

July 5, 2018

ELECTION CODE COMMITTEE MEETING

12:00 PM

PRESENT: Overbeck, Stephens, Coldiron, Malarky, Knoll, Gonzales, Daggett
(Councilmember Cunniff was absent)

CITIZENS PRESENT: Marge Norskog, Jody Deschenes, Sam Houghteling

1. CALL MEETING TO ORDER

Councilmember Stephens called the meeting to order.

2. CITIZEN COMMENT

Marge Norskog thanked the Committee for its thoughtful approach to evaluating and recommending changes to the Election Code. She discussed a meeting she and others had with Councilmembers Martinez and Summers wherein two outstanding issues were discussed: "paid for by" statements and adding resources to the City Clerk's Office budget for election support. She stated both Councilmembers seemed supportive of a "paid for by" statement on all election communications and were both open to the possibility of adding resources to the Clerk's Office; however, they were unable to commit support without having the context of how it fits into the budget. She requested the Committee add an item to the agenda to provide an update on the City Clerk's budget offer for additional resources and to discuss what assistance citizens might offer in advocating for increasing election funding before the citizen comment period closes on July 8.

City Clerk Coldiron stated all offers have been submitted and the Budget Lead Team will start its work this week.

Councilmember Stephens noted citizens have the ability to comment on the budget process beyond July 8 in the form of emails or other correspondence, work sessions, and two public hearings.

Councilmember Overbeck stated citizen comments are most effective throughout the budget evaluation process.

City Attorney Daggett noted the City Manager makes a formal budget recommendation to Council in early September; therefore, it may be difficult for Councilmembers to effectively respond to citizen comments until after that time.

3. APPROVAL OF MAY 3, 2018 COMMITTEE MEETING MINUTES

Councilmember Overbeck made a motion, seconded by Councilmember Stephens, to adopt the May 3, 2018 Committee meeting minutes. The motion was adopted by unanimous consent.

4. ELECTION-RELATED CHANGES FOR DISCUSSION

a. Independent Expenditures – Expenditure Amount Triggering Reporting Requirement

City Attorney Daggett stated staff has discussed the possible benefit in asking the Committee to consider an increase in the triggering threshold for independent expenditures. She noted the existing threshold of \$100 is quite low and is a strict requirement. Longmont and Loveland both have slightly higher thresholds and Denver and the State have \$1000 thresholds.

City Attorney Daggett stated staff has suggested a \$200 threshold, which matches the initial threshold for small-scale issue committees. Councilmembers Overbeck and Stephens supported the \$200 threshold as recommended.

Malarky stated the important issue is to capture significant expenditures while being mindful of not being too stringent.

b. “Paid for By” Statements

Malarky noted staff has provided a detailed memo regarding some of the legal issues around a “paid for by” requirement. He stated staff has provided a suggested Code revision that would apply a “paid for by” statement requirement to candidates, candidate committees, issue committees, political committees, as well as independent expenditures for a qualifying communication. Malarky stated this requirement mirrors that of the City and County of Denver and includes language similar to federal language regarding the form and technical aspects of the disclaimer.

Councilmember Overbeck requested additional clarity related to what materials should require the disclaimer. Malarky stated messages within envelopes should have the disclaimer and City Attorney Daggett suggested the possibility of the exterior envelope requiring the disclaimer.

Councilmember Stephens suggested the main issue is with large fliers with a great deal of text and statements represented as fact rather than with simple messages such as “Vote for Bob Overbeck.”

Councilmember Overbeck asked if the City and County of Denver’s Code language was written recently. Malarky replied some language changes have been made recently; however, the general disclaimer requirement has been in its Code since the 1990s or early 2000s.

Councilmember Stephens stated she would consider holding an executive session to seek legal advice concerning this topic.

Councilmember Overbeck made a motion, seconded by Councilmember Stephens, that the Election Code Committee go into executive session for the purpose of meeting with the City Attorney and staff to discuss specific legal questions related to the manner in which particular policies, practices, or regulations of the City related to campaign finance disclosures and disclaimers may be affected by existing or proposed provisions of federal, state, or local law, as permitted under Section 2-31(a)(2) of the City Code and Colorado Revised Statute Section 24-6-402(4)(b). The motion was adopted by unanimous consent.

(Secretary’s Note: The Committee went into executive session at this point in the meeting.)

After the executive session, Councilmember Stephens made a motion to change the “paid for by” disclosure requirement to apply only to registered committees. City Attorney Daggett and Malarky discussed necessary language changes. Councilmember Overbeck agreed with the proposed change.

Independent Expenditures (continued)

Councilmember Overbeck made a motion, seconded by Councilmember Stephens, to reconsider Section 7-139, Independent Expenditures. The motion was adopted by unanimous consent.

Councilmember Stephens stated it may be better for the City to be in line with the state on independent expenditures, which has a \$1000 threshold. Councilmember Overbeck agreed and bringing the change forward for Council consideration was supported by unanimous consent.

5. EDUCATION/ORIENTATION

City Clerk Coldiron stated dialogue from the last meeting included the suggestion of having some type of educational class for voters, potential candidates, or heads of issue committees. The Clerk’s Office would like to consider this possibility; however, there may not be enough resources to make it happen for the 2019 election. The Clerk’s Office would like to invite people in for some type of City Works 101-class on elections, perhaps in January.

Councilmember Overbeck stated the Secretary of State's office provides orientations for County and State candidates. He suggested the creation of a video informing citizens and potential candidates of the new changes prior to gaining necessary resources for a more detailed orientation.

Chief Deputy City Clerk Knoll stated the Clerk's Office is planning to provide handouts highlighting changes when committees register.

City Attorney Daggett stated using a form of communication wherein everyone receives the same information is preferable.

6. OTHER BUSINESS

City Attorney Daggett stated staff will work on an Ordinance to be presented before Council for First Reading on July 17.

Chief Deputy City Clerk Knoll stated staff would like to have new guidelines available in September.

Committee members discussed the timeline and necessity for upcoming meetings and opted to cancel the remaining meetings scheduled for 2018 and to meet after the April 2019 election.

7. ADJOURNMENT

The meeting adjourned by unanimous consent at 1:40 PM.

MINUTES APPROVED ON AUGUST 2, 2018