

**MEETING MINUTES**

October 9, 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 (arrived at 5:45pm)

**ABSENT:** None

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

**Call to Order**

The members of the San José Ethics Commission convened at 5:31 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 October 9, 2013 agenda. Vote (4-0-1; Commissioner Chris Peacock absent)

**II. Closed Session - None**

**III. Consent Calendar**

- A. Approve the Minutes of August 14, 2013 – Regular Meeting
- B. Approve the Minutes of September 11, 2013 – Regular Meeting

Documents Filed: Draft minutes for the August 14, 2013 and September 11, 2013 meetings.

Action: Upon a motion by Commissioner Leon Louie, and seconded by Commissioner Linda Edgeworth, the Commission approved the meeting minutes of August 14, 2013 and September 11, 2013. Vote (4-0-1; Commissioner Chris Peacock absent)

**IV. Reports**

- A. Chair – Chair Michael Smith announced to the Commission that Toni Taber has been appointed the City Clerk for the City of San José.

B. City Attorney

1. Legislative update – Deputy City Attorney Arlene Silva updated the Commission on Assembly Bills 409 and 1090.

C. Department Staff

1. Legislative update –

Documents Filed: CapitolTrack legislative bill summary printouts.

Discussion: Acting City Clerk Toni Taber provided the Commission with the CapitolTrack legislative bill summaries that may affect the City of San José and the Ethics Commission. Acting City Clerk Toni Taber reviewed the following bills with the Commission and answered Commission questions: SB 52, AB 45, AB 409, AB 510, AB 552, AB 813, AB 1418, SB 2, SB 3, and SB 268. Chair Michael Smith announced that the current Chair of the Fair Political Practices Commission, Ann Ravel, has been confirmed to the Federal Election Commission. Commissioner Linda Edgeworth suggested that the Commission send opinions about the legislative bills to the City Council.

2. Status of compliance with Commission resolutions – There are no outstanding Commission resolutions.
3. Status report on filings (Form 700, Campaign Statements, Lobbyists) – Acting City Clerk Toni Taber indicated that lobbyist reports are due on October 15, 2013 so there will be a report given at the next Commission meeting.

4. Elections update –

Document Filed: List of 2014 candidates and measures.

Discussion: There are currently 23 candidates for the 2014 City Councilmember and Mayoral Primary Election. Candidates are not required to file their Form 501 (Candidate Intention Statement) until they are ready to fundraise (campaign contribution period begins December 5, 2013) or until they turn in their nomination papers (filing period is February 10, 2014 through March 7, 2014), whichever date is sooner. A ballot initiative has been received regarding garbage and waste recycling. Acting City Clerk Toni Taber answered Commission questions.

- D. Investigator/Evaluator – None.

V. **Old Business**

- A. Discussion and action on assessing effectiveness and efficiency of compliance monitoring process and revising process as required.

Discussion: Acting City Clerk Toni Taber informed the Commission that there is nothing to report.

- B. Report and action regarding suggested amendments to the San José Municipal Code Title 12.

Documents Filed: Ordinance 29310 – Adopted on September 24, 2013

Discussion: Deputy City Attorney Arlene Silva reported that the suggested

amendments to the San José Municipal Code Title 12 were adopted by the City Council on September 24, 2013 as Ordinance #29310. Deputy City Attorney Arlene Silva indicated that the Commission should review Ordinance #29310 during the 2016 election cycle to see if any additional amendments should be made; specifically to check if 45 days to deposit personal funds to pay off debt is adequate.

Chair Michael Smith suggested that the Commission start a list of issues that need to be looked at before the 2016 election cycle.

## **VI. New Business**

### **A. Review and action on revised Gift Ordinance.**

Documents Filed: 1) Draft Gift Ordinance; 2) Fair Political Practices Commission Fact Sheet: Limitations and Restrictions on Gifts, Honoraria, Travel and Loans; and 3) California Code of Regulations – Chapter 9.5 with Table of Contents.

Discussion: Deputy City Attorney Arlene Silva reviewed the draft Gift Ordinance with the Commission and commented that she started anew with this draft. After speaking with staff at the City Attorney's Office, Deputy City Attorney Arlene Silva informed the Commission that this draft will be drastically amended to remove sections of the ordinance that are redundant and are already stated in Chapter 9.5 of the California Code of Regulations. Deputy City Attorney Arlene Silva will be creating a Frequently Asked Questions (FAQ) sheet to go along with the Gift Ordinance for easy reference. However, the City Attorney's Office is unsure if the FAQ sheet should be part of the ordinance or if it should be a separate policy that would be easier to amend as changes in the Code happen.

Deputy City Attorney Arlene Silva informed the Commission that there are outstanding questions as to whether or not gifts from lobbyists should be allowed, and if so, how much. Some of the San José Municipal Code sections have conflicting information. It was noted by Commission members that treating gifts of tickets to professional sporting events differently than tickets to non-professional sporting events seemed to ignore the value of tickets to some college sporting events. Deputy City Attorney Arlene Silva indicated that the Gift Ordinance is not yet agenda'd on a Rules and Open Government Committee as more work is needed before a draft can be sent to the Mayor and Council for review. Deputy City Attorney Arlene Silva responded to Commission questions.

Chair Michael Smith would like staff to report back to the Commission on what sections of Title 12 of the Municipal Code the Commission has authority to enforce, since it is sometimes unclear.

### **B. Review and action on the Ethics Commission's policies and resolution.**

Documents Filed: 1) Memo to the Honorable Mayor and City Council from Toni J. Taber, Acting City Clerk dated August 8, 2013 regarding Ethics Commission Title 12

Revisions and Revisions to Administrative Procedures; 2) Memo to the Honorable Mayor and City Council from Richard Doyle, City Attorney dated August 15, 2013 regarding Ethics Commission Title 12 Revisions and Revisions to Administrative Procedures; and 3) Ethics Commission Complaint Form.

Discussion: Acting City Clerk Toni Taber informed that Commission that amendments to Resolution 75640 which dictates the policies and procedures of the Ethics Commission have not yet been drafted. A draft resolution will be brought back to the Commission for review after the Commission considers proposed amendments to the complaint form. The Commission requested an instruction sheet be added as a cover to the complaint form. Acting City Clerk Toni Taber intends to rework the form to allow more specificity as to the alleged violation(s) and to inform Complainants that political sign placement complaints should be reported to Code Enforcement.

Acting City Clerk Toni Taber reported that the City of San José's fee schedule is updated on a yearly basis and she will propose including fines for missed deadlines for Title 12 filings during the next review. Acting City Clerk Toni Taber has completed the Signs FAQ sheet and has sent it to Code Enforcement review. Acting City Clerk Toni Taber will call Code Enforcement to check on creating a separate complaint form to report sign placement violations.

Acting City Clerk Toni Taber announced that she will wait until the 2016 election cycle to work on multi-language outreach resources for the citizens of San José due to the recent changes to Title 12 of the San José Municipal Code. This will allow the City Clerk's Office to review and research current resources available through other agencies and community outreach programs. At the request of Chair Michael Smith, this topic will be added to the June 2014 or July 2014 Ethics Commission agenda for review.

**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. Adjournment**

The next regular meeting is Wednesday, November 13, 2013 at 5:30 p.m. in City Hall, Wing Room 262.

**The following agenda items will be discussed at the November 13, 2013 Ethics Commission meeting:**

- Gift Ordinance
- Ethics Commission policy/procedure changes (Resolution 75640)
- Ethics Commission Complaint Form
- Report on campaign finance filings
- Legislative updates

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



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MICHAEL SMITH, CHAIR

ATTEST:  
ETHICS COMMISSION SECRETARY



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TONI J. TABER, CMC  
ACTING CITY CLERK