

MEETING MINUTES

March 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, Chris Peacock and Leon Louie

ABSENT: None

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 5:32 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 and carried unanimously, the Commission approved the adoption of the March 12, 2014 agenda. (5-0.)

II. Closed Session - None

III. Consent Calendar

- A. Approve the Minutes of December 11, 2013 – Regular Meeting
- B. Approve the Minutes of February 12, 2014 – Regular Meeting

Filed Documents: Draft minutes for the December 11, 2013 and February 12, 2014.

Action: Upon a motion by Commissioner Leon Louie, and seconded by Vice Chair Rolanda Pierre Dixon and carried unanimously, the Commission approved the meeting minutes of December 11, 2013 and February 12, 2014. (5-0.)

IV. Reports

- A. Chair – None.
- B. City Attorney – None.

C. City Clerk

1. Legislative update – None.
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 just finished copying the backup documentation to include with the referral of the Minh Duong matter to the FPPC. A status of the referral will be made at the next Commission meeting.

3. Status report on filings (Form 700, Campaign Statements, Lobbyists)

Discussion: City Clerk Toni Taber announced the next filing deadlines: 1) Form 700s – April 1, 2014; 2) Campaign Statements – March 24, 2014; and the 3) Lobbyist Quarterly Report – April 15, 2014. The Clerk's Office is sending out reminders to staff for the Form 700s and is working directly with staff to obtain compliance instead of using department liaisons. The lobbyist forms have been revised to remove the filing fees which now appear on a separate fee schedule. Chair Michael Smith would like an item added to the next meeting agenda to discuss the reporting requirements from staff to the Commission.

4. Elections update

Document Filed: List of qualified candidates for the June 3, 2014 Primary Election.

Discussion: City Clerk Toni Taber reported that the City has 30 qualified candidates for the June 3, 2014 Primary Election. The nomination period ended on March 7, 2014 at noon so the Clerk's office has been busy with candidates and is working closely with the Santa Clara County Registrar of Voters to finalize the paperwork. The ten day review period for candidate statements began on March 10, 2014. There will be one initiative on the June ballot regarding libraries and there may be two separate marijuana initiatives on the November ballot.

- D. Investigator/Evaluator – None.

V. **Old Business**

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

Documents Filed: Draft revisions to Resolution No. 75640.

Discussion: The Commission reviewed and discussed the proposed revisions to Resolution 75640. Deputy City Attorney Arlene Silva explained the changes and

answered Commission questions. In addition to the markups made on the draft, the Commission also requested the following changes or clarifications be made:

1. Section C.1: Wordsmith the language to indicate that the City Clerk will request a budget request to appropriate fund but not indicate to whom.
2. Section C.3: Include that the term should expire at the end of June in an odd numbered year.
3. Section C.4: Change this section to read, "The Evaluator must be neutral and impartial and must not have or appear to have any bias or favoritism toward any person or entity involved in any way with any complaint or investigation."
4. Section D.4: Change this section to read, "The Investigator must be neutral and impartial and must not have or appear to have any bias or favoritism toward any person or entity involved in any way with any complaint or investigation."
5. Section E.7: Remove the word "possible" and lower case the "j" in jurisdiction.

Commissioner Linda Edgeworth requested that the definition of "complaint" in Section B.5 be changed to incorporate all methods in which a complaint could be filed. The Commission discussed with staff and no change recommended.

Commissioner Chris Peacock requested a change be made in Section I.3 to indicate when Commissioners are allowed to respond to inquiries. Commissioner Peacock disagreed that the Chair should be the sole contact/spokesperson for the Commission. The Commission discussed alternatives.

Action: Commissioner Chris Peacock moved, seconded by Commissioner Linda Edgeworth, to change the word "sole" to "official" in Section I.3 of the Resolution. Motion did not pass. (2-3. Noes: Smith, Pierre Dixon, Louie.)

Action: Upon a motion by Chair Michael Smith, and seconded by Vice Chair Rolanda Pierre Dixon and carried, the Commission approved: 1) the draft Resolution as amended; and 2) authorized the City Attorney's Office to work with staff and a subcommittee (to be formed) to finalize the Resolution to send to the Rules and Open Government Committee (ROGC) for review and approval. (4-1. Noes: Peacock.)

Deputy City Attorney Arlene Silva informed the Commission that she would like to finalize the Resolution and send to the ROGC for review and approval for their March 26, 2014 meeting.

Action: Upon a motion by Chair Michael Smith, and seconded by Commissioner Linda Edgeworth and carried unanimously, the Commission elected Chair Michael Smith and Vice Chair Rolanda Pierre Dixon to a subcommittee to work with staff to finalize changes to the Resolution. (5-0.)

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

Document Filed: Draft revisions to San José Municipal Code (SJMC) Chapter 12.04.

Discussion: Deputy City Attorney Arlene Silva reviewed the draft revisions to SJMC Chapter 12.04 with the Commission. The Commission discussed the proposed changes and approved all except:

1. Throughout Chapter 12.04: Requested that the capitalization of the Commission name and titles be consistent with the rest of SJMC Title 12.
2. Section 12.04.060 (B): Do not accept change. Leave the word "order."
3. Section 12.04.080 (F): Do not accept change. Remove "to the appointing authority."

Deputy City Attorney Arlene Silva informed the Commission that the requested changes will be sent to the City Council for review and approval on April 8, 2014. She indicated that some other minor changes to SJMC Title 12 are needed which she will include with the Commission's recommended changes to SJMC Chapter 12.04.

Action: No motion needed. The Commission approved amendments at the February 12, 2014 Commission meeting.

- 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. She indicated that there are new regulations regarding gifts of travel that become effective in January 2014. She will search for the text of the new regulations and provide the Commission with a legislative update at the next Commission meeting.

- 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.

VI. New Business

- A. Review and possible action on draft Request for Qualifications (RFQ) and contract for Ethics Commission Evaluator/Investigator

Documents Filed: 2010 Request for Qualifications for Evaluator/Investigator and the current Evaluator/Investigator contract with Hanson Bridgett.

Discussion: The Commission briefly reviewed the RFQ and contract. This item is being deferred to the next Commission meeting. Chair Michael Smith suggested that

staff look into extending the contract with Hanson Bridgett for six months to ensure that all complaints for this election cycle are resolved before the end of the contract.

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, April 9, 2014 at 5:30 p.m. in City Hall, Wing Room 262.

The following agenda items will be discussed at the April 9, 2014 Ethics Commission meeting:

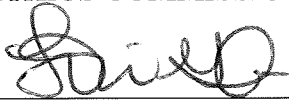
- Investigator/Evaluator Request for Qualifications
- Gift Ordinance
- Ethics Commission policy/Resolution 75640 revision update
- San José Municipal Code Title 12 revision update
- Status report on proposed officeholder accounts
- Report on campaign finance filings
- Discuss reporting requirements from staff to Commission regarding filings
- Legislative updates
- Status of referral of Minh Duong matter

The meeting was adjourned at approximately 7:30 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ETHICS COMMISSION SECRETARY



TONI J. TABER, CMC
CITY CLERK