

**ETHICS COMMISSION**

Meeting Minutes  
August 14, 2013

**ROLL CALL**

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

**ABSENT:** None

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

**OTHERS:** Angelica Ramos, Council Policy Analyst with Vice Mayor Madison Nguyen's Office

**ORDER OF BUSINESS**

**I. CALL TO ORDER**

The members of the San José Ethics Commission convened at 5:33 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

**II. ADOPTION OF THE AGENDA**

Action: Upon a motion by Vice Chair Rolanda Pierre Dixon, and seconded by Commissioner Linda Edgeworth, the Commission approved the adoption of the August 14, 2013 agenda. Vote (5-0)

**III. PUBLIC COMMENT – None**

**IV. CLOSED SESSION – None**

**V. APPROVAL OF MINUTES**

A. July 10, 2013 – Regular Meeting

Documents Filed: Draft Ethics Commission minutes for July 10, 2013.

Discussion: The Commission reviewed and discussed the draft Ethics Commission minutes for July 10, 2013. Commission Chris Peacock questioned the summary listed under item VII.C regarding adding a statement to the Complaint Form. The Commission discussed and revised the language.

Action: Upon a motion by Commissioner Leon Louie and seconded by Vice Chair Rolanda Pierre Dixon, the Commission approved the meeting minutes from July 10, 2013 as amended. Vote (4-1; Commissioner Chris Peacock Opposed)

## **VI. REPORTS**

- A. Chair – Chair Michael Smith reported that he has attended the Rules and Open Government Committee meetings to hear the discussions on the Commission recommendations.
- B. City Attorney – None
- C. City Clerk – Acting City Clerk Toni Taber informed the Commission that the Clerk’s Office has received many calls and inquiries from the press with regard to the 2014 City Councilmember and Mayoral Primary Election. The nomination period starts February 10, 2014 and the Candidate Intention Statements must be filed before fundraising starts. Acting City Clerk Toni Taber informed the Commission that she has completed the City of San José Election Guide and has posted it to the City Clerk’s website.
- D. Investigator/Evaluator – None

## **VII. ITEMS SCHEDULED FOR ACTION**

- A. Report and action from the August 7, 2013 Rules and Open Government Committee meeting regarding suggested amendments to the San José Municipal Code Title 12, Gift Ordinance and Ethics Commission policy changes.

Documents Filed: 1) Memo to the Honorable Mayor and City Council from Acting City Clerk Toni Taber regarding Rules and Open Government referrals to the Ethics Commission regarding campaign contribution limits and voluntary expenditure limits, electioneering communication disclosures, and elections and recounts dated August 8, 2013 (8/20/13 Council agenda item 3.3); 2) Memo to the Honorable Mayor and City Council regarding Ethics Commission Title 12 Revisions and Revisions to Administrative Procedures dated August 8, 2013 (8/20/13 Council agenda item 3.4); 3) Draft Ordinance amending Title 12 of the San José Municipal Code (8/20/13 Council agenda item 3.4b); 4) Memo to the Honorable Mayor and City Council from Acting City Clerk Toni Taber regarding Mayor’s 2013 Biennial Ethics Review and Recommendations (8/20/13 Council agenda item 3.5); and 5) Supplemental Memo to the City Council from the Mayor regarding Mayor’s 2013 Biennial Ethics Review and Recommendations dated August 8, 2013 (8/20/13 Council agenda item 3.5).

Discussion: Deputy City Attorney Arlene Silva informed the Commission that the Ethics Commission referrals, Title 12 revisions, and draft ordinance will be heard and discussed at the August 20, 2013 City Council meeting. Deputy City Attorney Arlene Silva then explained the changes being made to the Gift Ordinance and answered Commission questions. Acting City Clerk Toni Taber

will check with the current publisher of the San José Municipal Code to see if links to the Fair Political Practices Commission website can be added to the online code.

The Commission reviewed and discussed the memos and draft ordinance going to the City Council on August 20, 2013. Deputy City Attorney Arlene Silva reviewed the draft ordinance section by section and received Commission feedback and requested amendments. Angelica Ramos, Council Policy Analyst with Vice Mayor Madison Nguyen's Office, informed the Commission that two separate versions of the draft ordinance showed on the Council agenda. City Clerk Toni Taber will revise the links on the Council agenda and will add San José Municipal Code section 12.06.010 to the cover memo pertaining to the draft ordinance.

Chair Michael Smith inquired about the Mayor's Biennial Ethics Review. Acting City Clerk Toni Taber informed the Commission that some items or tasks from the Mayor's Biennial Ethics Review may come before the Ethics Commission for review and answered Commissioners' questions.

Acting City Clerk Toni Taber informed the Commission that the Ethics Commission 2012-13 Annual Report and 2013-14 Workplan were approved at the August 7, 2013 Rules and Open Government Committee meeting.

- B. Discussion and action on scheduling a Special Ethics Commission meeting.

Discussion: The Commission determined that no special Ethics Commission meeting needed to be scheduled.

Action: No action taken.

#### **VIII. ITEMS SCHEDULED FOR INFORMATION OR DISCUSSION**

- A. Report from Ethics Commission Title 12 Amendment sub-committee.

Discussion: Chair Michael Smith told the Commission that he was involved in some discussions with Deputy City Attorney Arlene Silva but had nothing else to report.

- B. Discussion on how to assess effectiveness and efficiency of compliance monitoring process.

Discussion: Acting City Clerk Toni Taber reported that she is currently working with her staff on developing and/or improving performance measures to show Council and the public the amount and different type of work produced by the City Clerk's Office. Acting City Clerk Toni Taber will determine the best way to efficiently and effectively review and monitor campaign finance forms for accuracy and/or deficiencies. Chair Michael Smith suggested that deficiencies or patterns of errors on campaign filings be reported to the Commission since this

may be an indicator that changes to Title 12 of the San José Municipal Code are needed. Acting City Clerk Toni Taber answered Commission questions and will report back with statistics on campaign finance compliance.

C. Status of lobbyist designation for non-profits.

Discussion: Acting City Clerk Toni Taber informed the Commission that non-profit organizations do not need to file as lobbyists. The City of San José has one non-profit organization filed as a lobbyist because the spouse of one of their employees is a San José Councilmember. For the sake of transparency, the organization has opted to file as a lobbyist. The Commission discussed the issue.

D. Status of compliance with Commission resolutions.

Discussion: Acting City Clerk Toni Taber reported that Jimmy Nguyen has filed his amended campaign statements; however, another amendment is needed as deficiencies were found. Acting City Clerk Toni Taber confirmed that Minh Duong has paid his fine but has not filed his amended campaign statement. Efforts are being made to reach Minh Duong.

E. Legislative update.

Discussion: The Commission discussed the type of updates to be reported on in Item VIII.E. No legislative update given. Acting City Clerk Toni Taber suggested that this item be added to the City Attorney and City Clerk reports.

**IX. MEETING SCHEDULE AND AGENDA ITEMS**

- A. The next Regular Meeting is Wednesday, September 11, 2013 at 5:30 p.m. in City Hall, Wing Room 262. Vice Chair Rolanda Pierre Dixon informed the Commission that she would be absent for the September 11, 2013 meeting due to planned travel.

**The following agenda items will be discussed at the September 11, 2013 Elections Commission meeting:**


- Report from August 20, 2013 City Council Meeting
- Review and update the Ethics Commission Workplan
- Discussion on how to assess effectiveness and efficiency of compliance monitoring process.
- Report on campaign finance filings
- Legislative updates

**X. ADJOURNMENT**

The meeting was adjourned at approximately 7:13 p.m.

  
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MICHAEL SMITH, CHAIR

ATTEST:  
ELECTIONS COMMISSION SECRETARY

  
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TONI J. TABER, CMC  
ACTING CITY CLERK