

MEETING MINUTES

September 11, 2013

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Michael Smith, Commission Members Linda Edgeworth, Leon Louie and Chris Peacock

ABSENT: Vice Chair Rolanda Pierre Dixon

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 5:35 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 Commissioner Linda Edgeworth, and seconded by Commissioner Chris Peacock, the Commission approved the adoption of the September 11, 2013 agenda. Vote (4-0-1; Vice Chair Rolanda Pierre Dixon absent)

II. Closed Session - None

III. Consent Calendar

A. Approve the Minutes of August 14, 2013 – Regular Meeting

Action: Minutes of August 14, 2013 were not drafted in time for meeting. Approval deferred to next meeting.

IV. Reports

A. Chair

1. Ethics Commission Title 12 Amendments Sub-Committee Update – Chair Michael Smith informed the Commission that the Sub-Committee reviewed the memos and draft ordinance sent for Council approval.

B. City Attorney – Deputy City Attorney Arlene Silva reported that the City Attorney's Office would like the Ethics Commission to review the Gift Ordinance before it's submitted to Rules. The draft Gift Ordinance will be given to the Commission in time for the October meeting.

1. Legislative update – None.

- C. City Clerk – Acting City Clerk Toni Taber is testing the new agenda layout on the Ethics Commission and requested feedback. The City Clerk’s Office would like to standardize the agenda across all Commissions.
Acting City Clerk Toni Taber informed the Commission that non-profits do not need to register as lobbyists; however, they are welcome to.
1. Legislative update – None.
 2. Status of compliance with Commission resolutions – There are no outstanding Commission resolutions. The City Clerk’s Office is still trying to reach Minh Duong.
 3. Status report on filings (Form 700, Campaign Statements, Lobbyists) – Acting City Clerk Toni Taber indicated that she will give a filing status report to the Commission each meeting.
 4. Elections update – There are currently 12 candidates for the 2014 City Councilmember and Mayoral Primary Election. The press is starting to report on the election.
- 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.

Documents Filed: 1) NetFile report indicating candidates/committees delinquent in filing their Form 460s; and 2) NetFile report of all active and terminated candidates.

Discussion: Acting City Clerk Toni Taber reviewed the NetFile reports with the Commission and explained that these reports will now be printed on a monthly basis and given to the Commission for review to update filer status; to ensure that all documents have been loaded properly; and to find any patterns of deficiencies. Commissioner Linda Edgeworth commented that an upgrade to the technology and software in the City Clerk’s Office would benefit the Office. Acting City Clerk Toni Taber responded that the Office technology will be updated soon as they are in the market for an Electronic Document Management System (EDMS); will be placing the e-filing contract out to bid; and will be moving to the Microsoft 360 Cloud soon. Acting City Clerk Toni Taber answered Commissioner questions.

VI. New Business

- A. Report and action from the August 20, 2013 City Council meeting regarding suggested amendments to the San José Municipal Code Title 12, Gift Ordinance and Ethics Commission policies.

Documents Filed: Memo from Acting City Clerk Toni Taber to the Ethics Commission dated September 4, 2013 regarding Council Action on Referrals and Title 12 Amendments.

Discussion: Deputy City Attorney Arlene Silva reported that the City Attorney’s Office is overhauling the Gift Ordinance due to feedback from the Mayor that the Gift

Ordinance was unclear and referred to the Fair Political Practices Commission rules too often. Since the changes will be substantial, Deputy City Attorney Arlene Silva will bring the revised Gift Ordinance back to the Ethics Commission for review and when approved, the Gift Ordinance will go back to City Council for a first reading.

Deputy City Attorney Arlene Silva announced that the draft ordinance outlining the Title 12 changes as recommended by the Ethics Commission was initially approved with minor changes at the August 20, 2013 City Council meeting. A candidate may now deposit personal funds into his or her campaign bank account up to midnight on the 45th day from the day of the election in order to pay outstanding debt. Deputy City Attorney Arlene Silva reported that Councilmember Rose Herrera was concerned that some candidates may deposit too much money into their bank accounts which may result in a surplus of cash. Councilmember Sam Liccardo proposed limiting the amount of personal funds that can be deposited to 5% of the voluntary expenditure limit regardless if the candidate participated. Deputy City Attorney Arlene Silva indicated that placing a cap on the amount of personal funds may be seen as a First Amendment issue so she discouraged the cap. The Commission discussed the issue.

Acting City Clerk Toni Taber informed the Commission that she will clarify the language in the ordinance regarding electioneering communications.

Acting City Clerk Toni Taber informed the Commission that the final reading of the ordinance is scheduled for September 24, 2013, although it may return for another first reading on September 17, 2013 if there are significant changes. If no changes are needed, the ordinance will become effective on October 24, 2013; in time for the 2014 election cycle.

- B. Review and update the Ethics Commission 2012-13 annual report and 2013-14 work plan, which was approved by Rules on August 7, 2013.

Discussion: No changes are necessary. The Commission requested that the approved Annual Report and Workplan be posted on the Ethics Commission webpage.

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

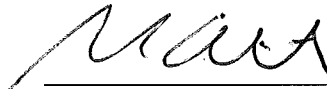
The next regular meeting is Wednesday, October 9, 2013 at 5:30 p.m. in City Hall, Wing Room 262.

The following agenda items will be discussed at the October 9, 2013 Elections Commission meeting:

- Gift Ordinance
- Report on Title 12 Amendments

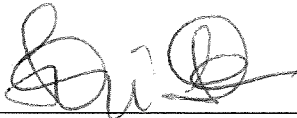
- Ethics Commission policy/resolution changes
- Discussion on how to assess effectiveness and efficiency of compliance monitoring process.
- Report on campaign finance filings
- Legislative updates

The meeting was adjourned at approximately 6:39 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ELECTIONS COMMISSION SECRETARY



TONI J. TABER, CMC
ACTING CITY CLERK