

MEETING MINUTES

April 9, 2014

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Michael Smith, Vice Chair Rolanda Pierre Dixon, and Commission Member Leon Louie

ABSENT: Commission Members Linda Edgeworth and Chris Peacock

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

Call to Order

The members of the San José Ethics Commission convened at 5:34 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

Orders of the Day

Action: Upon a motion by Vice Chair Rolanda Pierre Dixon, and seconded by Commissioner Leon Louie and carried, the Commission approved the adoption of the April 9, 2014 agenda. (3-0-2. Absent: Peacock, Edgeworth.)

II. Closed Session - None

III. Consent Calendar

A. Approve the Minutes of March 12, 2014 – Regular Meeting

Filed Documents: Draft minutes for the March 12, 2014 meeting.

Action: Upon a motion by Vice Chair Rolanda Pierre Dixon, and seconded by Commissioner Leon Louie and carried, the Commission approved the meeting minutes of March 12, 2014. (3-0-2. Absent: Peacock, Edgeworth.)

IV. Reports

A. Chair – None.

B. City Attorney – Deputy City Attorney gave a legislative update on Senate Bills 1441, 1442 and 1443. These bills would place a ban on all home fundraisers, change state campaign statements filings from semi-annual to quarterly, limit gifts to \$200 (currently \$440 and gives Fair Political Practices Commission “FPPC” authority to

change as needed), omit all gifts from lobbyists (\$10 per month currently allowed) and not allow certain gifts like tickets and gift cards.

Deputy City Attorney Arlene Silva informed the Commission that the Supreme Court placed a cap on the open expenditure limit and that there is a senate bill that is trying to get rid of odd number election cycles.

Deputy City Attorney Arlene Silva also commented on the confidentiality of complaints that is attached to the Ethics Commission Complaint Form. The Commission requests a signature from complainants to confirm that they have read and understood the policy on the confidentiality of complaints. Ms. Silva believes that the wording on the Complaint Forms goes beyond what is stated in the Commission's Resolution and Ordinance. Deputy City Attorney Arlene Silva indicated that it may not be allowed or enforceable. This item will be added to the May agenda.

C. City Clerk

1. Legislative update – City Clerk Toni Taber informed the Commission that the Governor has signed Assembly Bill 800 which will bolster the FPPC's ability to enforce campaign finance disclosure before and after elections. AB 800 allows the FPPC to conduct audits and use injunction power to compel disclosure during elections.
2. Status of compliance with Commission resolutions
 - a) Status of Minh Duong matter to Fair Political Practices Commission (FPPC)

Discussion: City Clerk Toni Taber informed the Commission that the Clerk's Office sent the Minh Duong matter to the FPPC

3. Status report on filings (Form 700, Campaign Statements, Lobbyists) - City Clerk Toni Taber informed the Commission that the Clerk's Office currently has 77% compliance with Form 700s which were due on April 1, 2014. Five reminders were sent to filers before the deadline, however, there are still filers that are non-compliant. Campaign Statements were due on March 24, 2014 and are still being reviewed. Candidates are being notified if amendments are needed. The next Lobbyist Quarterly Report is due on April 15, 2014.
4. Elections update - City Clerk Toni Taber reported that she has issued nomination paperwork to a write-in candidate. The candidate still has to turn in 50 valid signatures to be considered a valid write-in candidate on the ballot. Two Ethics Commission complaints have also been filed and are due to be heard by the Commission in May. Two formal City Attorney opinions by candidates have also been requested.

D. Investigator/Evaluator – None.

V. Old Business

A. Review and action on revisions to Ethics Commission's Resolution No. 75640.

Discussion: Deputy City Attorney Arlene Silva informed the Commission that the resolution was going before the City Council for approval on April 15, 2014 as Item 3.3.

B. Status, review and possible action on revisions to San José Municipal Code (SJMC) Chapter 12.04.

Discussion: Deputy City Attorney Arlene Silva informed the Commission that the revisions to SJMC Chapter 12.04 are going before the City Council for approval on April 15, 2014. If approved, the revisions will need to go to Council again for a 2nd reading.

C. Review and possible action on Gift Ordinance and Frequently Asked Questions Sheet

Discussion: Deputy City Attorney Arlene Silva indicated that this item is on hold until after the election. The City Attorney's Office is currently working on the draft Gift Ordinance and Frequently Asked Questions Sheet and are hopeful to get it approved at the same time as the sunshine ordinance.

D. Status, review and possible action on officeholder/candidate legal defense fund ordinance

Discussion: Deputy City Attorney Arlene Silva informed the Commission that this item is currently on hold since it is still being debated on by executive management.

E. Status, review and possible action on draft Request for Qualifications (RFQ) and contract for Ethics Commission Evaluator/Investigator

Discussion: City Clerk Toni Taber indicated that she would need to check with Hanson Bridgett to see if they are agreeable to extending their contract by six months. If so, she will work with the City Attorney's Office to get Council approval for the extension. The Commission discussed the benefits of extending the Hanson Bridgett contract.

Action: Upon a motion by Vice Chair Rolanda Pierre Dixon, and seconded by Commissioner Leon Louie and carried, the Commission approved the six-month extension of the Hanson Bridgett and directed staff to process the request. (3-0-2. Absent: Peacock, Edgeworth.)

VI. New Business

- A. Discussion and possible action on reporting requirements from staff to Commission regarding filings.

Discussion: Deputy City Clerk Cecilia McDaniel debriefed the Commission on the common errors made on the candidate's campaign statements: wrong reporting period or type, listing PO Boxes instead of street addresses and not itemizing contributions and expenditures under \$100. City Clerk Toni Taber reported that the City Clerk's Office is trying to utilize Netfile to create customized reports for Commission use and review regarding filings.

- B. Discussion and possible action on creation of 2013-14 Annual Report and 2014-15 Workplan

Documents Filed: FY 2012-13 Annual Report and FY 2013-14 Workplan

Discussion: The Commission discussed the Workplan and Annual Report. Chair Michael Smith indicated that the RFQ needed to be added to the Workplan and the newly filed complaints would need to be added to the Annual Report. Chair Smith will provide the Commission with drafts of the FY 2013-14 Annual Report and FY 2014-15 Workplan at the next Commission meeting.

VII. Public Comment (*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Ethics Commission*). – None.

VIII. Future Agenda Items and Adjournment

The next regular meeting is Wednesday, May 11, 2014 at 5:30 p.m. in City Hall, Wing Room 262.

The following agenda items will be discussed at the May 11, 2014 Ethics Commission meeting:

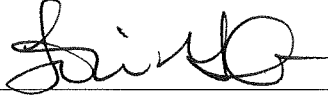
- Investigator/Evaluator Request for Qualifications
- Gift Ordinance
- Ethics Commission policy/Resolution 75640 revision update
- San José Municipal Code Title 12 revision update
- Status report on proposed officeholder accounts
- Report on campaign finance filings
- Discuss reporting requirements from staff to Commission regarding filings
- Legislative updates
- Status or hearings on complaints
- Add action to schedule special hearing if needed

The meeting was adjourned at approximately 6:26 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ETHICS COMMISSION SECRETARY



TONI J. TABER, CMC
CITY CLERK