

MEETING MINUTES

October 12, 2016

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Michael Smith, Board Members Adrian Gonzales and Madhavee Vemulapalli

ABSENT: Vice Chair Rolanda Pierre Dixon and Board Member Chris Peacock

STAFF: Deputy City Attorney Arlene Silva, Deputy City Attorney Neelam Naidu, City Clerk Toni Taber, 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 5:29 p.m. in Room W-120 of City Hall, 200 E. Santa Clara Street, CA 95113.

Orders of the Day

Action: Upon motion by Chair Michael Smith, seconded by Board Member Adrian Gonzales and carried, the Board approved the adoption of the October 12, 2016 agenda with the request to hear item VIII.A. first. (3-0-2. Absent: Pierre Dixon and Peacock.)

II. Closed Session – None.

III. Hearings – None.

IV. Public Record – None.

V. Consent Calendar

A. Approve the Minutes of July 13, 2016 – Regular Meeting

Documents Filed: Draft Minutes for the July 13, 2016 Regular Meeting.

Action: Item deferred to next meeting. Board Member Madhavee Vemulapalli was not in attendance at the July meeting and did not wish to vote on the matter.

VI. Reports

A. Chair – Chair Michael Smith reported that Vice Chair Rolanda Pierre Dixon was absent because she was out of town and that Board Member Chris Peacock was absent due to a family emergency.

B. City Attorney

1. Legislative update – Regulation 18951 was amended to change when campaign funds are considered surplus as it relates to the death of a candidate or office holder. The FPPC is also undergoing a comprehensive review and revision of the Political Reform Act to ensure decades of amendments are given clarity and continuity.
2. Status of outstanding Ethics Commission/BFCPP Resolutions – Working with staff on the backlog. Completed 21 resolutions for signature by the Chair and have 8 more to complete.
3. Election update – The election is in 4 weeks on November 8, 2016.
4. Gift Ordinance update – Waiting on direction from the Mayor and Council on desired degree of conformity with FPPC regulations.

C. City Clerk

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

a) Form 700 – Conflict of Interest adopted 9/27/16

Documents Filed: 1) Memorandum from City Clerk Toni Taber to the Honorable Mayor and City Council dated September 16, 2016 regarding Revisions to the City of San Jose and Successor Agency Conflict of Interest Code; 2) City Council Resolution 77935; and 3) City Council Resolution 77936.

Discussion: City Clerk Toni Taber notified the Board that the Conflict of Interest Code was adopted on September 27, 2016 and that notifications have been sent to those newly required to file.

Action: No action taken.

b) Replacement Lobbyist Filings (10/12/16) – 7/15/16 Filing Deadline

Document Filed: Chart showing lobbyists compliance with 7/15/16 filing deadline.

Discussion: City Clerk Toni Taber reviewed the chart with the Board and answered questions.

Action: No action taken.

c) Candidate Filings – 8/1/16 & 9/29/16 Filing Deadlines

Document Filed: Chart showing candidate filings for the 8/1/16 & 9/26/16 filing deadlines.

Discussion: City Clerk Toni Taber reviewed the chart with the Board and reported that District 8 Candidate Sylvia Arenas filed her Form 460 on 10/8/16 and was assessed a \$90 late fine.

Action: No action taken.

3. Elections update – None.
4. Update on FPPC Forum – None.
5. Update on Board Expenditures

Document Filed: 1) Board Expenses FY 16-17 Spreadsheet from the City Clerk's Office; and 2) Hanson Bridgett Contract Expenses FY 16-17 Spreadsheet from City Attorney's Office.

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

Action: No action taken.

- D. Investigator/Evaluator – None.

VII. Old Business

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

Action: Vice Chair Rolanda Pierre Dixon was absent. Item deferred to next meeting. Staff directed to work with Vice Chair Rolanda Pierre Dixon to develop and implement a plan for diverse community outreach regarding campaign and ethics regulations and procedures

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

Discussion: Board Member Adrian Gonzalez reported finding that it is very difficult to organize a statewide forum and recommended dissolution of the ad hoc subcommittee. The Board Members discussed and agreed.

Action: The ad hoc subcommittee on potential for organizing statewide forum of Ethics Commissions regarding campaign finance laws was dissolved.

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

Action: No action taken.

VIII. New Business

A. Discussion and possible action regarding the Lobbyist Ordinance. (City Attorney)

Documents Filed: 1) Draft Ordinance amending Title 12 of the San Jose Municipal Code to add section 12.12.165 and revise the lobbyist reporting disclosures; 2) Memorandum from City Clerk Toni Taber to the Honorable Mayor and City Council dated December 3, 2015 re Mayor's 2015 Biennial Ethics Review and Recommendations (CC 12/15/15 Item 3.9); 3) Memorandum from City Attorney Richard Doyle to the Honorable Mayor and City Council dated December 7, 2015 re Disclosure Requirements of Elected Officials and Lobbyists (CC 12/15/15 Item 3.9); 4) Memorandum from Councilmember Johnny Khamis to the Mayor and City Council dated December 10, 2015 re Mayor's 2015 Biennial Ethics Review and Recommendations (CC 12/15/15 Item 3.9); 5) Letters from the Public on the City Council Agenda for 12/15/15 Item 3.9; 6) Letter from Somos Mayfair; 7) Letter from Health Trust; 8) Email from Breathe California of the Bay Area; 9) Letter from Silicon Valley Council of Nonprofits; 10) Letter from Housing Trust Silicon Valley; 11) Letter from United Way Bay Area; 12) Letter from Destination: Home; and 14) Letter from Catholic Charities of Santa Clara County.

Discussion: Deputy City Attorney Neelam Naidu reviewed the draft ordinance, answered questions, and requested feedback from the Board.

Public Comment: Illysha Peete with Breathe California; Todd Hansen with The Health Trust; Patrick Soricone with Somos Mayfair; Bob Browstein with Working Partnerships USA; Colleen Haley with Destination:Home; and Wendy Ho with Silicon Valley Council of Nonprofits all spoke out against requiring non-profits to register as lobbyists in the City of San Jose as proposed in Councilmember Johnny Khamis' Memorandum.

Action: Upon a motion by Chair Michael Smith, seconded by Board Member Adrian Gonzales and carried, the Board approved the ordinance as presented and requested that references to the Ethics Commission be changed to reflect the new name of the Board. (3-0-2. Absent: Pierre Dixon and Peacock.)

B. Discussion and possible action regarding City of San Jose Resolutions and Ordinances affecting the BFCPP. (City Attorney)

1. Resolution 77879 (effective 8/2/16) – Amending Regulations and Procedures for the BFCPP.
 - a) Discussion and possible action to amend Resolution 77879 to update with new Board name effective 9/23/16.
2. Resolution 77891 (effective 8/9/16) – Approving revisions to Council Policy 0-4 relating to policies governing boards and commission.
3. Ordinance 29765 (effective 9/2/16) – Amending SJMC Section 12.06.040 to align the definition of “Committee” with the FPPC.
4. Ordinance 29772 (effective 9/23/16) – Amending SJMC Titles 2 and 12 amending the name of the Ehtics Commission to Board of Fair Campaign and Political Practices among other changes.

Documents Filed: 1) City Council Resolution 77879; 2) City Council Resolution 77891; 3) City Council Ordinance 29765; and 4) City Council Ordinance 29772.

Discussion: Deputy City Attorney Arlene Silva reviewed the recently adopted City Council Resolutions and Ordinances affecting the Board and answered questions. City Council Resolution 77879 was adopted as approved by the Board. Some aspects of City Council Resolution 77891 apply to the Board, but not all since the Board is quasi judicial. City Clerk Toni Taber informed the Board Members that they will be receiving City of San Jose email addresses that they should use when conducting Board business. An email will be send to individual Board Members with additional information regarding email accounts.

Action: The Board Members agreed that the biennial review of Title 12 would be the appropriate time to amend City Council Resolution 77879 with the new Board name. The Board directed staff to draft Board Bylaws and bring to the next meeting for review.

- C. Discussion and action on referral from City Council to analyze the ordinances below and to return to Council in six months with recommendations. (City Attorney)
1. Ordinance 29792 – An ordinance of the City of San Jsoe amending Chapter 12.06 of Title 12 of the San Jose Municipal Code to amend Section 12.06.810 and to add a new Part 11 to limit contributions by individuals to a candidate legal defense fund.
 2. Ordinance 29793 – An ordinance of the City of San Jose amending Chapter 12.06 of Title 12 of the San Jose Municipal Code to add Section 12.06.175 and amend Sections 12.06.050, 12.06.210, 12.06.290, 12.06.610, 12.06.720, and 12.06.910 related to elections and municipal campaign and officeholder contributions.

Documents Filed: 1) Memorandum from City Attorney Richard Doyle to Honorable Mayor and City Council dated September 21, 2016 re Amendment to Title 12 of the San Jose Municipal Code related to the Legal Defense Fund and elections and Municipal Campaign and Officholder Contributions (CC 9/27/16 Item 3.5); 2) Memorandum from Councilmember Manh Nguyen to Mayor and City Council dated September 27, 2016 re Amendment to Title 12 of the San Jose Municipal Code related to the Legal Defense Fund (CC 9/27/16 Item 3.5(a)); 3) Memorandum from City Attorney Richard Doyle to Honorable Mayor and City Council dated September 15, 2016 re Amendment to Title 12 of the San Jose Municipal Code Related to the Legal Defense Fund (CC 9/20/16 Item 3.6); 4) Memorandum from Mayor Sam Liccard to City Council dated September 19, 2016 re Title 12 – Legal Defense Fund (CC 9/20/16 Item 3.6); 5) Letters from the Public on the City Council Agena on 9/27/16 Item 3.5; 6) City Council Ordinance 29792; and 7) City Council Ordinance 29793.

Dicussion: Deputy City Attorney Arlene Silva reviewed City Council Ordinances 29792 and 29793 with the Board and answered questions.

Action: The Board deferred discussion of the item to the next meeting and requested that

the transcript and video of the September 27, 2016 City Council meeting be provided to Board for their review.

IX. Public Comment – None.

X. Future Agenda Items

- Open Government Training
- Board Bylaws

XI. Adjournment

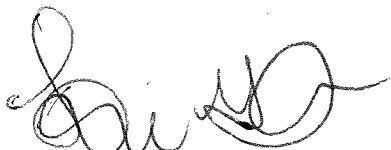
The next regular meeting schedule for November 9, 2016 at 5:30 p.m. in Room W-120.

The meeting was adjourned at 7:20 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES SECRETARY



TONI J. TABER, CMC
CITY CLERK