

Council Election Ad-Hoc Committee Minutes
January 4, 2016
3:00 p.m.

Members in Attendance: Kristin Stephens, Bob Overbeck, and Ross Cunniff (chair).

Also present: Ann Hutchison, Fort Collins Chamber of Commerce; Sally Broste, League of Women Voters; Sarah Pitts, League of Women Voters

Staff in Attendance: Carrie Daggett, City Attorney; Wanda Winkelmann, City Clerk; Rita Knoll, Chief Deputy City Clerk; Cary Carricato Alton, Paralegal.

A meeting of the City Council Ad-hoc Election Committee ("Committee") was held on Monday, January 4, 2016, in the City Clerk's Office Large Conference Room, to consider proposed changes to the Fort Collins Charter and Municipal Code related to elections.

The meeting began at 3:05 p.m. The Board reviewed the Agenda which contained these items:

1. Call Meeting to Order
2. Approval of December 16, 2015 Committee Meeting Minutes
3. Suggested Election Code Changes
4. Other Business
5. Adjournment

Councilmember Cunniff called the meeting to order and acknowledged the attendance of members of the League of Women Voters and thanked them for attending. Councilmember Cunniff stated that the second order of business from the agenda was approval of the minutes from the December 16, 2015 meeting. Councilmember Overbook moved for the approval of the minutes, Councilmember Stephens seconded the motion. The minutes were approved unanimously.

City Clerk Winkelmann summarized where the committee concluded following the meeting on December 16, 2015. Ms. Winkelmann said that the Committee had agreed at the last meeting was that they would not be recommending implementing Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), and continue with current practices, so the Committee would not be discussing UOCAVA at this meeting.

The Ad-Hoc Committee then moved on to the Suggested Election Code Changes. City Clerk Winkelmann indicated that she had noted the items previously agreed upon by the Committee with a green checkmark in the materials provided. Those items that had already been agreed as recommended would not be discussed unless there were specific questions.

Staff Recommended Changes – Election Code Amendments

Proposed Change 1: *Amend Section 7-156 to further clarify how a protest of ballot language is filed for ballot language adopted by **ordinance or** (new language) resolution.*

Amend Section 7-88 to further clarify how a protest of redistricting is filed.

This item will be recommended for approval.

Proposed Change 2: *Add a provision to Article VII, Section 7 pertaining to Mail Ballot Elections that prescribes the order items appear on the ballot.*

This item will be recommended for approval.

Proposed Change 3: *Amend Section 7 regarding election workers to address appointment, compensation and oath of office.*

This item will be recommended for approval.

Proposed Change 4: *Pending further Council direction, Amend Section 7-191 to state that: a) signature verification of returned ballots will not occur; or b) establish a process for signature verification.*

City Clerk Winkelmann stated that Section 7-191 would be amended to state that "Comparison of the signature on the return envelope to any signature image, including those signature images in the state-wide voter registration system, is not required". The Committee members did not have additional commentary on this item and it was agreed this language would be submitted as recommended.

Proposed Change 5: *Review Section 7-135 regarding campaign contribution limits for Council candidates.*

This Committee recommends no changes to current limits.

Proposed Change 6: *Amend Section 7-137 to remove the requirement of publishing 14-days prior to the election campaign finance reports and 30-days after the election campaign finance reports on the newspaper and add a provision that all reports be posted online.*

This item will be recommended for approval.

Proposed Change 7: *Amend Section 7-136 to change the requirement that reports are filed on the Friday before the Election Day to be filed by noon on the Friday before the election.*

This item will be recommended for approval.

Proposed Change 8: *Clarify whether members of City Council can accept a wage lower than the amount outlined in the code.*

This item will be recommended for approval. City Clerk Winkelmann clarified this item. This item will be taken to the Human Relations Commission and the Commission on Disability on January 14, 2016. City Clerk Winkelmann asked for direction whether the Committee wanted to schedule an additional meeting to discuss the recommendations of these Commissions. Councilmember Cunniff stated that he thought a short meeting between the Ad-Hoc Committee members would be good. Councilmember Stephens suggested this might be an item that also needs to be taken to Senior Advisory Board. The Committee agreed this would be a good course of action and that they would have a short meeting to follow up.

Proposed Change 9 (only if UOCAVA fully implemented): *Amend Section 7-192 to state that an eligible voter has eight days after Election Day to correct deficiencies causing his/her ballot to be rejected (as long as the ballot was originally received by 7 p.m. on Election Day), such as a missing signature on the return envelope. No elector shall be allowed to open, change, or alter his or her ballot while in the process of correcting the deficiency.*

This item will not be in the list of recommended modifications due to the Committee not recommending the implementation of UOCAVA.

Proposed Change 10 (only if UOCAVA fully implemented): *Amend Section 7-193 to include a provision about the release of results on Election Day.*

This item will be recommended, as modified, even though UOCAVA is not being implemented. Councilmember Cunniff indicated this item will ensure the observability and transparency of the process.

Proposed Change 11: *Insert a section to address recount procedures.*

City Clerk Winkelmann indicated this is an item where there were significant modifications done following the prior meeting of the Committee. City Attorney Daggett explained this language was based on the Colorado Statute, but modified to better fit the timelines of the City with consideration of the practical aspects of what a recount procedure should entail. Ms. Daggett indicated that the recount procedure was

restructured from prior versions so it created separate sections for different types of recounts. There was an addition to 7-132 to further define "contribution", to include funds collected subsequent to the election to pay the cost of a requested recount. There was also the addition of (5) to Section 7-138 to allow for unused campaign contributions to be used by the candidate to pay for the cost of a recount. City Attorney Daggett explained the addition in 7-138(d) and Section 7-46(a)(3), specific to Recounts by request with the intent of transparency in the process.

Councilmember Cunniff stated these modifications to the recount procedure seemed like they captured what the Committee had previously discussed. He asked a question related to 7-46(a)(4), and indicated that the party that requested the recount is not necessarily candidate and wondered if it would make sense to modify that provision. The Committee agreed it would make sense to strike "in favor of the party that requested".

Proposed Change 12: *Amend Section 7-143 to add a deadline for the filing of election complaints.*

City Clerk Winkelmann asked City Attorney Daggett to explain what she found in researching the issue related to this provision related to statute of limitations. City Attorney Daggett indicated that after discussion about this item, she believes it might be a good idea to put in a statute of limitations provision into the City Code. In the event we moved forward with that change, it wouldn't make sense for the campaign violation provision to differ from that one year statute of limitations.

City Clerk Winkelmann indicated that on this basis, it might be best to withdraw this proposed change and not make a recommendation on this item. The Committee agreed that they would not be recommending this change.

Councilmember Stephens asked if the information on the time limit to file a complaint related to an election could be posted on the City Clerk's website so person could easily locate the information. Councilmember Cunniff asked about the administrative procedure for election complaints and that the procedure be clearly posted as well. Attorney Daggett added that there may be Code language changes that would be beneficial to bring forward following the establishment of an administrative process, but until the other modifications are made, we might not know exactly what would be beneficial.

Proposed Change 13: *Amend Section 7-134 to establish the termination of a campaign committee.*

City Clerk Winkelmann indicated that staff would like to withdraw this change.

Proposed Change 14: *Amend Section 7 to state that the Municipal Election Code (MEC) and Uniform Election Code (UEC) will be followed when our Code or Charter are silent on an election issue.*

City Attorney Daggett indicated there is draft language for the Committee to consider. She added that this language tracks the language in the Charter, however, we cannot clarify to quite the extent that the Committee was hoping. She said there are certain types of matters governed by the Uniform Election Code and others that are governed by the Municipal Election Code. City Attorney Daggett explained how this provision, as written, would work in different scenarios, including coordinated elections.

City Attorney Daggett indicated there might be a way to break this up to make it clearer and easier to follow and that she would look at possible modifications. Councilmember Stephens indicated that she believed that it was better to have something in the code rather than to let the code be silent on this issue and the Committee agreed. Councilmember Cunniff asked if the Notice of Election could specifically state what laws (MEC, UEC) the election would be subject to. City Attorney Daggett said that she thought it would be difficult to do this because it would be issue-dependent and used the example of the recount from the last election. Councilmember Cunniff suggested that perhaps we could have a flow chart or a FAQ on the website that would help clarify these issues. City Attorney Daggett indicated that the City can probably do this.

Proposed Change 15: *Add a section to the duties of the City Clerk to codify actions taken to inform UOCAVA voters of the upcoming election.*

City Clerk Winkelmann indicated that based on the research of the Clerk's Office, the duties of the City Clerk might need to be combined under one section rather than two sections as it currently appears in the Code. The duties of the City Clerk would be located under a new Division 1, Article II, Administration.

Councilmember Cunniff asked about the new subparagraph 3 and the phrase "as soon as practicable". There was discussion about whether it made sense to have an actual deadline in code language. The Committee talked about striking "as soon as practicable". Ultimately, the Committee decided that they would like the deadline to be "by no later than the next business day" and this modification would make sense and believed it should be brought forward in the recommended changes.

Other Business

Councilmember Cunniff indicated that because of the discussion today, that one more meeting be scheduled for this Committee after hearing from the Boards and Commissions on Proposed Change #8. City Clerk Winkelmann indicated that we probably would not have the minutes from those Board and Commission meetings, but could summarize the conversation with those Boards and Commissions and their recommendations.

Because of concerns related to running into requirements for Election Code changes being made at least one year prior to the next election, Councilmember Cunniff suggested that all the recommended changes except for Proposed Change #8 be brought forward. The Committee agreed. Councilmember Overbeck moved to approve all the recommendations of the Committee, except for Proposed Change #8. Councilmember Stephens seconded the motion and it was passed unanimously.

Meeting adjourned at 3:45 p.m.

MINUTES APPROVED: JANUARY 20, 2016