

June 27, 2022

**ELECTION CODE COMMITTEE MEETING**

**12:00 PM**

COMMITTEE MEMBERS PRESENT: Arndt, Ohlson

STAFF PRESENT: Rita Knoll, Ryan Malarky, Heather Walls, Carrie Daggett, Anissa Hollingshead

**1. CALL MEETING TO ORDER**

**2. ROLL CALL**

**3. PUBLIC COMMENT**

None.

**4. PUBLIC COMMENT FOLLOW-UP**

None.

**5. REVIEW OF POTENTIAL CAMPAIGN FINANCE CODE AMENDMENTS**

Councilmember Ohlson reviewed the discussion of potential campaign finance code amendments from the recent Council meeting. He outlined the general consensus that individuals who may work in a certain profession should be able to donate a reasonable amount of time using their services to a campaign if they are not being paid by their employer.

City Attorney Daggett commented on the valuation of goods or services provided needing to be a reasonable fair market estimate of the value, which is covered in the current language. She stated she heard general Council support for allowing volunteer services as long as they are not services for which the individual is being paid by another entity. She outlined the language that may need to be altered to achieve the desired goals. She also discussed the language related to contributions-in-kind and noted the reason a company paying employees to do work should not be a contribution-in-kind is because the candidate or committee should be paying for that work. She confirmed with Committee members that the goal is to distinguish between individuals who are volunteering and business entities that are volunteering.

Mayor Arndt clarified the market rate needs to be part of the language.

Councilmember Ohlson asked about the mailing list issue and stated there is a loophole in the language that would allow an organization to put together a valuable mailing list and give it to a candidate or candidates and that mailing list would never have been sold or offered for sale. City Attorney Daggett offered a suggestion that would add language stating 'or were not produced by paid employees and do not incorporate mailing lists that themselves do not meet this test.'

City Attorney Daggett requested input regarding the language related to the concept of the committee or candidate needing to reasonably determine the value based on market prices or other similar information. Councilmember Ohlson commented on the need to ensure enforceability and consequences.

Nick Armstrong stated the question of market rate versus a discounted rate is an important one. He stated the real concern is related to a business having an undue influence over a candidate after they are elected. He also commented that a professional volunteer helping a candidate could be easily tracked with a volunteer log. He stated companies have the freedom to provide an offered rate and questioned who the onus falls on if that rate is discounted and how the issue is corrected.

Mayor Arndt stated the offered rate should be the market rate, not a discounted rate, regardless of whether the same rate is offered to all candidates.

City Attorney Daggett suggested a process could be set up wherein the person providing the good or service would complete a certification of value with a provision that anyone who falsely certifies a value is in violation. Mayor Arndt and Councilmember Ohlson supported that suggestion.

Councilmember Ohlson asked Mr. Armstrong to reiterate his comment related to market rate versus discounted rate. Mr. Armstrong replied a business offering a service or good at a discounted rate needs to be tracked and he supported the idea of requiring a certification on the part of the contributor. He suggested the contributor could offer a discounted rate and certify that same rate would be offered to every candidate in the race.

City Attorney Daggett suggested the amount of the discount should be considered a contribution if a discounted rate is offered. Councilmember Ohlson concurred.

Mayor Arndt stated a discounted rate should not be offered regardless of whether it is offered to all candidates.

City Attorney Daggett stated the certification requirement could potentially apply to any vendor that is utilized. Mayor Arndt and Councilmember Ohlson agreed that should be the case.

City Attorney Daggett noted the Code already includes a section that prohibits discounts from certain providers. She stated language related to false certification of value will need to be added. Councilmember Ohlson clarified this would apply to candidate committees, not issue committees. City Attorney Daggett replied the new certification requirement could be made to only apply to candidate and political committees.

City Attorney Daggett asked Committee members if they want to require a volunteer log as suggested by Mr. Armstrong. Councilmember Ohlson replied he would not like to add that prior to Second Reading. Mayor Arndt concurred and stated requiring a volunteer log could be somewhat onerous for a campaign.

City Attorney Daggett discussed the level of intent required for violations and noted the distinction between knowing and intent. Councilmember Ohlson stated he believed the consensus among Council was to have the easiest level. He discussed the importance of being able to reasonably prove a violation in order to associate a consequence. He stated regulations are in place, by in large, to dissuade the bad players and to put others not at a competitive disadvantage.

Committee members discussed whether to leave the word 'knowing' in this section. Councilmember Ohlson discussed instances wherein mistakes are made and quickly corrected by a candidate or campaign. He disagreed with leaving the word 'knowing' in the language as it sets a higher bar. Assistant City Attorney Malarkey noted there is a cure process included in the Code that allows for corrections to be made when violations or mistakes are found.

Councilmember Ohlson stated he does not believe 'knowingly' needs to be included given there is a cure period for mistakes. Mayor Arndt concurred and questioned why campaign signs are returned when they are found located in rights-of-way. Councilmember Ohlson concurred the inappropriately located signs should be picked up by the City and not returned. City Attorney Daggett replied staff would follow-up; however, she noted there are legal reasons for the current language. She also noted that does not mean people cannot be cited for the violation.

City Attorney Daggett stated she will create an alternate version of the ordinance that will include the discussed changes rather than changing the ordinance that was adopted on First Reading.

## **6. INITIAL DISCUSSION OF VOTER AND CANDIDATE EDUCATION PRIORITIES**

City Clerk Hollingshead stated staff would like the Committee to discuss what it would like to see moving forward in terms of educational efforts given the conversation at the last Council meeting. Councilmember Ohlson stated he believed ranked choice voting was the main concern for educational efforts. City Clerk Hollingshead replied there is an element of voter education associated with the implementation of ranked choice voting; however, the thrust of her question was related to supporting increasing voter turnout generally. She cited the example of tenant notification when renters sign leases. Councilmember Ohlson stated everyone should find it easy to vote and to get a ballot; however, he questioned whether there should be a focus on specific groups.

Mayor Arndt stated the more there are strict campaign finance laws, the more the central non-partisan government should be promoting elections, such as perhaps with a blue book publication. City Clerk Hollingshead noted there are a spectrum of items that could be used in terms of producing different types of education focused on the electoral process. She stated a blue book would need to be narrowly focused. Chief Deputy City Clerk Knoll noted the City Clerk's elections web page provides links to candidate pages. She stated it may be necessary to move deadlines for submitting nomination petitions in order to accomplish a blue book mailing. Mayor Arndt noted mailing a blue book to each registered voter would be quite expensive. Chief Deputy City Clerk Knoll stated a blue book could be mailed to each household with a registered voter; however, the cost would still be \$20,000-\$30,000 for a mailing. Mayor Arndt suggested the possibility of an electronic blue book version but stated there may be other ways to improve voter education.

Councilmember Ohlson suggested staff could provide a menu of options with associated estimated costs.

Members commented on voters not generally being aware of April elections. Chief Deputy City Clerk Knoll noted the City has done marketing for years for April elections focusing on print ads and social media, which does not inform enough people.

City Clerk Hollingshead stated staff will continue to work on voter outreach ideas and will keep the Committee informed so it can provide direction. She commented on finding success historically with youth engagement.

Chief Deputy City Clerk Knoll noted November elections lend themselves to having booths at summer festivals.

## **7. REVIEW OF TIMELINE FOR PRIORITIES**

Committee members discussed upcoming items.

Mayor Arndt noted she will not be present for the next Committee meeting on July 18<sup>th</sup>.

## **8. OTHER BUSINESS**

City Clerk Hollingshead asked members if they would like staff presentations regarding the Second Readings of the ballot questions that will be discussed at the next Council meeting. Members concurred they are comfortable without presentations unless there are specific questions from a member of the public.

Chief Deputy City Clerk Knoll stated it is likely too late to address the remaining three Committee topics (public financing of elections, election oversight board, and partisan/non-partisan elections) for this session, particularly if the election will be in April. Therefore, it may be prudent to suspend Committee meetings assuming there are no topics to address.

City Attorney Daggett noted the language in the Code about when redistricting must occur needs to be updated because it was being triggered too frequently. Councilmember Ohlson stated there needs to be some flexibility given the growth of the community and annexations.

City Attorney Daggett suggested it could be a good topic to discuss next following the more time-sensitive items.

**9. ADJOURNMENT**

The meeting adjourned by unanimous consent at 1:27 P.M.

**MINUTES APPROVED AT THE AUGUST 15, 2022 ELECTION CODE COMMITTEE MEETING**