

March 1, 2018

ELECTION CODE COMMITTEE MEETING

12:00 PM

PRESENT: Overbeck, Cunniff, Coldiron, Malarkey, Knoll, Gonzales, Daggett
ABSENT: Stephens
CITIZENS PRESENT: Marge Norskog, Karen Wagner, Robbie Moreland, Sam Houghteling, Dale
Adamy, Jody Deschenes, Kevin Jones, Nick Coltrain and Sarah Pitts.

1. CALL MEETING TO ORDER

Councilmember Overbeck made a motion, seconded by Councilmember Cunniff, to allow Councilmember Cunniff to Chair the meeting. The motion was adopted unanimously.

Councilmember Cunniff called the meeting to order.

2. CITIZEN COMMENT

Marge Norskog discussed research she conducted with Loveland, Longmont, and Boulder, and based on that research, suggested committee information and finance reports should be the responsibility of the City Clerk. She stated temporary staff should be hired during municipal elections to allow for effective and efficient review of reports and complaints.

Ms. Norskog stated Fort Collins should require 'paid for by' statements on campaign-related communications.

Robbie Moreland supported the requirement for "paid for by" statements and supported zeroing out all candidate committee funds after every election.

Karen Wagner suggested the Election Code Committee should consistently allow citizen input and should meet monthly to allow the Code to be reviewed and updated in a timely manner. She also suggested adding an earlier filing date for campaigns and questioned whether the requirements and penalties for finance reports are meaningful and enforceable. She discussed the importance of increasing voter turnout.

Sam Houghteling discussed the importance of representation and public service. He discussed the need for real-time oversight of election expenditures, "paid for by" requirements, and the potential for working with the County on regular redistricting. He suggested elections should have some type of dashboard function on the City's web site.

Dale Adamy, Fort Collins Parity, discussed the organization's focus on the City's triple bottom line and the issue of process. He suggested the Election Code Committee should be formalized and commended the citizens who have commented.

Jody Deschenes supported the previous comments and encouraged a requirement for "paid for by" notices on all ads. She also supported zeroing out all candidate committee funds after each election and noted the individuals speaking represent local and national organizations.

Councilmember Overbeck asked if there would be a minimum threshold for zeroing out account balances. Ms. Moreland replied it should be zero every time in order to create a level playing field for all candidates.

Councilmember Overbeck asked where funds should be transferred. Ms. Moreland replied it could be similar to issue committees, where the funds could be donated to charities or returned to donors.

Councilmember Cunniff thanked the speakers and concurred with the frustration regarding ease of accessibility on the City's web site. He stated he would like to find a way to enable transparency in

reports and suggested the possibility of a budget offer to fund temporary or permanent staff to provide oversight. He agreed a more regular schedule for the Committee could be helpful.

3. APPROVAL OF OCTOBER 5, 2017 COMMITTEE MEETING MINUTES

Councilmember Overbeck made a motion, seconded by Councilmember Cunniff, to adopt the October 5, 2018 Committee meeting minutes. The motion was adopted unanimously.

4. ELECTION-RELATED CHANGES FOR DISCUSSION

a. Review draft Ordinance for March 20 Council meeting

Chief Deputy City Clerk Knoll stated this Ordinance represents the issues the Committee has already agreed to move forward. The issues are: adding to the Clerk's duties the role to serve as the City's designated election official in a coordinated election; defining a "public announcement," define a "registered agent"; requiring the financial disclosure statement to be filed at the same time as the acceptance of nomination; and making the committee registration process more robust, including the requirement for a registered agent.

Councilmember Cunniff suggested the inclusion of details of those expectations upon committee formation.

Daggett detailed the registered agent requirements.

Committee members discussed the possibilities of verifying the existence of independent bank accounts.

Councilmember Cunniff asked about small-scale issue committees. Daggett replied their filing requirements are different; however, the same registration information will now be required, and once a certain dollar threshold is met, they automatically become issue committees with the same requirements.

Councilmember Cunniff suggested the possibility of adding an earlier filing report requirement date. Knoll and Daggett stated they would research appropriate earlier filing dates.

Councilmember Overbeck questioned how candidate committees should account for donor refund checks not being cashed in the case of zeroing out account balances. Daggett suggested there are generally time limits on the cashing of checks, after which an alternative means of disposing of the funds could occur. Knoll noted an amended report could be filed in that case.

Councilmember Overbeck questioned how to handle refunds of donations over the maximum amount. Councilmember Cunniff stated this issue will require more research and noted the State has an unclaimed funds mechanism. Daggett noted a local unclaimed fund mechanism also exists and suggested this is likely a separate topic for future discussion.

Knoll mentioned the next ordinance topics: clarifying the Friday-before report deadline time, making the same registration requirements apply to small-scale issue committees, the implementation of signature verification, and clarifying what will be done with rejected ballots.

Daggett discussed Section 14 of the ordinance which addresses the termination of old committees. It will essentially start the next election cycle with a clean slate.

Councilmember Cunniff expressed concern with this section and the removal of requirements for old committees. Daggett replied staff will see if there is a way to accomplish the goals of Section 14 without giving committees a free pass for the November election.

Councilmember Cunniff stated he would prefer this item not be on the Consent Agenda.

b. Value of Campaign Ads on Websites

Ryan Malarkey provided background on this topic and stated staff has found there is not much guidance in case law or statute regarding the value of campaign ads on websites.

Councilmember Cunniff stated he would be interested in more research on advertising versus First Amendment rights to endorse candidates.

Councilmember Overbeck questioned the possibility of the impact of net neutrality on this topic.

Councilmember Cunniff suggested the possibility of a media exemption. Knoll stated there is an existing exemption. Daggett stated staff could examine the modernization of the existing exemption and will provide an update at the next meeting.

5. FOLLOW-UP ITEMS

a. Requiring “paid for by” information on campaign materials

Councilmembers Cunniff and Overbeck supported moving forward with a requirement for including “paid for by” information. Daggett suggested staff could return with language at the next meeting.

b. Citizen oversight board

Councilmember Cunniff suggested this item may require a discussion at a Council meeting.

Councilmember Overbeck suggested this Committee develop some recommendations.

Daggett stated alternative ideas have come forward with the goal of accomplishing what a citizen board might. She expressed concern with the formation of an official citizen board given the definition of its function could be difficult.

Councilmember Overbeck discussed the possibility of a citizen advisory group which may not have any actual authority.

Councilmember Cunniff suggested making this Committee’s procedures welcoming to public input and feedback.

Knoll noted there are legal considerations when discussing election administration and the City is not in a position to take advice but is in a position to follow the law.

Daggett stated the Clerk’s Office has continued to improve upon the election process and transparency.

Councilmember Overbeck suggested the Committee meet regularly in part to gain citizen input but would not meet for some period of time prior to municipal elections.

Daggett noted Committee meetings take considerable staff time to prepare and requested that be considered.

Councilmember Cunniff suggested having a standing meeting time; however, meetings could be cancelled if there were no topics to be discussed.

Knoll suggested monthly meetings for now.

c. Extending deadline to file election complaints

Councilmember Cunniff stated he would like more information about what recourse citizens may have on the federal tax code side of this issue.

Daggett noted there may be enough practical separation for committees with new termination requirements. She stated staff met with Ms. Norskog recently and the Clerk's Office discussed the formation of new guidance materials for people to use to evaluate whether they need to register as a committee or just need to report independent expenditures.

Daggett stated staff will research the federal tax issue and report back to the Committee.

6. NEXT MEETING

Knoll stated the next meeting is scheduled for April 5.

a. Future Topics

- **Redistricting**

7. OTHER BUSINESS

Knoll stated the time between when ballots go to print and when they must be mailed is extremely tight. She requested the Committee entertain adjusting some deadlines for the circulation of nomination petitions, withdrawal, and registration as a write-in candidate.

Councilmember Cunniff stated this topic should be on the next agenda. He briefly reviewed the Committee topics discussed to date.

8. ADJOURNMENT

The meeting adjourned at 1:37 PM.

MINUTES APPROVED APRIL 5, 2018