

**MEETING MINUTES**

October 8, 2014

**I. Call to Order & Orders of the Day**

**Roll Call**

PRESENT: Chair Michael Smith, Vice Chair Rolanda Pierre Dixon, Commission Members Leon Louie, and Chris Peacock

ABSENT: Commission Member Linda Edgeworth

STAFF: Deputy City Attorney Arlene Silva, City Clerk Toni Taber, Assistant City Clerk Tom Graves 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 Leon Louie and carried, the Commission approved the adoption of the October 8, 2014 agenda. (4-0-1; Absent: Edgeworth.)

**II. Closed Session - None**

**III. Consent Calendar**

- A. Approve the Minutes of May 14, 2014 – Regular Meeting
- B. Approve the Minutes of July 23, 2014 – Special Meeting

Documents Filed: Draft Ethics Commission minutes for the May 14, 2014 meeting and July 23, 2014 special meeting.

Action: Upon a motion by Commissioner Chris Peacock, and seconded by Vice Chair Rolanda Pierre Dixon and carried, the Commission approved the meeting minutes of May 14, 2014 and July 23, 2014. (4-0-1; Absent: Edgeworth.)

**IV. Reports**

- A. Chair - None
- B. City Attorney – None
  - 1. Legislative update

- C. City Clerk – City Clerk Toni Taber announced that the City Clerk’s Office would be starting the recruitment for the Ethics Commission in the next month for the three openings coming up in March 2015.
1. Legislative update – None
  2. Status of compliance with Commission resolutions – None
  3. Status report on filings (Form 700, Campaign Statements, Lobbyists) – See Item V.B for report.
  4. Elections update – City Clerk Toni Taber reported that the campaign statements were due on October 6, 2014. Since the City of San Jose required electronic filing of campaign statements, it was a pretty quiet deadline day. City Clerk Taber informed the Commission that this election has been very quiet and that she has handled a handful of minor sign complaints by residents. City Clerk Taber sent a letter to the Cortese campaign because his campaign signs did not disclose the address of the committee. The Cortese campaign has already responded and will add labels to the sign to comply with disclosure requirements. Citizens have called in to complain about a firetruck with a banner claiming that the Firefighter's Union support Cortese. City Clerk Taber investigated the claim and found out the Firefighters’ Union owns their own firetruck so it is allowed.
- D. Investigator/Evaluator – None

**V. Old Business**

- A. Status, review and possible action on Gift Ordinance and Frequently Asked Questions Sheet (City Attorney)

Action: Item deferred to next meeting scheduled for November 12, 2014.

- B. Discussion and possible action on reporting requirements from staff to Commission regarding filings (City Clerk)

Documents Filed: 1) Memo from City Clerk Toni Taber to the Ethics Commission dated October 1, 2014 regarding Compliance Monitoring Schedule; 2) Report on Campaign Finance Statement filers for the October 6, 2014 deadline; 3) Report on Ethics Training Compliance; and 4) Report on Form 700 and Family Gift Reporting Form filers.

Discussion: City Clerk Toni Taber reviewed her memo with the Commission and indicated that 45 days to report back to the Commission after a deadline was excessive. City Clerk Taber provided of the reports and interpreted the data for the Commissioners then answered Commission questions. Chair Michael Smith commented that former City Clerk Dennis Hawkins would provide additional information in a memo format to the Commission to show different trends or issues with filings received by the Clerk’s Office so this may be the reasoning for the 45 day report back. City Clerk Toni Taber agreed and will try to report in the same fashion when trends are found.

- C. Discussion, review and possible action on Open Government Legislation and the effects it will have on the Ethics Commission (City Attorney)

Documents Filed: Ordinances 29460 and 29461.

Discussion: Deputy City Attorney Arlene Silva would like this item added to the November 12, 2014 meeting with a link to Ordinance 29460, Ordinance 29461, and her memo to the Commission from the September 10, 2014 meeting. Deputy City Attorney Arlene Silva reported to the Commission that she answered Mr. Brownstein's questions from the September 10, 2014 meeting. Mr. Brownstein asked in public comment who had the authority to judicate complaints against employees. Deputy City Attorney Silva responded that Resolution 76954 (which outlines the regulations and procedures for the Ethics Commission) states that:

“Any City employee who is a candidate for City office shall be treated as any other Candidate for purposes of Chapter 12.06 of the San José Municipal Code. The Evaluator shall refer any complaint where the Respondent is a classified or unclassified employee appointed by a City Council Appointee to the appointing authority for investigation and action.”

Mr. Brownstein then asked if a Councilmember was the Respondent, who would judicate the complaint. Deputy City Attorney Silva informed Mr. Brownstein that Council Policy 0-28, Council Conduct Policy, indicates that the matter would be referred to the District Attorney's Office or the Ethics Commission unless otherwise specified in the San José Municipal Code. Deputy City Attorney Arlene Silva responded to Commission questions.

## **VI. New Business**

- A. Status, discussion and possible action on extension of current contract for Independent Evaluator/Investigator and RFQ for new contract commencing July 1, 2015 (City Clerk/City Attorney)

Discussion: The Commission decided that the current contract with Hanson Bridgett should be extended to June 30, 2015 to allow enough time to submit the RFQ for which they want one drafted for both the Evaluator and Investigator. Deputy City Attorney Arlene Silva will work with the Clerk's Office on the budget for the Hanson Bridgett contract extension and to draft the RFQ. The draft RFQ will be added to the November 12, 2014 agenda.

- B. Discussion, review and possible action on Form 500 language to ensure timely submittal

Documents Filed: Blank Form 500 and San José Municipal Code (SJMC) section 12.06.500 *et seq.*

Discussion: City Clerk Toni Taber discussed the issues with the current Form 500 and the language in San José Municipal Code section 12.06.500. City Clerk Taber

believes that the form is unclear and that the instructions are equally confusing. The review of the Form 500 was brought to the City Clerk's Office attention due to the filing of an amended Form 500 by Dave Cortese. City Clerk Toni Taber will work with Deputy City Attorney Arlene Silva to work on changes (possibly removing the amendment box and the opt out language) to the Form and will bring back to the Commission for review.

**VII. Public Comment – None**

**VIII. Future Agenda Items and Adjournment**

The next regular meeting is Wednesday, November 12, 2014 at 5:30 p.m. in City Hall, Wing Room 262.

**The following agenda items will be discussed at the November 12, 2014 Ethics Commission meeting:**

- Gift Ordinance and FAQs
- Open Government Legislation
- Approval of Meeting Minutes
- Contract and RFQ for Evaluator/Investigator
- Changes to Form 500 form/instructions and possible changes to SJMC

The meeting was adjourned at approximately 6:24 p.m.

  
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MICHAEL SMITH, CHAIR

ATTEST:  
ETHICS COMMISSION SECRETARY

  
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TONI J. TABER, CMC  
CITY CLERK