

DRAFT MEETING MINUTES

November 8, 2017

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Adrian Gonzales, and Board Members Madhavee Vemulapalli, Thomas Goodwin, and Amarpal Randhawa

ABSENT: Vice Chair Chris Peacock

STAFF: Sr. Deputy City Attorney Neelam Naidu, City Clerk Toni Taber, and Sr. Deputy City Clerk Cecilia McDaniel

OTHER: Independent Evaluator/Investigator Steven Miller

Call to Order

The members of the San José Board of Fair Campaign and Political Practices convened at 5:35 p.m. in Room W-120 of City Hall, 200 E. Santa Clara Street, CA 95113.

Orders of the Day

Action: Upon motion by Board Member Amarpal Randhawa, seconded by Board Member Thomas Goodwin and carried, the Board approved the adoption of the November 8, 2017 agenda. (4-0-1. Absent: Peacock.)

II. Closed Session – None.

III. Hearings

- A. Hearing on Complaint filed by Elizabeth Plane on September 29, 2017 against Pam Foley for San Jose City Council D9 2018 alleging violations of San Jose Municipal Code section 12.06.290 (Campaign Contribution Period) (Independent Investigator/Evaluator)

Document Filed: Corrected Report from Hanson Bridgett LLP dated October 30, 2017 regarding Elizabeth Plane v. Pam Foley for San Jose City Council D9 2018, Complaint Filed September 28, 2017

Discussion: Chair Adrian Gonzales opened the public hearing. No representative for Complainant Elizabeth Plane nor Respondent Pam Foley for San Jose City Council D9 2018 Committee were present so no testimony given. Public Member Eric Stroker informed the Board that he believes the Respondent is exploiting a grey area of the rules and that the Board should prevent campaigns from exploiting the rules.

Evaluator Steven Miller summarized the Complaint, his report, and his recommendations to the Board. Evaluator Steven Miller also clarified that the report states that the candidate in the Khamis Complaint sent the emails referenced in the report when in fact it was the independent expenditure committee. A corrected copy will be posted to the agenda. The Board discussed the matter.

Action: Board Member Amarpal Randhawa 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 Thomas Goodwin seconded the motion, which carried. (4-0-1. Absent: Peacock.)

Each Board Member in attendance certified that he or she personally heard the testimony at the hearing and reviewed the entire evidence in the record.

Action: Upon a motion by Board Member Thomas Goodwin, and seconded by Board Member Madhavee Vemulapalli 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: Peacock.) Chair Adrian Gonzales declared the hearing on this matter closed at 6:04 p.m.

IV. Public Record – None.

V. Consent Calendar

- A. Approve the Minutes of September 13, 2017 – Regular Meeting
- B. Approve the Minutes of October 11, 2017 – Regular Meeting

Documents Filed: Draft Minutes for the September 13, 2017 and October 11, 2017 regular Board meetings.

Action: Upon a motion by Board Member Thomas Goodwin, seconded by Board Member Madhavee Vemulapalli and carried, the Board approved the Minutes of the September 13, 2017 and October 11, 2017 Board meetings. (4-0-1. Absent: Peacock.)

VI. Reports

A. Chair – None.

B. City Attorney –

- a) Legislative update – None.
- b) Election update – Sr. Deputy City Attorney Neelam Naidu is responding to inquiries received through the Campaign Guidance email and phone line.
- c) Gift Ordinance update –

Documents Filed: 1) Memorandum to the Honorable Mayor and City Council from Richard Doyle dated October 11, 2017 regarding Consideration of an

Ordinance to amend the City's Gift Ordinance, under San José Municipal Code Chapter 12.08, as directed by Council at its August 15, 2017 meeting (CC 10/24/17, Item 3.4); 2) Draft Gift Ordinance; and 3) Memorandum to the Honorable Mayor and City Council from Councilmember Lan Diep dated October 24, 2017 regarding amendment of the City's Gift Ordinance (CC 10/24/17, Item 3.4).

Discussion: Sr. Deputy City Attorney Neelam Naidu reported that the Gift Ordinance was approved for publication by the City Council at its October 24, 2017 meeting, approved for adoption at its November 7, 2017 meeting, and will become effective on December 7, 2017.

Action: No action taken.

C. City Clerk

- a) Legislative update – None.
- b) Status report on filings (Form 700, Campaign Statements, Lobbyist) – City Clerk Toni Taber reported that the lobbyists are filing weekly reports. An online tour of the public portal for the Form 700s and Campaign Statements will be given at the next meeting since changes are being made to the website.
 - a) Status of Netfile Contract - The Clerk's Office is still in the bid process.
- c) Elections update – City Clerk Toni Taber reported that the Evergreen petition is currently being circulated.
- d) Update on Board Expenditures

Document Filed: Hanson Bridgett Contract Expenses FY 16-17 Spreadsheet from City Attorney's Office.

Discussion: Sr. Deputy City Clerk Cecilia McDaniel reported that the expense from Hanson Bridgett for the complaint heard tonight will appear on the spreadsheet for review at the next meeting.

D. Investigator/Evaluator – None.

VII. Old Business

- A. Discussion and possible action on report from ad hoc committee on community outreach. (Vice Chair Chris Peacock and Board Member Amarpal Randhawa)

Action: No updates. Chair Adrian Gonzales will entertain a motion at the next meeting to dissolve ad hoc committee if no action being taken.

- B. Discussion and possible action on biennial review of the San Jose Municipal Code Title 12, City Council Resolution 77879 and other administrative policies. (City Clerk)

Document Filed: 1) Memorandum to the Mayor and City Council from Toni J. Taber dated October 24, 2017 regarding actions related to Board of Fair Campaign and Political Practices recommended revisions to Title 12 and the San José City Council Resolution 77879 (CC 10/24/17, Item 3.8); 2) Draft changes to San José City Council Resolution 77879; 3) Memorandum to the Rules and Open Government Committee from Toni J. Taber dated October 11, 2017 regarding Board of Fair Campaign and Political Practices SJMC Title 12 and the San José City Council Resolution 77879 recommended revision (ROGC 10/11/17, Item G.3); and 4) San José City Council Resolution 78390.

Discussion: Sr. Deputy City Clerk Cecilia McDaniel reported that the changes to Title 12 as recommended by the Rules and Open Government Committee on October 11, 2017 was approved for publication by the City Council at its October 24, 2017 meeting, approved for adoption at its November 7, 2017 meeting, and will become effective on December 7, 2017. Changes to the San José City Council Resolution 77879 were adopted by the City Council on October 24, 2017 through resolution number 78390.

Action: No action taken.

- C. Consider a change to the Revolving Door Ordinance that mitigates potential conflicts of interest and simplifies the rules surrounding former designated employees who work for non-profit organizations as lobbyists or on legislative or administrative matters which they worked on as part of their City employment. Potential policy directions include:
- a) Narrowing the non-profit exemption to 501(c)(3) organizations, regardless of whether the organization had received support from the City; or
 - b) Striking the non-profit exemption, such that the same rules apply whether former designated employees go to work for non-profit or for-profit organizations.

(City Clerk)

[Referral from City Council on September 12, 2017 - Item 3.6]

Documents Filed: 1) Memorandum to the Honorable Mayor and City Council from Toni J. Taber dated August 31, 2017 with the Audit Report of the City's Open Government (CC 9/12/17, Item 3.6); 2) City Council Synopsis for September 12, 2017, Item 3.6 (page 11); and 3) San José Municipal Code section 12.10.010 (Revolving Door Ordinance).

Discussion: Sr. Deputy City Clerk Cecilia McDaniel reviewed the referral language from the City Council with the Board.

Action: Chair Adrian Gonzales directed staff to setup a teleconference with the ad hoc committee and the City Attorney's Office to discuss this issue in depth. The ad hoc committee will bring findings to the Board for review at the next meeting.

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

Action: No action taken. Sr. Deputy City Clerk Cecilia McDaniel informed the Board that City Clerk Toni Taber and her will be attending a conference the week of December 12th. There will be another staff member covering the December meeting.

VIII. New Business – None.

IX. Public Comment – Erik Stroker requested that the Board review the municipal code to better define the difference between solicitation of donations and planning for donations. The municipal code is ambiguous.

X. Future Agenda Items

- Discussion and review of community outreach materials
- Referral from Council re Revolving Door Ordinance
- Demonstration of Public Portals
- Creation of Ad Hoc Committees for public education campaign and complaint intake process
- Update on Efiling Contract

XI. Adjournment

The next regular meeting schedule for December 13, 2017 at 5:30 p.m. in Room W-120.

Action: Upon motion by Board Member Thomas Goodwin, seconded by Board Member Amarpal Randhawa and carried, the Board approved to adjourn the meeting at 6:30 p.m. (4-0-1. Absent: Peacock.)

ADRIAN GONZALES, CHAIR

ATTEST:
BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES SECRETARY

TONI J. TABER, CMC
CITY CLERK