

MEETING MINUTES

December 11, 2013

I. Call to Order & Orders of the Day

Roll Call

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

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 5:41 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, the Commission approved the adoption of the December 11, 2013 agenda.
Vote (5-0)

II. Closed Session - None

III. Consent Calendar

A. Approve the Minutes of November 13, 2013 – Regular Meeting

Documents Filed: Draft minutes for the November 13, 2013 meeting.

Action: Upon a motion by Chair Michael Smith, and seconded by Commissioner Leon Louie, the Commission approved the meeting minutes of November 13, 2013.
Vote (5-0)

IV. Reports

A. Chair – None.

B. City Attorney

Document Filed: Chaptered, Vetoed & Dead Legislation compiled by the Orange County Registrar of Voters.

Discussion: Deputy City Attorney Arlene Silva announced that she attended the 2013 League of California Cities City Clerk's New Law & Elections Seminar in San Diego, California. At the conference, she received a comprehensive legislative update from the Orange County Registrar of Voters which she passed out to the Commissioners for their reference.

C. City Clerk

1. Legislative update – None
2. Status of compliance with Commission resolutions
 - a) Review and possible action regarding Minh Duong Case

Discussion: City Clerk Toni Taber informed the Commission that Minh Duong has not yet complied fully with Elections (Ethics) Commission Resolution 2010-02. The City Clerk's Office has been in contact with Minh Duong since September (via letters and phone conversations) and has yet to receive the outstanding campaign statements. City Clerk Toni Taber reported that Minh Duong violated the San José Municipal Code during the 2008 election cycle by failing to file and/or filing inaccurate campaign statements with the City. Mr. Duong paid the fine associated with the findings from the Elections (Ethics) Commission but has failed to file the outstanding campaign statements and closing out his officeholder committees. City Clerk Toni Taber requested advise from the Ethics Commission on whether to file a complaint with the Ethics Commission or send file to Fair Political Practices Commission (FPPC) for review. The Commission discussed.

Action: Upon a motion by Commissioner Linda Edgeworth, and seconded by Vice Chair Rolanda Pierre Dixon, the Commission gave approval for the City Clerk to draft a letter to Minh Duong on behalf of the Commission, which is to be signed by Chair Michael Smith (or Vice Chair Rolanda Pierre Dixon in his absence), requesting that Mr. Duong fully comply (or at least try to resolve or comply) with the requests made in Elections (Ethics) Commission Resolution 2010-02 by the next Commission meeting scheduled for January 8, 2014. Failing to do so will result in the Ethics Commission filing a complaint with the FPPC for review and enforcement of Elections (Ethics) Commission Resolution 2010-02. Vote (5-0)

3. Status report on filings (Form 700, Campaign Statements, Lobbyists) – Staff are updating Netfile to add new employees, lobbyists and candidates. Lobbyist reports and campaign statements are due in January.
4. Elections update – City Clerk Toni Taber reported that the campaign contribution period began on December 5, 2013 and informed the Commission on who has

filed a Form 501 (Candidate Intention Statement) with the City Clerk's Office.

D. Investigator/Evaluator – None.

V. Old Business

A. Review and action on Ethics Commission's Resolution No. 75640 and San José Municipal Code (SJMC) Title 12.

Documents Filed: Draft revisions to Resolution No. 75640 and SJMC Title 12.

Discussion: The Commission reviewed and discussed the proposed revisions to Resolution No. 75640. In addition to the markups, the Commission also requested the following changes or clarifications be made:

1. Section B.7: Clarify, redefine the meaning of "Election Cycle" to be a date certain.
2. 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.
3. Section D: The Commission agreed to keep this section, however, questioned if it is indeed the Commission that would prepare and issue a Request for Qualifications as stated in this section.
4. Section E.10: The Commission thought that this section should be changed to: A member of the Commission who files a complaint may not participate and vote on a matter concerning such complaint. This change would eliminate Sections E.10.a and E.10.b.
5. Section F.4: Clarification/wordsmithing is needed. Deputy City Attorney Arlene Silva will check with Office of Employee Relations on clarification.
6. Section I.3: Restate as follows: The Chair shall be the sole spokesperson for the Commission.

Action: The Commission requested that the City Clerk or Deputy City Attorney provide a copy of the Hanson Bridgett contract for review. Chair Michael Smith requested that the Commissioners review Resolution 75640 and SJMC Chapter 12 and send suggested revisions to staff. New drafts to be reviewed and discussed at next Commission meeting.

B. Review and action on the Ethics Commission Complaint Form.

Document Filed: Draft Ethics Commission Complaint Form

Discussion: City Clerk Toni Taber reviewed the draft Ethics Commission Complaint Form with the Commission. No changes needed.

C. 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 item has been deferred. Chair Michael Smith requested that the City Attorney's Office send the Ethics Commission a draft of any changes or proposed revisions to SJMC Title 12 before going to Council.

D. 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 January 8, 2014.

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, January 8, 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:

- 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 Minh Duong matter

The meeting was adjourned at approximately 7:37 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ETHICS COMMISSION SECRETARY



TONI J. TABER, CMC
CITY CLERK