

February 21, 2020

ELECTION CODE COMMITTEE MEETING

3:32 PM

COUNCILMEMBERS PRESENT: Troxell, Pignataro, Summers
STAFF PRESENT: Carrie Daggett, Ryan Malarky, Delynn Coldiron, Rita Knoll, Sara Gonzales
CITIZENS PRESENT: Robbie Moreland, Michael Pruznick, Michelle Haefele, Jody Deschenes, Psyche Spangler, Roxanne Griffin, Lori Brunswig, Kathleen Schmidt, Dick Thomas, Adolfine Thomas, Anne Thompson, Karen Wagner

1. CALL MEETING TO ORDER

Chair Pignataro called the meeting to order.

2. CITIZEN COMMENT

Robbie Moreland suggested new election laws should strive to meet the intent of the legislative declaration in Chapter 7 of the Municipal Code. LLC contributions should be limited, and City law should match state law to avoid the appearance of corruption. She also supported matching state law relative to the formation of independent expenditure committees and stated the formation of an independent expenditure committee should be required when donations in excess of \$250 have been received, or an expenditure in excess of \$250 has occurred, and donor disclosures should be required for donations of \$100 or more.

Jody Deschenes stated the City's high standards should include the highest level of transparency for voters. She requested that contributions from individual voters be limited to \$75 or \$100 in total, regardless of how many LLCs are owned by that individual. She also requested candidate committees be terminated in full at the end of each election, including liquidating all unused campaign funds, and requested that all committee and independent expenditure reporting forms be updated to digital versus PDFs to make filing, storage, and review easier. Ms. Deschenes also requested an update regarding the vetting and hiring of an independent redistricting consultant and supported the use of ranked choice voting. Additionally, she requested an update on guidelines for employment as an election judge.

Kathleen Schmidt, League of Women Voters of Larimer County, requested the City change its law to match the state law relative to campaign contribution limits from LLCs.

Michael Pruznick discussed his energy-neutral home and stated there is a large loophole in the LLC issue. He discussed the "paid for by" requirement and penalties for campaign violations. He mentioned legalizing vote buying.

Anne Thompson, League of Women Voters of Larimer County, stated the League was recently approached by members of Represent Fort Collins regarding changes that should be made regarding contribution limits from LLCs. Fort Collins should change its laws to match those of the state.

Michelle Haefele supported aligning Fort Collins regulations with those of the state regarding LLC contributions, and supported ranked choice voting.

Roxanne Griffin supported aligning Fort Collins regulations with those of the state regarding LLC contributions.

Karen Wagner opposed the outside influence of money on politics and supported aligning Fort Collins regulations with those of the state regarding LLC contributions.

Richard Thomas supported aligning Fort Collins regulations with those of the state regarding LLC contributions and stated any Councilmembers who have accepted a contribution from an LLC should recuse themselves from votes related to developments.

Councilmember Summers noted not all LLCs are related to developers and that Fort Collins has the lowest contribution limits of any municipality in the state. Election codes should provide the candidate the greatest

control over his or her election if there is a concern about who is influencing elections. He also noted state guidelines allow \$400 contributions per individual and stated local City Councilmembers are not professional politicians. He spoke in favor of keeping money directed to candidates for their use.

Chair Pignataro asked about changing the campaign finance report forms from PDFs. Knoll replied they are fillable PDFs but they are scanned and posted online so as to ensure the Clerk's Office date stamp is reflected. She suggested there could be another way to address that in the future.

Regarding ranked choice voting, Councilmember Summers commented on the low number of races over the last several elections that had candidates receiving less than 50% of the vote.

Mayor Troxell commented on ranked voting not appearing to be necessary based on prior elections.

Councilmember Summers stated he would like to get some information from other Colorado municipalities who use ranked choice voting.

Councilmember Pignataro asked about redistricting. City Clerk Coldiron stated census data will not be available until the first quarter of 2021 and redistricting would be based on that.

3. APPROVAL OF JANUARY 10, 2020 COMMITTEE MEETING MINUTES

Mayor Troxell made a motion, seconded by Councilmember Summers, to adopt the January 10, 2020 Committee meeting minutes. The motion was adopted by unanimous consent.

4. DISCUSSION ITEMS

a. Civil versus criminal penalty options for election code violations

City Attorney Daggett stated the City has a history of limited enforcement action around campaign finance issues and the Committee has discussed evaluating potentially changing violations from all violations being a criminal misdemeanor to making some less egregious complaints civil infractions or administrative violations.

Councilmember Pignataro mentioned the Committee decided at its previous meeting to leave the existing "paid for by" requirements in place as they were just implemented in the previous code change cycle.

City Attorney Daggett stated the next meeting agenda is planned to include possible Charter amendments related to elections.

Malarky presented information related to a possible new enforcement system. He noted the existing process is complaint-based and complaints go through a review process by the City Attorney for probable cause, and if probably cause is found, there would be further investigation and prosecution if deemed appropriate. All violations of campaign finance requirements are currently criminal misdemeanors. This proposed system makes most violations of the campaign finance requirements subject to civil penalties. Malarky outlined the items that would remain criminal offenses under this system. The current proposal would disallow campaign contributions from being used to pay administrative penalties.

Councilmember Summers disagreed with that recommendation.

Knoll discussed the reasoning for the draft language, stating donors provide contributions to aid in getting an individual elected.

Councilmember Pignataro stated she could see both sides of the issue relating to whether or not campaign contributions should be able to be used for fines.

Committee members and staff discussed the number of violations that would need to occur prior to a violation becoming criminal.

Councilmember Summers suggested the process related to joint account contributions would benefit from being aligned with the state regulations.

Mayor Troxell commended the overall work of the City Attorney's Office stating the changes align with the Committee discussions.

b. City regulation of LLC campaign contributions

Malarky stated this proposed language amends the campaign contributions and expenditures Code section related to contribution limits. The change mirrors state law and would require an LLC to submit a written statement to the candidate or candidate committee when it makes a contribution, providing the name and address of all the members of the LLC, information on how the contribution will be attributed to those individual members, and the contributions made by the LLC as they are attributed to the members. The contributions would then count toward the individual contribution limits of the members.

Mayor Troxell asked about the situation in relation to a C-corporation. Malarky replied this is strictly related to LLCs.

Mayor Troxell questioned the legal structure of an LLC and how it is considered beyond being a legal entity.

City Attorney Daggett stated she has not examined the rationale for looking at LLCs only as opposed to other types of business entities, though it is likely because an LLC is easier to form and there are fewer related consequences to forming an LLC than other types of business entities.

Councilmember Summers stated the rules as they are now are not discriminatory in terms of one candidate over another and suggested changing the regulations will allow LLCs to make the same contributions to an independent expenditure committee rather than to an individual candidate which takes control away from the candidate.

Knoll commented on nested LLCs which may need to be addressed in these provisions. City Attorney Daggett stated that could be addressed by requiring information if a member is not a natural person.

Mayor Troxell supported increasing the maximum donation amount for each individual if the LLC regulations are changed.

Councilmember Pignataro stated she would not support that.

Councilmember Summers stated it would be interesting to have data related to LLC contributions from the last election to ensure recommended changes are not reactionary.

Mayor Troxell stated he does not believe there is corruption involved in LLC contributions and questioned whether changes would improve the system. He questioned what problem is being solved.

Councilmember Pignataro stated the problem as she sees it is that LLC contributions take the power away from individual voters and place it with entities that have more money.

Mayor Troxell disagreed. Councilmember Summers noted individuals still cast ballots.

5. OTHER BUSINESS

Chair Pignataro suggested that joint account contributions be addressed at a later meeting.

6. ADJOURNMENT

The meeting adjourned by unanimous consent at 5:25 PM.

MINUTES APPROVED MAY 1, 2020