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AGENDA

City Council Election Code Committee
March 1, 2018, 12:00-1:30 p.m.
City Clerk Large Conference Room, 300 LaPorte Avenue

Committee Members: Councilmember Bob Overbeck, District 1
 Councilmember Kristin Stephens, District 4 (Chair)
 Councilmember Ross Cunniff, District 5

1. Call Meeting to Order
2. Citizen Comment (limited to 5 minutes per speaker)
3. Approval of October 5, 2017 Committee Meeting Minutes
4. Election-Related Changes for Discussion
 - a. Review draft Ordinance for March 20 Council meeting (see list of included items on next page)
 - b. Value of campaign ads on websites
5. Follow-up Items
 - a. Requiring “paid for by” information on campaign materials
 - b. Citizen “oversight” board
 - c. Extending deadline to file election complaints
6. Next Meeting: April 5, 2018, 12:00-1:30 pm, City Clerk Large Conference Room
 - a. Future Topics:
 - Redistricting
7. Other Business
8. Adjournment

There are three or more members of City Council that may attend this meeting. While no formal action will be taken by the Council at this meeting, the discussion of public business will occur and the meeting is open to the public.

Contents of Draft Ordinance for Council Consideration on March 20, 2018

- Amending duties of the City Clerk to add role as Designation Election Official in a coordinated election
- Adding definitions of “public announcement” and “registered agent”
- Requiring that a financial disclosure statement be filed at the same time as filing an acceptance of nomination (rather than 10 days later)
- Removing provision relating to notice prior to disqualification for failing to file the candidate affidavit by the date required
- Amending the information required on a committee registration form
- Adding language relating to the termination of committees
- Clarifying that the campaign finance report due at noon on the Friday before the election is due at noon regardless of the method of filing
- Adding provisions relating to signature verification and the correction of deficient or discrepant signatures

October 5, 2017

ELECTION CODE COMMITTEE MEETING

12:00 PM

COUNCILMEMBERS PRESENT: Overbeck, Stephens, Cunniff, Horak
Staff Present: Coldiron, Knoll, Daggett, Malarky, Gonzales, Bodig
Others Present: Marge Norskog, Karen Wagner, Robbie Moreland, Jody Pashain, Elizabeth Hudetz, Jan Rosey, Kevin Jones

1. CALL MEETING TO ORDER

Councilmember Stephens called the meeting to order.

2. CITIZEN COMMENT

Marge Norskog stated she filed a notice of election complaint regarding financial reports for the April election. She stated active committees did not file financial reports. Registered committees should be required to report and penalties should be imposed if they do not. Ms. Norskog suggested an independent group, such as a citizen oversight group, should be formed that would be responsible for verifying the accuracy of election-related reports and have the authority to initiate appropriate action when false reporting or violations are observed.

Karen Wagner provided an article from the *Denver Post* regarding proposed City of Denver ordinances related to campaign finance and greater transparency.

Robbie Moreland, Jody Pashain, Elizabeth Hudetz, and Jan Rosey identified themselves as being in support of Ms. Norskog and Ms. Wagner's comments.

Councilmember Cunniff asked if the suggested committee would be Council-appointed. Ms. Norskog replied the committee should be citizen-based and appointed in some way.

Ms. Norskog asked if there is an audit function for municipal elections to ensure candidates are following election procedures and reports are being submitted appropriately. Chief Deputy City Clerk Knoll replied reports are not reviewed and issues are identified on a complaint basis.

Councilmembers Cunniff and Overbeck thanked the citizens for their work on this issue.

3. APPROVAL OF JULY 20, 2017 COMMITTEE MEETING MINUTES

Councilmember Overbeck made a motion, seconded by Councilmember Cunniff, to adopt the July 20, 2017 Committee meeting minutes. The motion was adopted unanimously.

4. ELECTION-RELATED CHANGES FOR DISCUSSION

a. Designate the City Clerk to serve as the Designated Election Official

Rita Knoll, Chief Deputy City Clerk, stated there is a State Statute that calls for the governing body to designate the City's designated election official. This has typically been done through an intergovernmental agreement with the County, but this designation in the City Code seems a better option. The Committee agreed to move forward with the suggested language.

b. Remove the "two signature requirement" on checks from couples for campaign contributions

Knoll stated in past elections, complaints were received when a contribution from a couple was in an amount greater than the limit for individual contributors; therefore, a requirement was added to

City Code that both parties sign a joint check to ensure clarity that they both intended to make the contribution.

Knoll stated Councilmember Summers has brought forth the issue as being an onerous requirement.

Councilmember Stephens asked if two signatures are required at the state level or in other jurisdictions. Knoll replied it is not required at the state level.

Ryan Malarky, Assistant City Attorney, replied the Secretary of State has a rule that it is up to the candidate or committee on how to apportion the contribution if the contributor is not specifically identified in a joint account check.

Knoll noted state rules do not apply to home-rule municipalities; therefore, Fort Collins will need to address the issue if a change is desired.

Councilmember Stephens stated she does not feel this is an onerous requirement.

Councilmember Cunniff stated the current practice is not that inconsistent with the state rules and suggested Councilmember Summers could bring the issue up under Other Business at a Regular Council meeting, if he would like it considered further.

Knoll noted no complaints or questions have been received regarding the practice.

The Committee recommends no change based on the Secretary of State regulations.

c. Can a felony received as a minor be used to disqualify a Council candidate?

Malarky discussed the two tracks a juvenile charged with a felony may take. A juvenile may be adjudicated, which is different from a felony conviction.

Carrie Daggett, City Attorney, stated the question relates to whether there is a desire to add some clarifying language to eliminate questions from potential candidates related to adjudication.

Councilmember Stephens asked if an adjudication would need to be disclosed on a job application. Daggett replied it would depend on how the question was phrased. Malarky replied it may also depend on whether records were sealed.

Councilmember Overbeck asked if other municipalities have been contacted. Daggett replied in the negative given this is an interpretation issue for the City Code.

Councilmember Overbeck asked if a restorative justice process would have any bearing on this. Daggett replied in the negative.

Daggett stated this change would not require much rewording; however, it is a Charter change and would therefore require a vote of the people. Councilmember Cunniff stated he would not call an election just for this item.

Councilmember Cunniff stated the Charter language appears to apply if an individual was convicted as a minor in criminal court.

Mayor Pro Tem Horak asked if other details are verified, such as address and age. Knoll replied voter registration and addresses are verified.

Councilmember Cunniff stated he would like to see more information regarding other municipalities and issues with federal security clearance.

Knoll stated if this item comes back before the Committee, staff will bring additional information.

d. Value of campaign ads on websites

Daggett stated City Attorney staff is working on this issue and will be providing more information.

Knoll stated this item will be moved to the next agenda.

e. Terminating inactive Issue and Political Committees

Knoll stated staff has provided some suggested language to address the issue. Once the language is determined, forms will be amended accordingly.

Daggett stated political committees sometimes form in anticipation of an issue coming forward. If that does not occur, it is not surprising that a committee dissolves. This combination of changes is intended to keep the election committee's life tied to the particular election around which the committee is formed.

Knoll noted the language does not currently include political committees because they sometimes register with much broader purposes than for an issue on a ballot. However, that is an issue for this Committee to address.

Councilmember Overbeck asked if a committee could reregister. Knoll replied it is possible to require reregistration of committees.

Daggett stated the logic of staff's proposal is that, by compressing the time frame, it makes it less likely that someone will move or become unreachable.

Councilmember Cunniff supported adding political committees to this proposal and stated termination reports should be required of all committees.

Knoll stated the compressed cycle will necessitate additional up-front education related to the filing requirements.

Councilmember Overbeck supported the change as offering clarity and transparency.

Knoll stated this will be added to the list of items to bring forward.

f. Candidate political signs

Knoll stated staff has included a suggested amendment that might provide clarity based on discussion at the last meeting.

Councilmember Cunniff supported the proposed language.

Councilmember Overbeck supported the addition of social media.

Knoll stated this item will be added to the list of items to bring forward.

g. Preliminary discussion of redistricting issues

Knoll summarized the information presented to the Committee and noted Larimer County re-precincted, which is a trigger recently added to the City Code to require Fort Collins to look at the deviation of population between districts. It was found that the City is well outside the 10% deviation threshold, primarily because of growth in District 1.

Marcus Bodig, GIS Manager, stated the bigger issue is the explosive growth of the entire city.

Councilmember Cunniff asked if the City precincts must, by Charter, align with County precincts.

Daggett replied they need to align for practical reasons.

Councilmember Cunniff asked if multiple City precincts could map into one County precinct. Knoll replied the difficulty lies in getting data from the County. She noted the County is required to take the City's district boundaries into consideration, so to the extent they can avoid making a change that would alter a district boundary, they avoid it.

Councilmember Stephens asked if there is a fix that would ensure redistricting does not have to occur every couple of years.

Knoll stated the more common practice is to redistrict after census data is received every ten years.

Jan Rosey, Fort Collins citizen, asked if it would be possible to have a dialogue with the Futures Committee and the possibility of adding additional districts. Mayor Pro Tem Horak replied that would be a much larger discussion related to Charter changes.

Councilmember Stephens stated her inclination is to redistrict based on the census as it seems impractical to redistrict every two years. Knoll noted a Code amendment would be required, but that change is possible.

Bodig stated he could look into doing some modeling related to using the census as the trigger to redistrict.

Councilmember Stephens stated some of that modeling could be helpful.

Councilmember Cunniff supported narrowing the options to two: basing redistricting on the census or going through the process every two years.

The Committee supported doing modeling to gain more information.

Daggett stated the formalization of a more consistent process ensuring no question of manipulation is also a goal.

Knoll suggested the possibility of bringing a precinct alignment item to Council now to address the County reprecincting. The Committee agreed that is a good step.

5. NEXT MEETING

a. Determine Next Meeting Date/Time

Daggett stated staff could use several weeks for more research on some of the items discussed. The group decided to look at December or January for a possible next meeting date.

b. Holdover Items

The group agreed the value of ads on websites is a holdover item.

6. OTHER BUSINESS

Councilmember Cunniff requested a reiteration of information regarding "paid for by" statements. He asked about requiring committees to file sufficient descriptions of expenditures.

Knoll stated independent expenditure reporting has been beefed up to make it very clear that documentation must be attached. However, she stated there may not be enough staff capacity to review documentation to determine adequacy.

Councilmember Cunniff asked if the new Code section regarding penalties applies to violations of independent expenditure reporting.

Daggett replied in the affirmative and noted there is a one-year statute of limitations under the Code; therefore, a 24-month time period to file a complaint as requested by Ms. Norskog could be problematic. She clarified the current 60-day limit is not a limit on enforcement of the provision, it is just a limit on triggering a review via a formal complaint.

Councilmember Stephens supported the idea of an independent election group.

Councilmember Cunniff suggested the group should be Council-authorized and appointed with one duty being the oversight of committee and candidate reporting conduct.

Daggett asked Ms. Norskog if she knows of other jurisdictions that have an independent election review committee. Ms. Norskog replied she did not conduct that type of research.

Councilmember Cunniff requested that research in anticipation of possibly forming the independent committee.

7. ADJOURNMENT

The meeting adjourned at 1:30 PM.

Attachments:

Marge Norskog comments

Denver Post article, September 4, 2017

ORDINANCE NO. 017, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF FORT COLLINS
TO AMEND REQUIREMENTS AND PROCEDURES FOR CITY ELECTIONS

WHEREAS, Chapter 7 of the City Code sets out procedures and requirements for redistricting of Council districts, for the conduct City elections, for disclosure of campaign finance information, and other related matters; and

WHEREAS, in 2015 the City Council formed an ad hoc committee, including Councilmembers Cunniff, Overbeck and Stephens, to review, discuss and recommend the most beneficial changes to the Code and City Charter regarding elections and other related matters; and

WHEREAS, in January 2017, Council made the ad hoc Committee a standing committee of the Council for the purpose of identifying and evaluating ideas for improvements to City election laws and practices and anticipating adjustments that may be needed to adapt to a changing legal and technological environment, for Council consideration; and

WHEREAS, as a result of the Committee's work (as both an ad hoc committee and a standing committee), Ordinance No. 021, 2016, and Ordinance No. 005, 2017 were considered and adopted by the Council to update various provisions of Chapter 7; and

WHEREAS, the Committee continued to meet in 2017 and has recommended additional clarifications and amendments to Chapter 7; and

WHEREAS, staff has also identified potentially confusing Code language regarding the deadlines for submission of filings, and has proposed a clarification to Code Section 7-136, as noted in Section 6 of this Ordinance; and

WHEREAS, [add recitals]

WHEREAS, the Council desires to enact the recommendations of the Committee and staff in order to clarify and improve the various provisions of Chapter 7, as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 7-20 of the Code of the City of Fort Collins is hereby amended to add a new subsection (10), to read as follows:

Sec. 7-20. Duties of city clerk.

The City Clerk shall:

- (1) Provide forms and instructions to assist candidates and the public in complying with the reporting requirements of Article V;
- (2) Keep a copy of any report or statement required to be filed by Article V for a period of one (1) year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (3) Make reports and statements filed under Article V available on the City's website no later than the next business day;
- (4) Report complaints received regarding alleged violations of Article V to the City Manager.
- (5) Prescribe the form of materials to be used in the conduct of mail ballot elections consistent with the provisions contained in Article VIII;
- (6) Establish procedures for conducting mail ballot elections consistent with the provisions contained in Article VIII, including efforts to inform uniformed and overseas voters of the upcoming election;
- (7) Supervise the conduct of mail ballot elections;
- (8) Employ temporary election workers as needed; ~~and~~
- (9) Take all necessary steps to protect the confidentiality of voted ballots and the integrity of the election; ~~and~~
- (10) Serve as, or designate a qualified employee of the City Clerk to serve as, the City's Designated Election Official, as defined in Colorado Revised Statutes § 1-1-104(8), Colorado Revised Statutes, for any election coordinated with Larimer County pursuant to Section 1-7-116, Colorado Revised Statutes.

Section 3. That Section 7-132 of the Code of the City of Fort Collins is hereby amended to add a definition of the term "public announcement," to read as follows:

Sec. 7-132. Definitions.

...

Public announcement shall mean:

- (1) Registration of a candidate committee; or
- (2) A statement made by the candidate signifying an interest in, or exploring the possibility of, seeking the office by means of a speech, advertisement or other

communication reported or appearing in public media or in any place accessible to the public, including social media, that a reasonable person would expect to become public.

...

Section 4. That Section 7-132 of the Code of the City of Fort Collins is hereby amended to add a definition of the term “registered agent,” to read as follows:

Sec. 7-132. Definitions.

...

Registered agent shall mean a natural person designated by or representing a committee and responsible to receive mailings, respond to inquiries regarding the committee, to receive complaints related to the committee, and timely filing campaign finance reports and other filings required pursuant to this Chapter.

...

Section 5. That Section 7-133 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-133. Candidate affidavit; disclosure statement; failure to file.

(a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.

(b) Each candidate shall file a financial disclosure statement pursuant to § 2-636 with the City Clerk ~~within ten (10) days after~~ at the same time as filing an acceptance of nomination.

(c) Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought. ~~Disqualification shall occur only after the City Clerk has sent a notice to the person by certified mail, return receipt requested, addressed to the person's last known residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five (5) business days of receipt of the notice.~~

(d) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings.

Section 6. That Section 7-134 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-134. Registration of committees; termination.

(a) All candidate committees, political committees and issue committees shall register with the City Clerk before accepting or making any contributions. Registration shall include a statement listing must be on a form provided by the City Clerk and must include the following, together with any other information required to complete the registration form:

- (1) The committee's full name, spelling out any acronyms used therein;
- (2) ~~A~~The name of a natural person authorized to act as a registered agent for the committee;
- (3) A current street address, mailing address (if different from the street address), ~~and~~ telephone number and email address for the principal place of operations business of the committee;
- (4) A current mailing address, telephone number and email address for the registered agent~~All affiliated candidates and committees;~~
- (5) The purpose or nature of interest of the committee-;
- (6) The date of the election regarding which the committee intends to be active;
- (7) The name of the financial institution in which all contributions received by the committee are deposited in a separate account bearing the name of the committee; and
- (8) An acknowledgement signed by the registered agent.

(b) A registered committee must promptly provide updated address, telephone and email information to the City Clerk upon the change of such information for the committee or the registered agent of the committee.

(c) Any candidate committee, political committee, or issue committee that has registered with the City Clerk, but has not engaged in any election activities or reported any contributions accepted or expenditures made, may terminate at any time by filing an amended committee registration indicating the nature of the amendment is termination of the committee and verifying that no contributions have been received or expenditures made since registration occurred pursuant to § 7-134. Alternatively, the committee shall file a campaign report indicating no contributions have been received or expenditures made, and indicating it is a termination report.

(d) Any political committee or issue committee that has not taken the necessary steps to terminate pursuant to Subsection (c) above must have properly disposed of all funds and must file a termination report no later than sixty (60) days after the election.

Section 7. That Section 7-136(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

(c) Reports shall be filed with the City Clerk on the twenty-first day, fourteenth day, and no later than noon on the Friday before the election, thirty (30) days after the election, and sixty (60) days after the election. Candidate committees that continue in operation must file a report annually on the first day of the month in which the anniversary of the election occurs until such time as a termination report is filed. If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

Section 8. That Section 7-136(f) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

(f) A report required to be filed by this Article Section is timely if the paper report is received by the City Clerk not later than the close of business on the date due or if the report is filed electronically not later than midnight Mountain Standard Time on the date due. Notwithstanding the foregoing, the report that is due by noon on the Friday before the election must be filed by noon regardless of the manner of filing.

...

Section 9. That Section 7-136(i)(2) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

(i) Except as specified in this Subparagraph (i), the disclosure requirements specified in this Article shall not apply to a small-scale issue committee. Any small-scale issue committee shall disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or

making such contributions or expenditures in accordance with the following alternative requirements:

...

- (2) Any small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between two hundred dollars (\$200.) and five thousand dollars (\$5,000.) shall register with the City Clerk within ten (10) business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars (\$200.). The registration required by this subparagraph ~~must include a statement listing~~ must be on a form provided by the City Clerk and must include the following, together with any other information required to complete the registration form:
 - a. The committee's full name, spelling out any acronyms used in the name;
 - b. The name of a natural person authorized to act as a registered agent of the committee;
 - c. A current street address, mailing address (if different from the street address), telephone number and email address for the principal place of business of the committee;
 - d. A current mailing address, telephone number and email address for the registered agent;
 - e. The purpose or nature of interest of the committee; ~~and~~
 - f. The date of the election regarding which the committee intends to be active;
 - g. The name of the financial institution in which all contributions received by the committee are deposited in a separate account bearing the name of the committee; ~~and~~
 - h. An acknowledgement signed by the registered agent.

Section 10. That Section 7-136(i) of the Code of the City of Fort Collins is hereby amended to add a new subparagraph (3), to read as follows:

- (3) A registered small-scale issue committee must promptly provide updated address, telephone and email information to the City Clerk upon the change of such information for the committee or the registered agent of the committee.

Section 11. That Section 7-190 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-190. Voting and return of ballots.

(a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the return envelope and comply with the instructions provided with the ballot.

(b) The eligible elector may return the marked ballot to the City Clerk by United States mail or by depositing the ballot at the office of the City Clerk or any place designated by the City Clerk. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the elector may provide the necessary postage or, if not so paid by the elector, the cost of return postage shall be paid by the City. In order to be counted, the ballot must be received at the office of the City Clerk or a designated depository prior to 7:00 p.m. on election day.

(c) Ballots received by the City Clerk after 7:00 p.m. on election day shall not be counted, **except as provided in § 7-191 and § 7-192,** but shall be preserved in accordance with § 7-195 below.

Section 12. That Section 7-191 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-191. Receipt and qualification of ballots; signature verification ~~not required.~~

(a) All ballots, including undeliverable ballots, shall be marked to indicate the date the ballot was received by the City Clerk.

(b) Upon receipt of a voted ballot **in an election conducted prior to April 2019,** an election worker shall first qualify the submitted ballot based on a visual inspection of the self-affirmation signature on the return envelope compared to the name of the elector printed on the envelope to determine whether the ballot was submitted by said elector. Comparison of the signature on the return envelope to any signature image, including those signature images in the statewide voter registration system, is not required. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the poll book that the eligible elector cast a ballot, and shall prepare the ballot for counting in accordance with § 7-193 below.

(c) Beginning with the April 2019 regular municipal election, election workers shall compare the elector's self-affirmation signature on the return envelope with the elector's digitized signature(s) in the statewide voter registration system in accordance with the provisions of Section 31-10-910.3, Colorado Revised Statutes.

(ed) If an election worker is unable to qualify the ballot as set forth in Subsection (b) **or (c)** above, the ballot shall be rejected and the reason for rejection shall be indicated in the poll book. Rejected ballots shall remain unopened and shall be securely stored separate from qualified ballots unless such ballots are corrected as provided in § 7-192 below.

(de) If an election worker determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the City Clerk shall ~~not~~ count **any the first**

ballot cast by received from the elector and shall reject all subsequent ballots received from that elector.

Section 13. That Section 7-192 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-192. Rejected ballots.

~~The City Clerk is authorized, but not required, to make a reasonable effort to allow an eligible elector whose ballot has been rejected to correct the deficiency causing rejection.~~

(a) Beginning with the April 2019 municipal election, the City Clerk shall follow the procedures set forth in Section 31-10-910.3, Colorado Revised Statutes, for deficient and discrepant signatures on return envelopes.

(b) No elector shall be allowed to correct a deficiency or discrepancy without first producing valid proof of identification. No elector shall be allowed to open, change, or alter his or her ballot while in the process of correcting the deficiency or discrepancy.

Section 14. Any political committee or issue committee formed prior to January 1, 2018, will be deemed to have been formed for an election held prior to said date, and shall be deemed terminated and shall cease to operate as a committee upon the effective date of this Ordinance, except that any such terminated committee or persons responsible for the operation of such committee shall continue to be subject to the limitations on disbursement of funds set forth in § 7-138.

Introduced, considered favorably on first reading, and ordered published this 20th day of March, A.D. 2018, and to be presented for final passage on the 3rd day of April, A.D. 2018.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 3rd day of April, A.D. 2018.

Mayor

ATTEST:

City Clerk

DRAFT

DISCUSSION ITEMS

Topic 4b	Source	Questions/Comments/Explanation
Value of campaign ads on websites	Mayor Pro Tem Horak (Feb 2017 LPT request)	Suggested that staff provide Council candidates information on declaring the value of campaign ads on websites.
<p>Status:</p> <ul style="list-style-type: none">• Committee discussion on July 20, 2017.• City Attorney's Office continues to research language that would be examples of what is or is not an independent expenditure, especially in the area of social media use.• Need for additional clarification (City Code and/or candidate guidelines) of when a web-based campaign ad should be reported as a contribution or contribution in-kind.• Scheduled for discussion at next meeting.		

FUTURE TOPICS

Topic	Source	Questions/Comments/Explanation
Redistricting	Staff	<ul style="list-style-type: none"> • Staff requests a discussion with the Committee to receive guidance • Would the Committee consider removing sections 7-71(b), 7-87(c) and (d)? Removing this review will lessen the frequency of moving precincts between districts. • Would the committee support funding to hire a consultant to help formulate options/different methods for redistricting?
<p>Status:</p> <ul style="list-style-type: none"> • Committee discussion on October 5, 2017. • OK given to move forward with precincts boundary changes now to correspond with County precincts. Ordinance will need to include suspension of requirement to review district boundaries when County reprecincts. • Staff asked consider the possibility of City precincts being smaller than the County's precincts. Discussion with Larimer County planned. • Staff asked to do modeling to demonstrate how much growth could happen between now and the 2020 census. • Staff to provide suggested Code language to limit district boundary changes to occur only after the census. • Precinct boundary changes completed January 2018. 		

Review of precinct boundaries is required by City Code Section 7-71(b), 7-87(c) and (d) whenever Larimer County changes its precinct boundaries.

Current Code language:

Division 2-Election Precincts and Polling Places

Sec. 7-71. - Precinct map/amendment.

- (a) The boundaries of the election precincts as herein created in the City are hereby fixed and established as shown on the map entitled "District-Precinct Map," which map is on file in the office of the City Clerk.
- (b) Upon notice by Larimer County that its precinct boundaries have been amended, the City Clerk shall review precinct boundaries and recommend to City Council any precinct boundary changes to ensure they match Larimer County's precincts.

Division 3-Election Districts

Sec. 7-86. - Establishment.

Pursuant to the Charter, the City is hereby divided into six (6) Districts. From each District one (1) City Councilmember will be elected. Such Districts are designated as District No. 1, District No. 2, District No. 3, District No. 4, District No. 5 and District No. 6, and are delineated on the District-Precinct Map which is adopted by ordinance and made a part hereof by reference and is on file in the City Clerk's office.

Sec. 7-87. - Redistricting; notice.

- (a) The City Council shall, by ordinance, amend the boundaries of the foregoing districts as necessary to comply with the provisions of Article II, Section 1(c) of the Charter. The City Clerk shall cause to be published twice, in a local newspaper of general circulation in the City, notice of the date, time and place of the City Council's consideration of any such redistricting ordinance. The first such notice shall be published no less than fourteen (14) days prior to the date of first hearing of the redistricting ordinance, and the second notice shall be published no less than ten (10) days prior to the date of the first reading of the same.
- (b) Not more than eighteen (18) months after the official decennial publication of the United States Census concerning the population of the City of Fort Collins, the City Clerk shall recommend to the City Council any district boundary changes necessary to ensure that, to the extent reasonably possible, there is no more than a ten-percent deviation between the most populous and the least populous district.
- (c) Not less than once every six (6) years after making the determination required under Subsection (b) above, the City Clerk shall again review the district boundaries to determine whether the maximum deviation between the most populous and the least populous district meets the standard described in Subsection (b) above. If the standard in Subsection (b) above is not met, the City Clerk shall recommend to the City Council any district boundary changes necessary to ensure that the districts conform to such standard.
- (d) The need to amend precinct boundaries pursuant to § 7-71(b) shall automatically cause the City Clerk to review current population deviations, regardless of how long it has been since the last review. If the deviation is found to exceed ten (10) percent, the City Clerk shall recommend that the City Council make boundary adjustments, and present the Council with possible redistricting options that to the maximum extent possible equalize the population in each district, subject to the requirements for contiguity and compactness set forth in Article II, Section 1(c) of the Charter, with a maximum permissible deviation of ten (10) percent between the most populous and least populous district.
- (e) Any changes to district boundaries shall be established by ordinance no less than one hundred eighty (180) days before a regular municipal election.

Larimer County notified the City in June that the Commissioners had approved precinct boundary changes. Pursuant to City Code, this action by Larimer County triggered the review of the population deviation between districts. Staff discovered that the deviation between the most populous and least populous districts is greater than 10%. District 1 has grown dramatically since the last redistricting, which occurred in June 2016. Districts 2, 3, 5, and 6 had about equal growth while District 4 had no growth. The current practice for reviewing and adjusting districts appears to be unsustainable.

Criteria considered for redistricting:

1. **To the extent possible, Districts consist of an equal number of inhabitants (Charter)**
2. Districts must be contiguous (Charter)
3. Districts must be reasonably compact, consisting of contiguous, undivided general election precincts (Charter)
4. Residence address of each Councilmember so that no Councilmember is disenfranchised from his or her district.

PENDING TOPICS

Topic	Source	Questions/Comments/Explanation
Signature verification	Staff	<p>Status:</p> <ul style="list-style-type: none">• Originally discussed with Election Code Committee in 2016.• City Code amendments needed to authorize signature verification beginning with April 2019 election. (Needed to wait until Charter amendment approved in April 2017.)• Code amendments included in Ordinance for March 20, 2018.• Staff continues to investigate options for signature verification methods, including software and hardware.• Site visits to municipalities implementing signature verification in April 2018 are planned.• Staff will report back to Committee in Q2. 

Topic	Source	Questions/Comments/Explanation
Can a felony received as a minor be used to disqualify a Council candidate	Citizen questions	It has become fairly common each election to receive at least one question regarding the Charter language relating to candidate/Councilmember qualifications and felony convictions.
<p>Status:</p> <ul style="list-style-type: none"> • Committee discussed on October 5, 2017 and decided to consider this item if and when other Charter amendments are being considered for placement on the ballot. • Staff was asked to check with other municipalities to see if they have a similar requirement. 		



Current Charter language:

Article II, Section 2. - Qualifications of candidates and members; challenges.

- (a) An individual shall be eligible to be a candidate for the office of Councilmember if at the time of the election he or she is a citizen of the United States; is at least twenty-one (21) years of age; has been for one (1) year immediately preceding such election an elector of the city; and, in the case of a District Councilmember, has continuously resided in the District from which he or she is to be elected since the date of accepting any nomination for election under Article VIII, Section 3, of this Charter.
- (b) No person who has been convicted of a felony shall be eligible to be a candidate for, or hold, the office of Councilmember.
- (c) No person shall be eligible to stand for election to more than one (1) elective office at any single municipal election. During a term of office, no member of the Council shall be an employee of the city or hold any other elective public office. No person shall be elected or appointed to any city office, position or employment for which the compensation was increased or fixed by the Council while such person was a member thereof until after expiration of one (1) year from the date when such person ceased to be a member of the Council.
- (d) Any registered elector may file with the City Clerk a written protest challenging the qualifications of any member of the Council. Any such protest shall be resolved by the City Clerk as expeditiously as possible but no more than forty-five (45) days from the date of filing of the protest, pursuant to a procedure established by the Council by ordinance. In order to resolve such protests, the City Clerk shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. No protest shall be filed prior to the date of appointment or the date of issuance of the certificate of election of a Councilmember, whichever is applicable, nor shall any such protest, other than a protest based upon the fact of a felony conviction, be filed more than fifteen (15) days after said date.
- (e) The fact that a Councilmember may be determined to have lacked any qualification for the office of Councilmember during all or any portion of his or her term of office shall not affect the validity of any action taken by the Council during such Councilmember's term of office.

Discussion:

A question has arisen about whether a felony conviction as a minor could be used to disqualify one from being a candidate for the office of Councilmember. This question implicates the difference between a minor being *convicted* of a felony in adult criminal court and a minor being *adjudicated* for a felony offense in juvenile court. In Colorado, felonies may be prosecuted against juveniles in either juvenile court or in adult criminal court. If prosecuted in juvenile court, the case proceeds under the Colorado Children's Code, C.R.S. §§ 19-1-101, *et seq.* (the "Children's Code"). Juvenile courts have jurisdiction over juveniles ten (10) years of age or older who, subject to certain exceptions, violate any federal or state law, county or municipal ordinances, and any juvenile court order. The Children's Code provides that a juvenile may be adjudicated as having committed a delinquent act, which can include felonies.

In the alternative, a felony case could be brought against a juvenile in adult criminal court, where the juvenile could be convicted of a felony and sentenced either as a juvenile or as an adult. Whether a juvenile should be tried as an adult depends on the age of the juvenile; the type of offense charged; the extent of the juvenile's past history of delinquency; and whether the district attorney files the felony case directly with the adult court or seeks to transfer the case out of juvenile court to adult court.

As a general rule, the likelihood that a district attorney may file criminal charges against a juvenile as an adult increases with the age of the juvenile, the severity of the charged offense, and the juvenile's past history of delinquency.

Although adjudication and convictions are technically different, the two are treated identically in many contexts. For instance, certain agencies that regulate professional licensure may view an adjudication the same as a conviction when determining if a person is eligible for a license. Enhanced penalties for crimes committed later in life can apply if a person has a prior adjudication. In addition, an adjudication can serve as evidence of conduct that can result in the loss of a public benefit or immigration consequences. The full consequences of an adjudication versus a felony are broad, making a full reporting in this document impracticable.

COMPLETED TOPICS

Topic	Source	Questions/Comments/Explanation
Timing of filing financial disclosure statements	Staff	If a candidate fails to file, they are disqualified...but probably too late to remove them from the ballot. Staff suggests a process change to require the filing at the same time as accepting nomination.
<p>Status:</p> <ul style="list-style-type: none"> • Committee discussion on July 20, 2017. • Committee supports a code change to require the filing of the financial disclosure statement at the same time as the filing the acceptance of nomination. Draft language provided below. Ready to move forward for Council consideration. • Code amendments included in Ordinance for March 20, 2018. <div style="text-align: right;">  </div>		

Current Code language:

Sec. 7-133. - Candidate affidavit; disclosure statement; failure to file.

- (a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.
- (b) Each candidate shall file a financial disclosure statement pursuant to [§ 2-636](#) with the City Clerk within ten (10) days after filing acceptance of nomination.
- (c) Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the City Clerk has sent a notice to the person by certified mail, return receipt requested, addressed to the person's last known residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five (5) business days of receipt of the notice.
- (d) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings.

Suggested amendment:

Sec. 7-133. - Candidate affidavit; disclosure statement; failure to file.

- (a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.
- (b) Each candidate shall file a financial disclosure statement pursuant to [§ 2-636](#) with the City Clerk ~~within ten (10) days after~~ **at the same time as** filing ~~an~~ acceptance of nomination.
- (c) ~~Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the City Clerk has sent a notice to the person by certified mail, return receipt requested, addressed to the person's last known residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five (5) business days of receipt of the notice.~~

Topic	Source	Questions/Comments/Explanation
Candidate Public Announcements	Councilmember Cunniff (May 23 work session)	<ul style="list-style-type: none"> • Is the posting of a sign the same thing as announcing candidacy? • Staff requests a discussion with the Committee to receive feedback. One suggestion would be to change the definition of a public announcement.
<p>Status:</p> <ul style="list-style-type: none"> • Committee discussion on July 20, 2017. • Committee discussed on October 5, 2017 and agreed that it is ready to move forward for Council consideration. • Code amendments included in Ordinance for March 20, 2018. 		

Current Code:

Sec. 7-132. –Definitions.

Candidate shall mean any person who seeks nomination or election to the office of Mayor or Councilmember at any City election. A person is a candidate if the person has publicly announced an intention to seek such election or has filed nominating petitions for the office of Mayor or Councilmember. *Candidate* shall also mean any election official who is the subject of recall proceedings pursuant to Article IX of the Charter.

Suggested amendment:

Sec. 7-132. –Definitions.

Candidate shall mean any person who seeks nomination or election to the office of Mayor or Councilmember at any City election. A person is a candidate if the person has publicly announced an intention to seek such election or has filed nominating petitions for the office of Mayor or Councilmember. **A public announcement means:**

- (1) Registering a candidate committee; or
- (2) A statement made by the candidate signifying an interest in, or exploring the possibility of, seeking the office by means of a speech, advertisement or other communication reported or appearing in public media or in any place accessible to the public, including social media, that a reasonable person would expect to become public.

Candidate shall also mean any election official who is the subject of recall proceedings pursuant to Article IX of the Charter.

Topic	Source	Questions/Comments/Explanation
Designate the City Clerk as Designated Election Official (DEO) in the City Code	Staff	State Statute calls for the governing body to appoint a Designated Election Official for elections coordinated with the County. That designation is typically made in the IGA with the County, which the Council has, by ordinance, authorize the City Manager to execute. It would be preferable to address it in this way to be clear that the Council has made the designation. In the event that the City Clerk is not available to serve in this role, the amendment provides the Clerk may delegate authority.
<p>Status:</p> <ul style="list-style-type: none"> • Committee reviewed proposed language on October 5, 2017 and agreed that it is ready to move forward for Council consideration. • Code amendments included in Ordinance for March 20, 2018. 		

Proposed amendment:

Sec. 7-20. - Duties of city clerk.

The City Clerk shall:

- (1) Provide forms and instructions to assist candidates and the public in complying with the reporting requirements of Article V;
- (2) Keep a copy of any report or statement required to be filed by Article V for a period of one (1) year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (3) Make reports and statements filed under Article V available on the City's website no later than the next business day;
- (4) Report complaints received regarding alleged violations of Article V to the City Manager.
- (5) Prescribe the form of materials to be used in the conduct of mail ballot elections consistent with the provisions contained in Article VIII;
- (6) Establish procedures for conducting mail ballot elections consistent with the provisions contained in Article VIII, including efforts to inform uniformed and overseas voters of the upcoming election;
- (7) Supervise the conduct of mail ballot elections;
- (8) Employ temporary election workers as needed; and
- (9) Take all necessary steps to protect the confidentiality of voted ballots and the integrity of the election.
- (10) Serve as, or designate a qualified employee of the City Clerk to serve as, the City's Designated Election Official, as defined in Section 1-1-104(8), C.R.S., for any election coordinated with Larimer County pursuant to Section 1-7-116, C.R.S.

Topic	Source	Questions/Comments/Explanation
Terminating Inactive Committees	Staff	Suggestions from staff: A. Set up a method for terminating if they have not had activity for one or two election cycles. Preference would be one cycle, because they should have to refile with current information. B. If a registered issue committee believes they are a small-scale issue committee, they amend their original filing.
Status: <ul style="list-style-type: none"> • Committee discussion on July 20, 2017. • Committee supports a code change that would allow the termination of an issue committee after 1 election cycle. Staff will draft code language that states an issue committee will be terminated 45 days after election, unless the committee files a form stating the committee chooses to continue. • Committee discussion on October 5, 2017. Direction given to include political committees in termination provisions. • Committee agreed that it is ready to move forward for Council consideration. • Code amendments included in Ordinance for March 20, 2018. 		

Current Code language:

Sec. 7-134. - Registration of committees.

All candidate committees, political committees and issue committees shall register with the City Clerk before accepting or making any contributions. Registration shall include a statement listing:

- (1) The committee's full name, spelling out any acronyms used therein;
- (2) A natural person authorized to act as a registered agent;
- (3) A street address and telephone number for the principal place of operations;
- (4) All affiliated candidates and committees;
- (5) The purpose or nature of interest of the committee.

Suggested language:

Sec. 7-134. - Registration of committees; termination.

(a) All candidate committees, political committees and issue committees shall register with the City Clerk before accepting or making any contributions. Registration shall include a statement listing:

- (1) The committee's full name, spelling out any acronyms used therein;
- (2) A natural person authorized to act as a registered agent;
- (3) A street address and telephone number for the principal place of operations;
- (4) All affiliated candidates and committees;
- (5) The purpose or nature of interest of the committee.

(6) The date of the election during which the committee intends to be active.

(b) Any candidate committee, political committee, or issue committee that has registered with the City Clerk, but has not engaged in any election activities or reported any contributions accepted or expenditures made, may terminate at any time by filing an amended committee registration indicating the nature of the amendment is termination of the committee. In addition, the committee shall file a campaign report indicating no contributions have been received or expenditures made, and indicating it is a termination report.

(c) Any candidate committee, political committee, or issue committee that has not terminated pursuant to Subsection (b) above shall be automatically terminated on the 45th day after the election date designated at the time of registration. The City Clerk shall notify the registered agent of the committee's termination.

ITEMS NOT RECOMMENDED

Topic	Source	Questions/Comments/Explanation
Remove the “two signature requirement” on checks from couples for campaign contributions	Councilmember Summers	<ul style="list-style-type: none"> • Councilmember Summers suggested a Code amendment that would remove the “two signature requirement” on checks from couples for campaign contributions. He mentioned that the state does not have this requirement. When the contribution is reported, both names are listed, even when only one person signed the check • Staff requests a discussion with the Committee to receive feedback.
Status: <ul style="list-style-type: none"> • On October 5, 2017, Committee considered Councilmember Summers’ suggestion. Based on guidance in rules promulgated by the Secretary of State, the Committee recommends no changes be made to Code language. 		

HISTORY:

In November 2000, Council established local provisions regulating election campaigns, which provisions superseded the provisions of the Fair Campaign Practices Act. During the April 2001 election, many of the contribution and expenditure reports contained joint contributions from married couples (example: Mr. and Mrs. John Smith-\$150). The Clerk’s office received several questions about those contributions and how anyone could be sure such a contribution was split evenly and in compliance with contributions. In October 2001, City Code was amended to include a requirement that joint contribution be allowed to be accepted if the check is signed by all parties to the joint contribution to provide transparency to the contribution.

Current Code language:

Sec. 7-135. - Campaign contributions/expenditures.

(a) *Limits* . No person may make contributions and/or contributions in kind totaling more than one hundred dollars (\$100.) to the candidate committee of any candidate for the office of Mayor. No person may make contributions and/or contributions in kind totaling more than seventy-five dollars (\$75.) to the candidate committee of any candidate for the office of Councilmember. No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to effect such a contribution or contribution in kind. These limitations shall apply to all contributions or contributions in kind, whether made directly to a candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:

- (1) Contributions or contributions in kind made by a candidate to his or her own candidate committee;

- (2) Independent expenditures;
 - (3) Monetary loans that are: (a) personally guaranteed in writing by the candidate, the candidate's immediate family or a business entity in which the candidate owns at least five (5) percent; or (b) secured by real or personal property owned by the candidate, the candidate's immediate family or a business entity in which the candidate owns at least five (5) percent; or
 - (4) Contributions made to a candidate committee by another candidate committee established by the same candidate for the office of Mayor or Councilmember.
- (b) *Joint contributions.* No person shall make a contribution jointly with another person through the issuance of a check drawn on a jointly owned account unless: (i) the total amount of the joint contribution is less than the maximum amount that can be contributed by one (1) person under the contribution limits established in Subsection (a) of this Section or (ii) the check is signed by all owners of the account, in which event the amount of the total contribution shall be allocated equally among all such persons unless a different allocation is specified on the face of the check. No candidate committee, issue committee or political committee shall knowingly accept a contribution made in violation of this Subsection (b).

MEETING NOTES
February 16, 2018
3:30 p.m.

In attendance:

Marge Norskog
Robbie Moreland
Jody Deschenes

Staff in attendance:

Carrie Daggett, City Attorney
Delynn Coldiron, City Clerk
Rita Knoll Chief Deputy City Clerk
Sara Gonzales, City Clerk's Office

This meeting was scheduled at the request of City staff to gain a better understanding of the issues raised by Ms. Norskog at the October 2017 Election Code Committee meeting. At the October meeting, Ms. Norskog spoke of the election complaints she filed in conjunction with the April 2017 election, and suggested that a citizen oversight group be formed that would be responsible for verifying the accuracy of election-related reports. She also requested the time period for filing complaints be extended to 24 months.

Staff asked Ms. Norskog to describe the issues she is most concerned about.

Ms. Norskog expressed concern that campaign finance reports are not being reviewed by staff for compliance. She spoke of the importance of having accurate reports available to the public as quickly as possible after filing, and without review, that does not happen. The current process of filing complaints and the time for investigation does not provide the public accurate information in a timely manner. She spoke of technical errors in reports (a missing page) and the lack of filing by certain registered committees.

Ms. Norskog also expressed concern that campaign materials do not require identification of who paid for the materials. Without that identifying information, there is no transparency for the public and no easy way to determine if there is compliance with reporting requirements.

The recent participation of outside groups (not local groups) in City elections is of concern. Outside groups seem less interested in following local regulations.

Ms. Norskog mentioned Boulder, Longmont and Loveland as municipalities that take a more active role in reviewing reports. The formation of a citizen committee could provide additional resources to the City Clerk to make review possible.

City Attorney Daggett noted that the original goal of reporting requirement was to make information freely available to the public, thereby empowering citizens to review information on their own.

Ms. Norskog indicated Longmont and Boulder require campaign materials referring to candidates to include a paid-for-by disclosure. It is not required on issues.

Ms. Norskog, as well as the others in attendance at this meeting, suggested that no committee, including candidate committees, should be allowed to hold on to unspent campaign funds to be used for a future purpose.

Staff described Code changes adopted in the past few years, and proposed Code changes that may address some of the concerns of Ms. Norskog and others.

Staff informed the citizens of the date and time for the next Election Code Committee meeting and the general topics for discussion at that meeting. Staff also relayed that the agenda will include a specific time for citizen comment, limited to five minutes per speaker.

The meeting ended at approximately 4:30 p.m.