

MEETING MINUTES

February 12, 2014

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Michael Smith, Vice Chair Rolanda Pierre Dixon, Commission Members Linda Edgeworth and Chris Peacock

ABSENT: Commission Member Leon Louie

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 5:37 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 Linda Edgeworth, the Commission approved the adoption of the February 12, 2014 agenda. Vote (4-0-1; Louie absent)

II. Closed Session - None

III. Consent Calendar

A. Approve the Minutes of December 11, 2013 – Regular Meeting

Action: Minutes of December 11, 2013 were not drafted in time for meeting. Approval deferred to next meeting.

IV. Reports

A. Chair – Chair Michael Smith explained that the January 8, 2014 meeting was cancelled since staff did not have any documents ready for the Commission's review.

B. City Attorney – None.

C. City Clerk

1. Legislative update – None

2. Status of compliance with Commission resolutions – None
3. Status report on filings (Form 700, Campaign Statements, Lobbyists) – None
4. Elections update

Document Filed: List of candidates who have pulled nomination papers for the June 3, 2014 Primary Election.

Discussion: City Clerk Toni Taber reported that 19 candidates have pulled nomination paperwork. The Clerk's Office has also received a sign complaint about an advertisement on a billboard. The City's San José Municipal Code does not address campaigning on billboards. City Clerk Toni Taber is investigating the issue.

D. Investigator/Evaluator – None.

V. Old Business

A. Review and possible action regarding Minh Duong case.

Discussion: City Clerk Toni Taber reported that Minh Duong has not responded to letters or phone calls. The Office has not received any filings. The Commission discussed.

Action: Upon a motion by Commissioner Chris Peacock, and seconded by Vice Chair Rolanda Pierre Dixon, the Commission requested that the City Clerk send a letter/complaint to the Fair Political Practices Commission (FPPC) (with a cc to Minh Duong) requesting review and enforcement of Elections (Ethics) Commission Resolution 2010-02 requiring Minh Duong to file outstanding campaign statements and close officeholder committees from 2008. Vote (4-0-1; Louie absent)

B. Review and action on Ethics Commission's Resolution No. 75640 and San José Municipal Code (SJMC) Chapter 12.04.

Documents Filed: Draft revisions to Resolution No. 75640 and SJMC Chapter 12.04.

Discussion: The Commission reviewed and discussed the proposed revisions to SJMC Chapter 12.04. In addition to the markups made on draft, the Commission also requested the following changes or clarifications be made:

1. Make sure name change of Ethics Commission is made throughout Chapter.
2. 12.04.085.C: Double check that this section is okay with the addition of "chair of the."
3. Change title of section 12.04.150 to Pre-candidacy Contributions.
4. Review the order of SJMC Title 12.04 as compared to Resolution 75640 and check for consistency.

Action: Upon a motion by Vice Chair Rolanda Pierre Dixon, and seconded by Linda Edgeworth, the Commission approved the suggested changes and recommended that if: 1) the suggested revisions by Hanson Bridgett are minor, to allow Chair Michael Smith to work with staff to review and approve changes to SJMC Title 12 and place on a City Council agenda for review and approval; or 2) the suggested revisions by Hanson Bridgett are substantial, to have staff work on revisions and bring back a draft for Commission review at the next Commission meeting. Vote (4-0-1; Louie absent)

Discussion: The Commission discussed changes to Resolution No. 75640. In addition to the markups already indicated on the draft, the Commission also requested the following changes or clarifications be made:

1. On Page 1: Add reason for the amendment. The Commission wanted the language to state that the purpose of the change was to correct deficiencies in Title 12 as discovered in hearings, to improve efficiencies, to account for the name change of the Commission and to reflect the current practice of the Commission.
2. Make any changes to grammar as noted throughout Title 12.
3. Remove the term "election cycle" from Title 12 and put a specific time frame as to be determined by staff.
4. Section C.1: Instead of "election cycle" put a specific time – November or December possibly. Review the term of the contract and have the expiration date be in June of the odd numbered year.
5. Section C.2: The City Clerk will check with purchasing on process for Request for Qualifications (RFQ). Need to do RFQ at least six months before contract expires.
6. Section C.3: Change sentence to read as "The Evaluator must have a legal background and experience with ethics, election or political law."
7. Clarify, redefine the meaning of "Election Cycle" to be a date certain.
8. Section C: Should be rewritten to reflect actual process. The Commission thought that the Evaluator should be confirmed and in a contract six months in advance of the election cycle.
9. Section D.1: Remove "In addition to the Evaluator."
10. Section D.3: Remove the word "Further," in the second sentence.
11. Section D.4: Add this same language under Section C.
12. Remove the references to the Redevelopment Agency.
13. Look at revising the definition of "complaint."
14. Section E.4: Indicate that the complaints should be filed on the complaint form.
15. Add a section between Section E.7 and E.8 that indicates that complaints against the Commission or the complaint process itself shall not be filed on an Ethics Commission complaint form.
16. Section E.8: Instead of recommending that the Complainant provide a telephone number, say a telephone number or other contact information.
17. Section F.2: Remove the word "which" from the last sentence.

18. Section F: Figure out and add language on adding new respondents to an existing complaint without having to file a new or revised complaint while being compliant with Section F.9 regarding disclosure of information.

19. Section J.7: Change “law enforcement agency” to just “enforcement agency.”

Action: The Commission requested that staff work on revisions to the Resolution and bring back a final draft to the next Commission meeting on March 12, 2014.

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

Discussion: Deputy City Attorney Arlene Silva informed the Commission that this is still in process and a status report will be given at the next meeting on March 12, 2014.

D. Follow up and possible action regarding proposed revisions to Chapter 12.06 of the San José Municipal Code related to the Office/Candidate Legal Defense Fund..

Discussion: Deputy City Attorney Arlene Silva informed the Commission that this is currently being worked on in the City Attorney’s Office and that she will bring back a draft to the Commission for review before sending to Council.

VI. New Business – None

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, March 12, 2014 at 5:30 p.m. in City Hall, Wing Room 262.

The following agenda items will be discussed at the January 8, 2013 Ethics Commission meeting:

- Investigator/Evaluator Request for Qualifications
- Gift Ordinance
- Ethics Commission policy/Resolution 75640 revisions
- San José Municipal Code Title 12 revisions
- Status report on proposed officeholder accounts
- Report on campaign finance filings
- Legislative updates
- Status of referral of Minh Duong matter

The meeting was adjourned at approximately 8:26 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ETHICS COMMISSION SECRETARY



TONI J. TABER, CMC
CITY CLERK