

Agenda Item 3.3
Proposed Revisions to the Revolving Door
Policy under Title 12 of the San Jose
Municipal Code
&
Proposed Revisions to Title 12 and
Resolution 79187 Pursuant to
BFCPP Recommendations

Background

- The BFCPP conducts biennial reviews of Title 12 and the Resolution governing the BFCPP with the goal of making recommendations which will go into effect in odd number years before election cycles begin.
- In 2020, the Rules Committee approved the BFCPP recommendations and moved for those revisions to be considered during the Mayor's Biennial Ethics Review.
- In 2023, the Rules Committee approved the BFCPP recommendations that also captured recommendations from 2020.

Non-Profit Exemption to Revolving Door Policy

- In 2017, an audit of the City's Open Government policies noted the exemption from the Revolving Door Ordinance was only applicable for City officials or designated employees that went on to work for non-profits who *have* received City funding in the last five years while waivers were required if they wanted to work for a non-profit that *had not* received funding.
- The audit recommended potential policy direction to mitigate potential conflicts of interest and simplify the rules, by either:
 - Narrowing the non-profit exemption to 501(c)3 organizations, regardless of whether the organization had received support from the City (to match the non-profit exemption in the City's Lobbying Ordinance); or
 - Striking the non-profit exemption, such that the same rules apply whether former designated employees go to work for non-profit or for-profit organizations.
- BFCPP reviewed the Auditor's recommendation following City Council referral and recommended striking the non-profit exemption. This recommendation was presented to the City Council ahead of the May 23, 2023 City Council meeting.
- Councilmembers Jimenez and Cohen recommended an alternative revision, which would narrow the non-profit exemption to 501(C)3 organizations, regardless of whether they received support from the City and revise the prohibition period from two years to one year.

Limitations on Candidate Loan to Their Campaign Committees

- The Supreme Court ruled that Section 304 of the Bipartisan Campaign Reform Act of 2002 (BCRA) was unconstitutional. Section 304 placed a \$250,000 cap on the repayment of personal loans from candidates to campaigns using money from post-election donations. *Federal Election Commission v. Ted Cruz for Senate et al. (Ted Cruz for Senate)*
- The proposed ordinance would amend Section 12.06.295 because it limits a candidate from making a loan to their own campaign or campaign committee if the loan exceeded \$20,000. Under the proposed ordinance, there will no longer be a limit on the amount a candidate may loan to their own campaign or campaign committee.

Additional Recommendations

- Amend Resolution 79187 to clarify the BFCPP jurisdiction to exclude matters not regulated under Title 12 such as nepotism, election fraud, misuse of public funds, and the truth or accuracy of campaign materials;
- Amend Resolution 79187 to make other technical changes;
- Amend Section 12.04.080 to allow the City Clerk to reject complaints without prejudice; and
- Amend Section 12.05.020 to allow for deferral of a special election to a regularly scheduled election.