Peacock and carried, the Board moved to direct the Evaluator to research and provide a historical flow of advice given by the Fair Campaign and Political Practices Commission as it relates to social media, Title 12, and this matter. (4-0-1. Absent: Randawa.)

Action: Upon a motion by Chair Adrian Gonzales, and seconded by Board Member Thomas Goodwin and carried, the Board moved to continue the hearing August. (4-0-1. Absent: Randawa.)

**IV. Public Record – None.**

**V. Consent Calendar**

A. Approve the Minutes of June 13, 2018 – Regular Meeting

Action: Minutes were not drafted in time for meeting so approval deferred to August.

**VI. Reports**

A. Chair – None.

B. City Attorney –

1. Legislative update – None.
2. Election update – None.

C. City Clerk

1. Legislative update – None.
2. Status report on filings (Form 700, Campaign Statements, Lobbyist) – None.

3. Elections update – None.
4. Update on Board Expenditures

Document Filed: Hanson Bridgett Contract Expenses FY 17-18 Spreadsheet from City Attorney's Office.

Discussion: City Clerk Toni Taber reported no additional expenditures have been made since the last meeting. Sr. Deputy City Clerk Cecilia McDaniel informed the Board that the IT Department was no longer allowing Commissioners and Board Members to forward their City email address to their personal email accounts. A Public Records Act Request could require the City to access Commissioner and Board Member personal email accounts if the Commission/Board Member emails are forwarded to personal inboxes.

D. Investigator/Evaluator – None.

## **VII. Old Business**

- A. Discussion and possible action on report from Ad Hoc Committee for Public Education Campaign. (Chair Adrian Gonzales and Vice Chair Chris Peacock)

Discussion: Chair Adrian Gonzales discussed ways a City Clerk summer intern can assist the Board to create and compile informational material. Sr. Deputy City Clerk Cecilia McDaniel reported that there are summer interns available to assist with this project.

- B. Discussion and possible action on report from Ad Hoc Committee for Complaint Intake Process. (Chair Adrian Gonzales and Board Member Thomas Goodwin)

Discussion: Chair Adrian Gonzales discussed ways a City Clerk summer intern can assist the Board to research the complaint intake process of other agencies. Sr. Deputy City Clerk Cecilia McDaniel reported that there are summer interns available to assist with this project.

- C. Discussion and possible action on report from Ad Hoc Committee for Campaign Contribution Calculation. (Chair Adrian Gonzales and Board Member Thomas Goodwin)

Action: Chair Adrian Gonzales summarized the teleconference between the members of the Ad Hoc Committee for Campaign Contribution Calculation, the Attorney's Office, and the City Clerk's Office with the Board. Deputy City Attorney Mark Vanni will bring suggested changes to Title 12 to adjust the campaign contribution calculation to the Board in August.

- D. Scheduling of Special Ethics Commission meeting if needed. (City Clerk)

Action: No action needed.

**VIII. New Business**

- A. Discussion and possible action on Board's FY 2018-19 Work Plan and FY 2017-18 Annual Report. (Chair Adrian Gonzales)

Documents Filed: 1) Draft FY 2018-19 Board Work Plan; and 2) Draft FY 2017-18 Board Annual Report.

Discussion: Chair Adrian Gonzales reviewed the Draft FY 2018-19 Work Plan and Draft FY 2017-18 Annual Report with the Board. Deputy City Attorney Mark Vanni suggested that the reference language on item #8 on the Draft FY 2018-19 Board Work Plan include a note that SJMC 12.06.920 was repealed.

Action: Chair Adiran Gonzales requested that recommended changes be emailed to him for inclusion. Item will be brought back at August meeting for final approval.

**IX. Public Comment – None.**

**X. Future Agenda Items**

- Continued hearing on Mimi Dang Complaint
- Continued hearing on Robert Imhoff-Dousharm Complaint
- FY 2018-19 Work Plan and FY 2017-18 Annual Report

**XI. Adjournment**

The next meeting is scheduled for August 8, 2018 at 5:30 p.m. in Room W-120.

Action: Upon a motion by Board Member Thomas Goodwin, seconded by Board Member Madhavee Vemulapalli and carried, the Board approved to adjourn the meeting at 7:46 p.m.

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ADRIAN GONZALES, CHAIR

ATTEST:  
BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES SECRETARY

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TONI J. TABER, CMC  
CITY CLERK