

November 15, 2019

ELECTION CODE COMMITTEE MEETING

3:45 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarkey, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Marge Norskog, Robbie Moreland, Kathleen Schmidt, Kevin Jones

1. CALL MEETING TO ORDER

Mayor Troxell called the meeting to order.

2. CITIZEN COMMENT

Marge Norskog stated this committee provides a great deal of experience to determine how best to provide oversight for elections going forward. She discussed a new Colorado law: the Campaign Finance Enforcement Code. She stated the Secretary of State is actively creating a campaign enforcement group within its office and encouraged the City to examine a similar process.

3. APPROVAL OF SEPTEMBER 6, 2019 COMMITTEE MEETING MINUTES

Councilmember Summers made a motion, seconded by Mayor Troxell, to adopt the September 6, 2019 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. "Fishbowl" donations - Require greater detailed reporting or not allow this type of campaign contribution?

Chair Pignataro stated these types of donations added up to over \$500 in the last election. City Attorney Daggett noted it is challenging to have anonymous donations where you have individual contribution limits; therefore, it may be necessary to have some type of tracking for these donations.

Councilmember Summers stated people try to find ways around the rules and money is pushed out of the control of the candidate when more rules are in place. Campaigns should track individual donations regardless of the amount so it can be reported when the threshold is met. Candidates want to know who is contributing to their campaigns and suggested not allowing "fishbowl" donations may be the appropriate solution.

Mayor Troxell stated this type of donation does not seem to function with the maximum donation amounts.

Chair Pignataro asked about the language around anonymous donations. Chief Deputy City Clerk Knoll stated any donation under \$20 is non-itemized and not reported. A solution would be to not allow non-itemized contributions.

Mayor Troxell supported that solution and asked what constitutes a Charter change with regards to elections. City Attorney Daggett replied there is a Charter provision that prohibits employee contributions to Council candidate campaigns and prohibits contributions from organizations contracting with the City. She also stated ranked voting would also be a Charter amendment and the remainder of the items on this agenda would be Code changes.

City Attorney Daggett noted there has been some discussion about the Charter provision related to not being able to hold office if convicted of a Code violation during an election. She noted Code changes would likely be able to address the concerns about the Charter provision and she reviewed items that could be viewed as criminal versus civil infractions in the election-related Code language.

Chair Pignataro stated eliminating anonymous donations would solve the "fishbowl" contribution issue.

b. Review of the complaint and enforcement procedures and penalties for election code violations.

Chair Pignataro stated the review of the complaint and enforcement procedures and penalties for election code violations would be a much longer effort.

Councilmember Summers stated the significant changes that were made after the 2017 election that applied to the 2019 election should be reviewed. He opposed the “paid for by” requirement for yard signs and stated some of the changes may have been overcorrections. Most of the 2019 election complaints were frivolous, bogus, and inconsequential.

Chair Pignataro stated the “paid for by” requirement began because of mailers that were funded by outside money. She agreed with Councilmember Summers that some of the changes may be overreaching.

Councilmember Summers opposed the requirement for two signatures on joint checking account checks. He stated several of the City's requirements do not even apply at the state level. He expressed concern that taking the control of the campaign out of the candidates' hands diverts it to outside groups.

Mayor Troxell supported adopting a minimalist, candidate-focused, transparent process. He supported doing away with anonymous donations.

Councilmember Summers stated there should be a right to cure things that are deficient in election reporting, such as missing addresses. Knoll replied the Clerk's Office does not review reports at that level of detail; however, if it is brought to the attention of the Clerk, the candidate is told and is able to file an amended report.

Chair Pignataro asked if the priority of this item is changed by Council as a whole bringing it up under Other Business. Knoll replied Council will consider a draft ordinance and recommendation from this committee.

Councilmember Summers stated anything short of misappropriation of funds should not be viewed as a criminal activity.

City Attorney Daggett suggested staff return with options and recommendations.

c. Ranked Choice Voting-pros and cons for our community.

Chair Pignataro noted ranked voting could not be in place by the next election; therefore, while it is still important to discuss, it is not necessarily a priority at this time. She stated ranked voting could even the playing field a bit.

Councilmember Summers discussed his experience with ranked voting and stated he essentially supports the “one vote, one person” philosophy. He noted there could be a large confusion factor for voters and stated ranked voting may not add a great deal of value to city elections.

Mayor Troxell stated there is no existing problem that would be fixed by ranked voting. He noted some areas that have implemented ranked voting have now done away with it.

d. Restrictions on employees and contractors from participating in City elections.

City Attorney Daggett stated staff will likely want to provide more detail on this topic as the discussion progresses. She stated the employee issue is separate from the contractor issue and stated staff is recommending Council consider asking voters to remove the restrictions on contracting organizations in light of Citizens United as there is some question as to whether the prohibition is consistent with how the law has developed. She noted that would be a Charter provision change and stated the committee may need an executive session to fully discuss legal ramifications.

City Attorney Daggett noted the employee contribution prohibition only applies to candidate elections, but employees can participate in issue elections on a personal level.

Chair Pignataro noted the City is one of the largest employers in Fort Collins and stated not allowing employees to participate is difficult for candidates.

City Attorney Daggett noted City Manager Atteberry may want to be involved in this discussion related to concerns about relationships employees may have developed with candidates to whom they have contributed.

e. Campaign naming and carry-over for returning candidates.

Chair Pignataro noted this item relates to using a different campaign name for each election. She expressed concern that this could be wasteful in terms of campaign materials.

Councilmember Summers stated campaigns are active until they are closed at the state level.

Chair Pignataro asked what issues are being faced by the City Clerk's Office that would drive the need for different campaign names. Deputy City Clerk Gonzales replied donations are tied to committee names and it is difficult to determine which campaign is associated with which donations if the campaign name remains the same. She noted funds can be carried over from one committee to the other; however, the itemized items do not carry over.

Councilmember Summers suggested utilizing dates to differentiate campaigns.

Mayor Troxell noted issue committees and candidate committees may need to be treated differently. Gonzales replied issue committees are required to terminate and candidate committees must be reopened for each election, though they can remain open with an annual reporting requirement.

f. Possible alignment with state law regarding LLC election contributions.

Councilmember Summers stated the state law requires a report, which is only held by the candidate, outlining contributions made by an individual and their LLC.

City Attorney Daggett stated it could become cumbersome to attempt to attribute a donation equally among all members of an LLC.

Chair Pignataro stated City elections have a low per person donation limit for a reason and allowing LLC contributions seems to go against that.

Councilmember Summers stated higher contribution limits may be needed in order to avoid LLC contributions.

Chair Pignataro stated she would like to have staff prepare information related to pros and cons of the state regulations.

5. Continuation of Election Code Committee

City Attorney Daggett stated this item has come about as there may be enough interest on the part of the entire Council on some items that a work session may be a better way to proceed with a discussion.

City Clerk Coldiron stated there was also some thought that the amount of changes already made may need to be digested and assessed prior to making more changes.

Members discussed items that they would like to consider in January.

6. OTHER BUSINESS

Chair Pignataro encouraged the Clerk's Office to make scanned reports searchable PDFs.

7. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:14 PM.

MINUTES APPROVED-JANUARY 10, 2020.