

City of San José
Board of Fair Campaign and Political Practices

DRAFT MEETING MINUTES

September 12, 2019

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Chair Adrian Gonzales, Vice Chair Chris Peacock, and Board Members Kerstyn Olsen, Joe Lopez and Louis Silver.

ABSENT: None

STAFF: Deputy City Attorney Mark Vanni, City Clerk Toni Taber, and Deputy City Clerk Ruth Krantz.

OTHER: None

Call to Order & Orders of the Day

The members of the San José Board of Fair Campaign and Political Practices convened at 5:44 p.m. in Room T-1446 of City Hall, 200 E. Santa Clara Street, CA 95113.

Action: Upon motion by Board Member Joe Lopez, seconded by Board Member Louis Silver and carried unanimously, the Board approved the adoption of the September 11, 2019 agenda. (5-0.)

II. Hearings – None.

III. Public Record – None.

IV. Consent Calendar

- A. Approve the Minutes of April 10, 2019 – Regular Meeting
- B. Approve the Minutes of May 8, 2019 – Regular Meeting
- C. Approve the Minutes of June 5, 2019 – Regular Meeting

Motion: Upon motion by Board Member Lopez, seconded by Board Member Silver and carried unanimously, the meeting minutes were approved, with changes to reflect Board Member Peacock’s attendance as “excused” for the April and May Meetings. (5-0.)

V. Reports

A. Chair – None.

B. City Attorney – Deputy City Attorney Mark Vanni noted that the campaign season has begun, and the San José has received a notice of intent to circulate a petition to change the mayoral election dates. With 15% of the registered electorate, approximately 65,000 votes, this will qualify for the ballot.

C. City Clerk

1. Legislative update – None.
2. Status report on filings and Elections Update – City Clerk Toni J. Taber, informed that the filing period for Nomination Papers is Tuesday, November 12, 2019 through Friday, December 6, 2019 at 12:00 p.m. An intern has been working with the Clerk's Office to upload paper filings, specifically Candidate Intention Statement (Form 501) and Form 410.
3. Update on Board Expenditures – City Clerk Toni Taber reported that no additional expenses were incurred from the last meeting.

D. Investigator/Evaluator – None.

VI. Old Business

A. Discussion and possible action on biennial review of San Jose Municipal Code Title 12 (City Clerk)

Documents Filed: 1) San Jose Municipal Code Title 12; 2) Biennial Review Matrix.

The Board reviewed the Matrix, and revisions were made as noted below.

1. Remove lobbyist exemption for non-profits

Discussion: Clerk Toni Taber indicated that this has already been reviewed, but still needs to go before Council.

Action: No action taken.

2. Lobbyist weekly reporting deadline

Discussion: Simplification of the weekly reporting deadline were discussed. Language to be proposed to Council once drafted.

Action: Upon motion by Board Member Silver, seconded by Board Member Lopez and carried unanimously, the possible solution was approved to clarify language of SJMC 12.12.170 and 12.12.430 to ensure all lobbying activity is reported on the weekly reports. (5-0.)

3. Late fines for weekly Lobbyist reporting

Discussion: Clerk Toni Taber recommended removal of late fines, since the amount collected would not be worth the staff time involved. Following discussion, Board's recommendation was to refer to Council regarding appropriation of resources to run a pilot enforcement program. Consider referring to the City Auditor for a study of the internal control system.

Action: Upon motion by Board Member Olsen, seconded by Board Member Lopez and carried unanimously, clarification of lobbyist activity in weekly reports was recommended. Because of a concern that without a penalty there would be no incentive for lobbyists to file, consider referral to the City Auditor to examine the lobbyist reports. (5-0.)

4. Rejecting Complaints outside of Board jurisdiction or does not specify allegations

Discussion: Deputy City Attorney Mark Vanni's recommendations were supported.

Action: Upon motion by Board Member Silver, seconded by Board Member Lopez and carried unanimously, the recommendation was modified to "Revise ~~or remove~~ the requirement of the late fine in SJMC 12.12.440". (5-0.)

5. Nepotism Rules & Campaign Mailers

Discussion: Deputy City Attorney Mark Vanni's recommendations were supported.

Action: Upon motion by Board Member Silver, seconded by Board Member Lopez and carried unanimously, the word "expand" was removed from the solution: "Revise SJMC 12.04.080 and City Council Resolution 78390 to further *clarify* the City Clerk's authority to reject complaints, without prejudice, that are outside the jurisdiction of the Board or does not specifically allege a violation". (5-0.)

6. Deposit of personal funds into campaign bank accounts

Discussion: The Board determined that this should be broken down into two separate issues, and that an additional item should be added to the matrix "Surplus Campaign Funds".

Action: Upon motion by Board Member Lopez, seconded by Board Member Silver and carried unanimously, an eighth item was included to the matrix addressing Surplus Campaign Funds. (5-0.)

7. Special Municipal Election Dates

Discussion: Deputy City Attorney Mark Vanni's recommendations were supported.

Action: Upon motion by Board Member Silver, seconded by Board Member Olsen and carried unanimously, the Deputy City Attorney's recommendations were approved to Amend SJMC Chapter 12.05 to authorize the City Council to submit an initiative that qualifies for a Special Municipal Election to a Regular Municipal Election if certain criteria are met as a possible solution. (5-0.)

Action: Upon motion by Board Member Lopez, seconded by Board Member Olsen and carried unanimously, the Board approved to finalize the Biennial Review. (5-0.)

B. Discussion and possible action on Amendments to San José Municipal Code Section 12.06.720 related to “Surplus Campaign Funds”.

Documents Filed: Memorandum from Deputy City Attorney Mark Vanni, dated August 6, 2019, “San Jose Municipal Code Section 12.06.720 Surplus Campaign Funds”.

Discussion: Deputy City Attorney, Mark Vanni provided an overview, and discussion followed on whether to adopt the State’s parameters, to align the City’s surplus campaign funds ordinance with some or all of the requirements of State law. Mr. Vanni followed that the bright line rule could assist us in determining when surplus funds could be available with a deadline in play. Chair Gonzales recommended the inclusion of this item in the Biennial Review.

Action: Upon motion by Board Member Lopez, seconded by Board Member Silver and carried unanimously, revising surplus campaign funds to align with State laws, reporting period, definition and uses, was included on the Biennial Review Matrix. (5-0.)

C. Discussion and possible action regarding revisions to Council Resolution 79187 and other administrative policies.

Documents Filed: Memorandum from Deputy City Attorney Mark Vanni, dated August 6, 2019, “Proposed Revisions to the Council Resolution Regulations and Procedures”.

Deputy City Attorney Mark Vanni indicated that the proposed amendments include changes to the complaint-intake process, clarifying the Board’s jurisdiction under Title 12, and other technical changes.

Motion: Board Member Lopez moved approval of Council Resolution 79187 as drafted. Board Member Olson seconded the motion.

Action: On a call for the question, the motion carried, and Council Resolution 79187 was accepted to move forward for Council’s approval. (5-0.)

D. Discussion and possible action on report from Ad Hoc Committee for Public Education Campaign. (Chair Adrian Gonzales and Vice Chair Chris Peacock)

Action: Deferred to the next meeting of the Board.

E. Discussion and possible action on report from Ad Hoc Committee for Complaint Intake Process (Adrian Gonzales and Joe Lopez)

Documents Filed: Chair Gonzales’ “Draft Report on Alternative Complaint Intake and Resolution Processes”.

(E) (Cont'd.)

Discussion: Chair Gonzales highlighted observations from his handout, and the Board discussed options. It was determined to take this item up at the next meeting of the Board.

Action: No action taken.

F. Scheduling of Special Ethics Commission meeting if needed. (City Clerk)

Action: No action needed.

VII. Public Comment – None.

VIII. Future Agenda Items

- Work plan and annual report

IX. Adjournment

The next meeting is scheduled for October 9, 2019 at 5:30 p.m. in Room W-1446.

Action: Upon motion by Board Member Joe Lopez, seconded by Board Member Louis Silver and carried unanimously, the Board approved to adjourn the meeting at 7:53 p.m. (5-0.)

ADRIAN GONZALES, CHAIR

ATTEST:
BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES SECRETARY

TONI J. TABER, CMC
CITY CLERK