

July 20, 2017

ELECTION CODE COMMITTEE MEETING

11:00 am

PRESENT: Overbeck, Stephens, Cunniff, Malarky, Knoll, Gonzales, Daggett
CITIZENS PRESENT: None

● **APPROVAL OF NOVEMBER 10, 2016 COMMITTEE MEETING MINUTES**

Councilmember Overbeck made a motion, seconded by Councilmember Stephens, to adopt the minutes of the November 10, 2016 Committee meeting. The motion was adopted unanimously.

● **SUGGESTED ELECTION CODE/CHARTER CHANGES**

a. Value of Campaign Ads on Websites

Knoll stated this was a request from Mayor Pro Tem Horak to discuss whether candidates should receive guidance on how to value campaign ads on websites for reporting purposes.

City Attorney Daggett stated provisions exist which rely on either the payment of money or an in-kind contribution. In-kind contributions are defined as the fair market value of a gift or loan of any item of real or personal property other than money made to or for any candidate committee, issue committee, or political committee, for the purpose of influencing the passage or defeat. Given social media and the internet, a line now needs to be drawn in terms of what items have value and should be counted as a contribution.

City Attorney Daggett discussed the fact that the placement of signs is not considered an in-kind contribution.

Councilmember Overbeck asked about the value of purchasing a domain name prior to an election. City Attorney Daggett noted that domain name could be used for several elections or other uses.

Councilmember Stephens noted Facebook pages are free but paid ads are disclosed.

Members discussed letters to the editor and endorsements.

Councilmember Cunniff stated paying more than the usual operating cost for a website for information to appear should trigger a financial disclosure.

Members discussed pop-up ads on the internet and the order of endorsements on the Coloradoan.

City Attorney Daggett noted the Fair Campaign Practices Act provision allows Council to adopt a resolution in support of a ballot measure, but it can only be disseminated in the way resolutions are normally disseminated.

Councilmember Stephens questioned what would happen if an entity published something without the knowledge of the candidate. Councilmember Cunniff and Knoll replied that would be an independent expenditure, which has a \$100 threshold, for which the entity or person would be responsible.

Councilmember Cunniff noted contributions wherein money does not change hands are in-kind.

City Attorney Daggett noted the placement of a yard sign is similar to the placement of something on a blog as no additional expenditures are occurring. She stated it might be beneficial to include Code definitions to provide clarity around some of these issues and suggested preparing draft language.

Knoll suggested including examples in candidate guidelines.

Members discussed whether it is permissible to require a disclosure of who funded ads.

It was determined that issue needs additional research.

b. Terminating Inactive Issue and Political Committees

Knoll stated complaints have been filed regarding committees that were never active or terminated and did not meet filing requirements. Allowing committees for one election cycle only would eliminate ambiguity and ensure information is current and asked if members would be supportive of drafting such language.

Councilmembers Stephens, Cunniff and Overbeck expressed support for drafting such language.

Knoll suggested committees auto-terminate if an annual report is not filed.

c. Timing of Filing Financial Disclosure Statements

Knoll noted currently, a financial disclosure statement is required to be filed within 10 days after accepting a nomination; however Code language requires mail notification if that does not occur which provides a problem for ballot printing. The suggestion is to make the financial disclosure statement due when the nomination petition and acceptance of nomination are submitted.

Knoll noted candidates will be educated pre-emptively.

Councilmembers supported making the change and stated it would be less confusing.

d. Signature Verification

Knoll stated this item is on hold and the Clerk's Office will be receiving a demo on the new Larimer County equipment.

e. Candidate Political Signs

Knoll stated Councilmember Cunniff has asked if posting a sign is the same as announcing candidacy. She stated she would like to better define a public announcement.

Members discussed signs being left after an election.

City Attorney Daggett stated the circumstances that constitute a "public announcement" should be defined in addition to having the expectation that if someone is taking affirmative steps to communicate with the public, no matter the medium, that too would be a public announcement.

Knoll asked if signs can be required to be removed by a certain date. City Attorney Daggett replied they cannot be required to be removed; however, the question relates to future candidacy.

Councilmember Cunniff asked about bus benches. City Attorney Daggett replied the City's bus ad program is based on the characterization of those ads being used as City speech for a particular purpose.

City Attorney Daggett discussed the possibility of a series of steps automatically triggering an announcement, such as making requests for or receiving donations or in-kind contributions. Councilmember Cunniff and Knoll supported adding that language. Knoll stated that may mean a candidate needs to register prior to accepting a contribution, or perhaps within 10 days.

Councilmember Stephens stated it is not hard to register prior to asking for donations.

Councilmember Cunniff supported adding language related to soliciting or accepting contributions.

Knoll stated currently there are 10 days to file following the public announcement and the filing should occur prior to accepting contributions or making expenditures.

Councilmember Overbeck suggested adding language related to social media announcements.

Members discussed the number of individuals present at a meeting which would constitute a public announcement and discussed the requirement for paperwork to be filed as soon as any type of contribution is received (within one business day).

Members discussed taxes, employee payments and bank account requirements.

f. Other Business

Councilmember Overbeck asked about the federal administration wanting voter information. City Attorney Daggett replied the Secretary of State has the data being sought, which is public data.

City Attorney Daggett stated her staff has been discussing whether there would be any benefit in adding any kind of transition language that allows a committee that has registered to turn itself into a small issues committee. Knoll stated committees or candidates have always been allowed to amend their registrations as additional information becomes available.

Councilmember Cunniff stated the current code language should allow changing a registration into a small issue committee administratively.

Members discussed the necessary language forms should include for such a change.

City Attorney Daggett suggested electing a Chair of this committee.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to elect Councilmember Stephens as Chair. The motion was adopted unanimously.

City Attorney Daggett suggested the committee meet again once staff has completed its assigned research and draft language.

Knoll stated Larimer County changed its precincts and the City will need to do the same. As a result of the County changes, the City now must look at the deviation. The GIS department is currently doing that analysis and the hope is the deviation will be small enough to not trigger changing boundaries for the City.

Councilmembers requested additional information regarding redistricting options.

The next meeting date will be prior to September 21.

● **ADJOURNMENT**

The meeting adjourned at 12:31 P.M.

MINUTES APPROVED OCTOBER 5, 2017