

**City of San Jose Board of Fair Campaign and Political Practices  
Ad Hoc Committee on Proposed Campaign Finance and Ethics Reforms  
Status Update as of February 10, 2021**

## **Background**

On July 28, 2020, the City Council referred a series of proposed campaign finance and ethics reforms for further study and evaluation by the Board of Fair Campaign and Political Practices (Board or BFCPP). At its next regular public meeting, the Board initiated its review of this referral on September 9, 2020.

## **Summary of Proposals from the City Council**

In the original referral, the City Council proposed a series of campaign and ethics reforms as summarized below:

- Contribution Limits  
Prohibit a Councilmember, including the Mayor, from accepting, soliciting, or directing a contribution of more than \$250.00 from any party or participant while a proceeding involving a license, permit, or other entitlement for use is pending before the City and for three months following the date a final decision is rendered.
- Conflicts of Interest  
Prohibit a Councilmember, including the Mayor, from making, participating in the making, or in any way attempting to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use before the City if the member of the Council has willfully or knowingly received a contribution in an amount of more than \$250.00 within the preceding twelve months.
- Lobbyists and City Contractors
  - Registered Lobbyists are prohibited from making a campaign contribution to a candidate for City office.
  - Registered Lobbyists, Contractors of the City, or any direct beneficiary of a City contract are prohibited from giving any gift, as defined under the Political Reform Act, to a City official.
  - Prohibits any registered lobbyist from serving on a Board or Commission within two years of any lobbying activity and any person with a contract with the City from serving on a Board of Commission within two years of expiration or termination of the contract.

## **Last Action of the Board**

At the Board's last regular meeting on December 9, 2020, the Board reviewed and generally agreed with the proposed research methods for first evaluating whether the proposed City Council policies are addressing activities that have been occurring in recent past. The proposed

research methods and an inventory of data or documents needed to complete each research task are summarized in the following table for each of the proposed ethics reforms.

### Outline of Initial Research Methods

Proposed Measure	Questions to Resolve	Proposed Methodology	Materials Needed
<b>Contribution Limits -</b> Prohibition of campaign contributions above \$250 from parties with business before the Council.	To what extent are parties with interests before the council contributing to councilmembers? What is the range and average contribution? Are these contributions observable within a reasonable time frame from of a significant decision or vote?	Review a sampling of significant contracts, developments, or other policy matters voted on in recent past and research whether parties with vested interests in those contracts or decisions made contributions to councilmembers.	Campaign Finance Reports, Forms 460, etc. from the City Clerk's Office
<b>Conflicts of Interest -</b> Prohibit councilmembers from influencing or participating in a decision if the councilmember has received more than \$250 in the past 12 months from an interested party.	To what extent are parties with interests before the council contributing to councilmembers? What is the range and average contribution? Are these contributions observable within a reasonable time frame from of a significant decision or vote?	Review a sampling of significant contracts, developments, or other policy matters voted on in recent past and research whether parties with vested interests in those contracts or decisions made contributions to councilmembers.	Campaign Finance Reports, Forms 460, etc. from the City Clerk's Office
<b>Lobbyists and City Contractors, Contributions -</b> Registered lobbyists are prohibited from making a campaign contribution to a candidate for City office.	To what extent are lobbyists making campaign contributions to city candidates? What is the range and average contribution?	Cross reference the index of registered lobbyists with campaign finance disclosure reports to determine to what extent lobbyists are contributing to candidates.	(1) Campaign Finance Reports, Forms 460, etc. from the City Clerk's Office. (2) List of Registered Lobbyists from City Clerk's Office. (3) Lobbyist Registration Form Schedule A - Contributions, Expenditures, etc. from City Clerk's Office.

<b>Lobbyists and City Contractors, Gifts -</b> Registered lobbyists, city contractors are prohibited from giving any gift to a city official.	To what extent are lobbyists or contractors giving gifts to city officials?	Cross reference the index of registered lobbyists with Statements of Economic Interest from all elected officials and sampling of other high level city officials. Determine whether disclosed gifts on the Statements of Economic Interest might be originating from contractors.	(1) List of Registered Lobbyists from City Clerk's Office. (2) Lobbyist Registration Form Schedule A - Contributions, Expenditures, etc. from City Clerk's Office. (3) Form 700 Statements of Economic Interest. (4) An index of city contractors.
<b>Lobbyists and City Contractors, Revolving Door -</b> Registered lobbyists are prohibited from serving on a board of commission within two years of any lobbying activity. Contractors are prohibited from serving within two years of an expiration of a contract.	To what extent are lobbyists or contractors serving on city boards and commission after previously lobbying or working with the city?	Evaluate the application files of new board and commission members from the past few years to determine to what extent applicants and appointees were former lobbyists or contractors.	(1) Board member applications from the City Clerk's Office. (2) List of Registered Lobbyists from City Clerk's Office. (3) An index of city contractors.

Based on feedback from the Board and city staff, the ad hoc committee aims to begin studying these issues with assistance from the offices of the City Clerk and City Attorney in between regular Board meetings. Status update reports will be provided at each meeting.

Chair Gonzales agreed to first initiate research into the Conflicts of Interest issues and report on the status of research observations.

## **Conflicts of Interest Research Progress**

### State and Local Gift Rules

The City ordinance code currently prohibits any designated official (anyone who must file a Form 700) from receiving a gift from a "Restricted Source." A Restricted Source is defined as any individual or entity whose interests may be materially affected by the work of the involved officer or designated employee. There is an exception for small gifts from Restricted Sources, such as meals or beverages, in social settings, so long as such gifts do not exceed \$50 in value in a calendar year.

Aside from this direct prohibition on Restricted Sources, the City ordinance code aligns its gift rules with the California Political Reform Act. According to the California Fair Political Practices

Commission (FPPC), the annual gift limit for designated officials for 2021 through 2022 is \$520, a slight increase from \$500 for 2019 and 2020.

The Political Reform Act addresses additional exceptions for gifts, but one of the most significant exceptions is that for payments, advances, or reimbursements for travel, lodging, and subsistence for travel activities reasonably related to a legislative or governmental purpose.

In the City Council's proposed conflict of interest reforms, the new rules would prohibit councilmembers from influencing or participating in a decision if the councilmember has received more than \$250 in the past 12 months from an interested party. It is uncertain at this time if this policy would allow for the same exceptions as the FPPC, or if it applies to any or all gifts from an interested party.

#### Review of Reported Gifts

According to our review of 2019 Form 700s, there were 14 reported gifts between all elected offices, of which every gift was reported being related to either travel expenses or official activity, as summarized in the table below.

**Summary of Reported Gifts by Elected Officials, 2019**

<b>Incumbent</b>	<b>Total Value of Gifts</b>	<b>Number of Gifts</b>	<b>Lowest Value</b>	<b>Highest Value</b>	<b>Median Value</b>
Mayor	\$25,556.97	8	\$216.68	\$12,801.11	\$2,167.58
District 1	\$1,165.74	2	\$170.56	\$995.18	\$582.87
District 2	\$0.00	0	\$0.00	\$0.00	\$0.00
District 3	\$517.92	3	\$84.97	\$234.00	\$198.95
District 4	\$0.00	0	\$0.00	\$0.00	\$0.00
District 5	\$0.00	0	\$0.00	\$0.00	\$0.00
District 6	\$0.00	0	\$0.00	\$0.00	\$0.00
District 7	\$0.00	0	\$0.00	\$0.00	\$0.00
District 8	\$0.00	0	\$0.00	\$0.00	\$0.00
District 9	\$0.00	0	\$0.00	\$0.00	\$0.00
District 10	\$100.00	1	\$100.00	\$100.00	\$100.00
<b>Total Reported</b>	<b>\$27,340.63</b>	<b>14</b>			

Source: 2019 Form 700s, City Clerk's Public Access Portal

Almost all of the reported gifts were from industry and civic organizations and associations paying or reimbursing for travel, lodging, or meal expenses for conferences, seminars, and banquets. None of the incumbents reported any other type of monetary or tangible gift.

Of the 11 elected offices, only four incumbents reported gifts for 2019. At the time of this status update, research has not been completed as to whether any of the gift providers have been recent parties of interest before the City Council. If we make the assumption that all gift providers had recent interests before the City Council, seven gift providers would exceed the \$250 annual threshold in the City Council's policy proposal. These organizations would include:

- 1) National League of Cities
- 2) Cities of Service
- 3) Aspen Institute (two separate gifts)
- 4) HBO (Home Box Office)
- 5) C40 Cities
- 6) Bloomberg Philanthropies
- 7) American Israel Education Foundation

Again, these gifts all currently fall under the state gift exceptions allowing designated officials to accept gifts larger than \$500 (2019-2020 maximum) if they are for travel reasonably related to a legislative or governmental function. If the City Council's proposed gift limit of \$250 continues to allow for this exception, then no reported gifts from 2019 would indicate that interested parties are gifting in a manner that would exceed the new rules. Additional research for 2018 reported gifts can be completed for the next status update.

### **Next Steps**

Chair Gonzales will work on the following to report on at the Board's next regularly scheduled meeting on March 10, 2021:

- 1) Work with city administration to determine if any of the 2019 gift providers had recent material interests before the City Council.
- 2) If the Board and administration wish, review 2018 gift forms relating to the Conflicts of Interest research.
- 3) Initiate research into the campaign contributions limit portion of the research workplan.