

MEETING MINUTES

July 13, 2016

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Michael Smith, Vice Chair Rolanda Pierre Dixon and Commission Member Adrian Gonzales

ABSENT: Commission Members Chris Peacock and Madhavee Vemulapalli

STAFF: Deputy City Attorney Arlene Silva, City Clerk Toni Taber, Sr. Deputy City Clerk Cecilia McDaniel

OTHER: Independent Investigators/Evaluators Steven Miller and Caroline Lee

Call to Order

The members of the San José Ethics Commission convened at 5:33 p.m. in Room W-120 of City Hall, 200 E. Santa Clara Street, CA 95113.

Orders of the Day

Action: Upon motion by Commissioner Adrian Gonzales, seconded by Vice Chair Rolanda Pierre Dixon and carried, the Commission approved the adoption of the July 13, 2016 agenda. (3-0-2. Absent: Vemulapalli and Peacock.)

II. Closed Session – None.

III. Hearings

- A. Hearing on Complaint filed by Leslie Little on June 6, 2016 against an Unnamed Respondents (notices sent to Pat Waite and William Bellou) alleging violations of the San Jose Municipal Code (Independent Investigator/Evaluator)

Documents Filed: 1) Report from Hanson Bridgett LLP dated July 6, 2016 regarding Leslie Little v. Unnamed Respondents (notices sent to Pat Waite and William Bellou) Complaint filed June 6, 2016; and 2) Supplemental Report from Hanson Bridgett LLP dated July 8, 2016.

Discussion: Chair Michael Smith opened the public hearing. Evaluator Steven Miller summarized the Complaint and his recommendations to the Commission. Complainant Leslie Little and Respondent William Bellou were not present. Respondent Pat Waite was present and provided testimony and responded to Commission questions.

Action: Chair Michael Smith moved that the Commission find that there were two violations of the San Jose Municipal Code by Pat Waite for failure to report an in-kind contribution in a timely manner and acceptance of an in-kind contribution in excess of the contribution limit. The Commission also finds that there was a violation of the San Jose Municipal Code by William Bellou/Times Media in making an in-kind contribution in excess of the contribution limit. Vice Chair Rolanda Pierre Dixon seconded the motion, which carried with a 3-0-2 vote. (Absent: Vemulapalli and Peacock.)

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

Action: Due to mitigating circumstances, Chair Michael Smith moved that the Commission impose no penalties and close the matter without further action. Respondent Pat Waite filed amended campaign statements to report the in-kind contribution, funds in excess of the contribution limit will be returned to Times Media, and no intent to violate the Municipal Code was found. Commissioner Adrian Gonzales seconded the motion, which carried with a 3-0-2 vote. (Absent: Vemulapalli and Peacock.)

Each Commissioner 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 Commissioner Adrian Gonzales, and seconded by Chair Michael Smith and carried, the Commission moved to direct the City Attorney to draft a Resolution on the Commission's findings, and further, that the Commission authorize the Chair to approve and sign the resolution. (3-0-2; Absent: Vemulapalli and Peacock) Chair Michael Smith declared the hearing on this matter closed.

IV. Public Record – None.

V. Consent Calendar

- A. Approve the Minutes of June 8, 2016 – Regular Meeting

Documents Filed: Draft Minutes for the June 8, 2016 Regular Meeting.

Action: Upon motion by Vice Chair Rolanda Pierre Dixon, seconded by Commissioner Adrian Gonzales and carried, the Commission approved the Minutes of June 8, 2016 as amended to include additional documents filed for items VI.C.5. and VII.B. (3-0-2. Absent: Vemulapalli and Peacock.)

VI. Reports

- A. Chair – None.

B. City Attorney

1. Legislative update – Working on updates to Title 12 to be discussed under Item VII.D.

2. Status of outstanding Ethics Commission Resolutions – Working with staff on the backlog.
3. Election update – None.

C. City Clerk

1. Legislative update – None.
2. Status report on filings (Form 700, Campaign Statements, Lobbyist) – The only remaining Form 700 filers are consultants or former employees. The Lobbyist Reports, DFR1s, and Time and Income Reports are due on July 15, 2016.
3. Elections update

Documents Filed: City Council Resolution No. 77867 to add Opportunity to Work Initiative to November Ballot.

Discussion: City Clerk Toni Taber updated the Commission on the recount for the Council District 4 seat. The Santa Clara County Registrar of Voters completed their mandated recount then received a voter-initiated request for recount which is being paid for by Candidate Manh Nguyen. The Opportunity to Work Initiative has been added to the November ballot.

Action: No action was taken by the Commission.

4. Update on FPPC Forum – None.
5. Update on Commission Budget

Document Filed: 1) Ethics Commission Expenses FY 15-16 Spreadsheet from the City Clerk's Office; and 2) Hanson Bridgett Contract Expenses FY 15-16 Spreadsheet from City Attorney's Office.

Discussion: City Clerk Toni Taber reviewed the expenses with the Commission.

Action: No action was taken by the Commission.

- D. Investigator/Evaluator – None.

VII. Old Business

- A. Discussion and possible action on Gift Ordinance relating to Mayor's Biennial Review. (City Attorney)

Item deferred to September meeting per Deputy City Attorney Arlene Silva.

- B. Update on Ethics Commission's FY 2016-17 Work Plan and FY 2015-16 Annual Report. (Chair)

Documents Filed: 1) Approved FY 2015-16 Annual Report; and 2) Approved FY 2016-17 Work Plan.

Discussion: The Ethics Commission's FY 2015-16 Annual Report and FY 2016-17 Work Plan were approved at the Rules and Open Government Committee on June 22, 2016.

Action: No action was taken by the Commission.

- C. Update on revisions to Council Resolution 76954, Regulations and Procedures for the San Jose Ethics Commission. (City Attorney)

Document Filed: 1) Memorandum from City Attorney Richard Doyle to the Honorable Mayor and City Council dated June 14, 2016 regarding Proposed Revisions to the Regulations and Procedures of the San Jose Ethics Commission; and 2) Draft City Council Resolution posted on the June 28, 2016 City Council Agenda, Item 2.7.

Discussion: Deputy City Attorney Arlene Silva reviewed the draft changes to Council Resolution 76954 with the Commission. The resolution is going before Council on August 2, 2016 for approval.

Action: No action taken.

- D. Update on Amendment to Title 12 of the San Jose Municipal Code to amend the definition of "committee" to increase the qualifying threshold for the receipt of contributions from \$1,000 to \$2,000 to be consistent with the Political Reform Act. (City Attorney)

Documents Filed: 1) Memorandum from Richard Doyle to the Honorable Mayor and City Council dated June 14, 2016 regarding Amendment to Title 12 of the Municipal Code in Accordance with the Amended Political Reform Act; and 2) Draft Ordinance posted on the June 28, 2016 City Council Agenda, Item 2.8.

Discussion: Deputy City Attorney Arlene Silva informed the Commission that the Ordinance passed for publication and will come back before Council on August 2, 2016 for the second reading.

Action: No action was taken by the Commission

- E. Discussion and possible action on report from ad hoc committee on community outreach. (Vice Chair Pierre Dixon)

Document Filed: 1) Draft informational packet for community outreach drafted by Vice Chair Rolanda Pierre Dixon; and 2) "Running for Office in Santa Clara County" informational packet drafted by the Santa Clara County Registrar of Voters.

Action: No action was taken by the Commission. Vice Chair Rolanda Pierre Dixon

to discuss community outreach with staff.

- F. Discussion and possible action on report from ad hoc subcommittee on potential for organizing statewide forum of Ethics Commissions campaign finance laws. (Commissioner Gonzales)

Action: No action taken by the Commission. Commissioner Gonzales to work with staff on possible outreach to other Ethics Commissions.

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

Action: No action was taken by the Commission.

VIII. New Business

- A. Discussion and possible action on changing of Commission name. (City Clerk)

Documents Filed: Memorandum from City Clerk Toni Taber to the Honorable Mayor and City Council dated June 10, 2016 to Approve Policy and Municipal Code Updates for Boards and Commissioners (CC 6/21/16. Item 3.7)

Discussion: City Clerk Toni Taber explained the memo to the Commission and the request to change the name of the Ethics Commission.

Action: Upon a motion by Commissioner Adrian Gonzales, seconded by Vice Chair Rolanda Pierre Dixon and carried, the Commission directed the City Clerk to work with the Resolution Revision Ad Hoc Committee (Chair Michael Smith and Commissioner Adrian Gonzales) to submit a supplemental memorandum to the Mayor and City Council requesting the name of the Ethics Commission not be changed. (3-0-2. Absent: Vemulapalli and Peacock.)

IX. Public Comment – None.

X. Future Agenda Items

- Open Government Training
- Gift Ordinance

XI. Adjournment

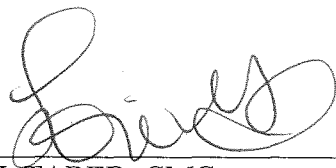
The next regular meeting schedule for August 10, 2016 may be cancelled. A notice will be sent to confirm the cancellation the week before the scheduled meeting time.

The meeting was adjourned at 7:07 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ETHICS COMMISSION SECRETARY



TONI J. TABER, CMC
CITY CLERK