

MEETING MINUTES

March 9, 2016

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Vice Chair Rolanda Pierre Dixon, and Commission Members Madhavee Vemulapalli, Adrian Gonzales and Chris Peacock

ABSENT: Chair Michael Smith

STAFF: Investigator/Evaluator Caroline Lee, Deputy City Attorney Arlene Silva, City Clerk Toni Taber and Deputy City Clerk Cecilia McDaniel

OTHER: None

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 a motion by Commissioner Adrian Gonzales, and seconded by Commissioner Madhavee Vemulapalli and carried, the Commission approved the adoption of the March 9, 2016 agenda. (4-0-1; Absent: Smith)

II. Closed Session - None

III. Hearings

- A. Hearing on Complaint filed by Bryan Do on February 1, 2016 against Lan Diep for San Jose City Council (2015 Campaign) and Lan Diep alleging violation of the San Jose Municipal Code (Independent Investigator/Evaluator)

Documents Filed: 1) Report from Hanson Bridgett LLP dated February 29, 2016 regarding Bryan Do v. Lan Diep and Lan Diep for City Council (2015 Campaign) Complaint filed February 1, 2016; and 2) Supplemental Memo from Deputy City Attorney Arlene Silva.

Discussion: Vice Chair Rolanda Pierre Dixon opened the public hearing. Evaluator Caroline Lee summarized the complaint and her recommendations to the Commission. Complainant Bryan Do was present. Respondents Lan Diep nor a representative from the Lan Diep for San Jose City Council (2015 campaign) were present. Complainant

Bryan Do provided testimony and responded to Commission questions. Deputy City Attorney Arlene Silva responded to questions to interpretation of “identical allegations.”

Action: Commissioner Adrian Gonzales moved that the Commission direct the Evaluator/Investigator to conduct an investigation on the matter based on the introduction of new evidence. Commissioner Chris Peacock seconded the motion, which failed with a 2-2-1 vote. (Noes: Pierre Dixon and Vemulapalli; Absent: Smith)

Action: Vice Chair Rolanda Pierre Dixon moved that the Commission dismiss the complaint and close the matter without further investigation. Commissioner Madhavee Vemulapalli seconded the motion, which carried with a 4-0-1 vote. (Absent: Smith)

Each Commissioner 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 Vice Chair Rolanda Pierre Dixon, and seconded by Commissioner Adrian Gonzales 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 Vice Chair to approve and sign the resolution. (4-0-1; Absent: Smith) Vice Chair Rolanda Pierre Dixon declared the hearing on this matter closed.

IV. Public Record - None

V. Consent Calendar

- A. Approve the Minutes of December 9, 2015 – Regular Meeting
- B. Approve the Minutes of January 13, 2016 – Regular Meeting
- C. Approve the Minutes of February 10, 2016 – Regular Meeting

Documents Filed: 1) Draft minutes for the December 9, 2015 Regular Meeting; 2) Draft minutes for the January 13, 2016 Regular Meeting; and 3) Draft minutes for the February 10, 2016 Regular Meeting.

Discussion: The Commission reviewed the draft minutes. The draft minutes for the January 13, 2016 meeting were pulled from consent due to spelling errors, a correction to an action made and changes needed on the transcript. The draft minutes for the January 13, 2016 meeting will come back for approval at the next Commission meeting.

Action: Upon a motion by Commissioner Adrian Gonzales, seconded by Commissioner Madhavee Vemulapalli and carried, the Commission approved the minutes of December 9, 2015 and February 10, 2016. (4-0-1; Absent: Smith.)

VI. Reports

- A. Chair – None.
- B. City Attorney
 - 1. Legislative update – None.
 - 2. Status of outstanding Ethics Commission Resolutions – Nine resolutions drafted and will be ready for review and signature by Chair soon.
 - 3. Status of Gift Ordinance relating to Mayor’s Biennial Review – Postponed due to elections work.
- C. City Clerk
 - 1. Legislative update – None.
 - 2. Status report on filings (Form 700, Campaign Statements, Lobbyists) – There are approximately 1,000 new Form 700 filers which are due on April 1, 2016. Continuing to review campaign statements and cleaning up lobbyist filers in Netfile.
 - 3. Elections update – Nomination period closes on March 11, 2016 and all seats are contested.
 - 4. Update on FPPC Forum – FPPC Forum currently on hold.
 - 5. Update on Commission Budget – A copy of Commission budget provided and reviewed.
 - 6. Boards and Commissions Resource Fair and Recognition Event – Resource Fair and Recognition Event is on April 13, 2016. A copy of the flyer was provided to Commissioners.
 - a) Discussion and possible action on rescheduling or canceling the April 13, 2016 Ethics Commission Meeting. – See Item VII.F.
- D. Investigator/Evaluator – None.

VII. Old Business

- A. Status regarding revisions to Council Resolution 76954, Regulations and Procedures for the San Jose Ethics Commission. (City Attorney)

Discussion: Deputy City Attorney Arlene Silva reported that additional changes may be made to Council Resolution 76954 due to mid-year budget process and in response to Mayor Sam Liccardo’s concern about the Commission’s budget.

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

Discussion: Vice Chair Pierre Dixon reported that she is gathering information from other Ethics Commissions and will present findings at the next Ethics Commission meeting.

Action: No action taken.

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

Discussion: Commissioners Adrian Gonzales and Chris Peacock are drafting a report on potential ways to organize a statewide forum of Ethics Commissions regarding campaign finance laws. Draft will be presented to Commission at the next meeting.

Action: No action taken.

- D. Status of referral to Ethics Commission by Councilmember Charles “Chappie” Jones to compare rules of other Cities and determine if additional changes are recommended regarding the length of the campaign contribution period. (City Clerk)

Discussion: Commissioners Adrian Gonzales and Chris Peacock are reviewing a draft memorandum and will work with staff to finalize for submission to the Rules and Open Government Committee.

Action: No action taken.

- E. Discussion and possible action on public statement to be issued by Commission regarding the late contribution reporting complaints. (City Clerk)

Documents Filed: 1) Replacement Draft public statement by Commissioner Chris Peacock, and 2) Excerpts from the January 13, 2016 Ethics Commission Meeting Transcript.

Discussion: The Commission reviewed Commissioner Chris Peacock’s draft public statement and suggested changes.

Action: Directed City Clerk Toni Taber, by the next Ethics Commission meeting, to create a final draft of the public statement with a cover letter outlining options for distribution for review and approval by the Commission.

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

Action: Upon a motion by Commissioner Adrian Gonzales, seconded by Commissioner Madhavee Vemulapalli and carried, the Commission cancelled the regular Ethics Commission meeting scheduled for April 13, 2016 and requested that staff coordinate with Commissioners to schedule a special Ethics Commission meeting for another day in April. (4-0-1; Absent: Smith)

VIII. New Business – None.

IX. Public Comment – None.

X. Future Agenda Items

- Open Government Training
- Approval of January 13, 2016 Minutes

- Status of changes to Council Resolution 76954
- Report from Vice Chair Rolanda Pierre Dixon on Community Outreach
- Report from Commission Gonzales on Organizing Statewide Forum of Ethics Commissions re Campaign Finance Laws
- Status of Councilmember Charles Jones referral
- Review and possible action on Public Statement

XI. Adjournment

The next meeting scheduled for April 13, 2016 has been cancelled. A Special Meeting will be scheduled – TBD.

The meeting was adjourned at approximately 6:35 p.m.



ROLANDA PIERRE DIXON,
VICE CHAIR

ATTEST:
ETHICS COMMISSION SECRETARY



TONI J. TABER, CMC
CITY CLERK