

NORMAN ELECTION COMMISSION MINUTES

November 9, 2015

The Norman Election Commission of the City of Norman, Cleveland County, Oklahoma, met in the Municipal Building Conference Room at 201 West Gray on the 9th day of November, 2015, at 2:04 p.m. Notice and agenda of the meeting were posted at the Municipal Building 48 hours prior to the beginning of the meeting.

MEMBERS PRESENT:

Robin Allen
Richard Hilbert
Elizabeth Pierce
Elizabeth Windes
Ty Hardiman, Chairman

MEMBERS ABSENT:

None

OTHERS PRESENT:

Ms. Brenda Hall, City Clerk
Ms. Kristina Bell, Assistant City Attorney

Item 2. Approval of minutes from the August 3, 2015, meeting. Member Windes moved that the minutes from the August 3, 2015, meeting be approved, which motion was duly seconded by Member Hilbert;

Items submitted for the record

1. Norman Election Commission minutes of August 3, 2015

and the question being upon approving the minutes from the August 3, 2015, meeting a vote was taken with the following result:

YEAS:

Members Allen, Hilbert, Pierce, Windes,
and Chairman Hardiman

NAYES:

None

Chairman Hardiman declared the motion carried and the minutes from the August 3, 2015, meeting was approved.

Item 3. Review of Campaign Contributions and Expenditures Reports from the following:

Friends of Cindy Rosenthal
Greg Heiple for Ward 1
Clint Williams for Norman
Castleberry for Ward 3
Lynne Miller for Norman City Council Ward 5
Friends of Jerry Lang
Holman for Norman
Allison for Ward 8

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Friends of Cindy Rosenthal be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Friends for Cindy Rosenthal submitted November 2, 2015

Item 3, continued:

Friends for Cindy Rosenthal, continued:

and the question being upon accepting the Campaign Contributions and Expenditures Report for Friends of Cindy Rosenthal, a vote was taken with the following result:

YEAS: Members Allen, Hilbert, Pierce, Windes, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Friends of Cindy Rosenthal was accepted.

*

Greg Heiple for Ward 1

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Greg Heiple for Ward 1 be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Greg Heiple for Ward 1 submitted October 13, 2015

and the question being upon accepting the Campaign Contributions and Expenditures Report for Greg Heiple for Ward 1, a vote was taken with the following result:

Item 3, continued:

YEAS: Members Allen, Hilbert, Pierce, Windes, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Greg Heiple for Ward 1 was accepted.

*

Clint Williams for Norman

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Clint Williams for Norman be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Clint Williams for Norman submitted October 20, 2015

Item 3, continued:

Clint Williams for Norman, continued:

and the question being upon accepting the Campaign Contributions and Expenditures Report for Clint Williams for Norman, a vote was taken with the following result:

YEAS: Members Allen, Hilbert, Pierce, Windes,
and Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Clint Williams for Norman was accepted.

*

Castleberry for Ward 3

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Castleberry for Ward 3 be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Castleberry for Ward 4 submitted October 30, 2015

and the question being upon accepting the Campaign Contributions and Expenditures Report for Castleberry for Ward 3, a vote was taken with the following result:

YEAS: Members Allen, Hilbert, Pierce, Windes,
and Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Castleberry for Ward 3 was accepted.

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Item 3, continued:

Lynne Miller for Norman City Council Ward 5

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Lynne Miller for Norman City Council Ward 5, be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Lynne Miller for Norman City Council Ward 5 submitted October 13, 2015

Item 3, continued:

Lynne Miller for Norman City Council Ward 5, continued:

and the question being upon accepting the Campaign Contributions and Expenditures Report for Lynne Miller for Norman City Council Ward 5, a vote was taken with the following result:

YEAS: Members Allen, Hilbert, Pierce, Windes, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Lynne Miller for Norman City Council Ward 5 was accepted.

*

Friends of Jerry Lang

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Friends of Jerry Lang be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Friends of Jerry Lang submitted October 13, 2015

and the question being upon accepting the Campaign Contributions and Expenditures Report for Friends of Jerry Lang, a vote was taken with the following result:

YEAS: Members Allen, Hilbert, Pierce, Windes, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Friends of Jerry Lang was accepted.

*

Holman for Norman

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Holman for Norman be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Holman for Norman submitted October 20, 2015

Item 3, continued:

Holman for Norman, continued:

and the question being upon accepting the Campaign Contributions and Expenditures Report for Holman for Norman, a vote was taken with the following result:

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|--------|--|
| YEAS: | Members Allen, Hilbert, Pierce, Windes, and Chairman Hardiman |
| NAYES: | None |

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Holman for Norman was accepted.

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Allison for Ward 8

Member Hilbert moved that the Municipal Candidate Committee Contributions and Expenditures Report for Allison for Ward 8 be accepted, which motion was duly seconded by Member Windes;

Items submitted for the record

1. State of Oklahoma, County of Cleveland, Municipal Candidate Committee Contributions and Expenditures Report for Allison for Ward 8 submitted October 27, 2015

and the question being upon accepting the Campaign Contributions and Expenditures Report for Allison for Ward 8, a vote was taken with the following result:

| | |
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| YEAS: | Members Allen, Hilbert, Pierce, Windes, and Chairman Hardiman |
| NAYES: | None |

The Chairman declared the motion carried and the Campaign Contributions and Expenditures Report for Allison for Ward 8 was accepted.

Item 4. Consideration and discussion of candidate packet materials and the process for the Candidate Orientation Session for the 2016 Mayoral and City Council elections.

Ms. Brenda Hall, City Clerk, highlighted the candidate packet materials, which includes Opening Remarks; Introduction of NEC Members; Political Sign Regulations; Role of the NEC; Campaign and Reporting Requirements; Completing Reports Overview; Reports Required; Candidate/Candidate Committee requirements; Municipal Political Committees; Duties of Treasurer; Campaign Depositories; Required Reports; Financial Disclosure Statement; Report Due Dates – 2015 Candidates; Contributions; Contribution Limits; Loans; Details of Reports of Contribution and Expenditures; Disclosure Requirements; and Disclosure Not Required.

Political Sign Regulations

Ms. Hall said a recent United States Supreme Court Case ruling changed sign regulations in regards to temporary signage, content, placement, etc., and political signs were a part of that ruling. She said Staff is reviewing the City's Sign Code Ordinance to see if any modifications are needed to comply with the new ruling. She said any changes from what is being presented to NEC today will be emailed to the Committee prior to the orientation session on January 20, 2016. Chairman Hardiman asked if the ruling is limited to signs on private property or signs on public property and Ms. Hall said public property. Chairman Hardiman said if City Sign Code changes are made during the election period it could cause confusion for candidates trying to comply with the law and Council should be made aware of this. Ms. Hall said the Council is aware changes may need to be made, but they have not been officially briefed on what those changes are.

Ms. Hall said Mr. Kelvin Winter, Code Compliance Inspector, will attend the meeting to give candidates an overview of the current sign regulations.

Campaign Contribution and Expenditure Reports

Ms. Hall said campaign forms will be included in the orientation packet; however, she is going to encourage candidates to use the State forms online, which can be filled out and saved to file on their computer. She felt this would make the reporting process easier on candidates.

Public Service Announcement

Chairman Hardiman said, in the past, the orientation packet included a public service announcement and Ms. Hall said that was changed last year when State law pre-empted municipalities from requiring their own campaign and expenditure reports. Chairman Hardiman suggested NEC review the public service announcement to possibly modify language to represent the NEC's current legal authority.

Annual Schedule of Meetings

Ms. Hall highlighted the proposed NEC meeting dates for 2016. Chairman Hardiman said NEC generally elects a Chair and Co-Chair in December, but no meeting is scheduled for December 2015. Ms. Hall said there will be nothing to discuss in December so an election of a Chair and Co-Chair can be added to the January orientation agenda or a special meeting could be held prior to the orientation, if needed. The Committee agreed to place the election of officers on the January 20, 2016, agenda.

Ms. Hall said not all the scheduled meetings will be held on a Monday, as is generally the case, because of the timeframe in which reports must be filed.

Item 4, continued:

Disclosure Regulations

Ms. Hall said she added an excerpt to Disclosure Not Required reflecting the Ethics Commission explanation of their rule of disclosure. She said the Ethics Commission added smaller yard signs into the category that does not require disclosure, which category also includes bumper stickers, campaign buttons, t-shirts, aerial advertising or similar advertisement where inclusion of a disclaimer would be impractical.

Chairman Hardiman asked the dimensions of a “smaller yard sign” and Ms. Hall said the Ethics Commission did not furnish dimensions under the rule, but did add a comment that states, “The exception for “impractical” disclosure must be evaluated and applied on a case-by-case basis.” She said the reason for this is that if a sign is small, no one passing by will be able to read the disclosure of who paid for the sign. She said when talking with the Ethics Commission, their position was most of the signs are paid for by the candidate committees and that disclosure is already on the campaign reports. She said larger signs, such as billboards, must have the name of the person or committee that paid for the signs and any political propaganda for or against a candidate, such as mailers, must also have the name of the persons or committee that paid for the propaganda.

Ms. Hall asked NEC to review the presentation for the orientation and email her any changes, additions, or modifications they feel needs to be made.

Chairman Hardiman said the goal will be to limit the meeting to one hour so if candidates have extensive questions, the City Clerk can visit with them after the meeting or make an appointment to see them in her office.

Items submitted for the record

1. 2016 Calendar Year Schedule of Regular Meetings for the Norman Election Commission
2. PowerPoint presentation entitled, “City Council Candidate Orientation,” presented by the Norman Election Commission, Wednesday, January 20, 2016

Item 5. Consideration and discussion regarding Senate Bill 438 related to the Municipal Campaign Finance and Financial Disclosure Act, which authorizes municipalities to enact a comprehensive code for campaign finance and personal financial disclosure ordinances.

Chairman Hardiman said Norman’s Ethics Commission was created in the 1970’s because there was not a State regulatory authority to address citizen’s concerns. Later on the State established a parallel set of rules. Two years ago the State adopted a law that superseded municipal campaign requirements and Norman had to remove all enforcement and rule making language from their ordinance and defer to the State. He said the 2015 election cycle was the first year for following the new State rules; however, the City Council petitioned State Legislature to reconsider the local rights of municipalities. Soon after, Senate Bill No. 438 was passed that gave control back to the municipality allowing them to write and enforce their own set of rules, but a municipality would have to take on the entire package of ethics and the reporting process. He said having gone through one year of following the State guidelines, NEC now has the opportunity to revisit the idea of Norman once again having its own rules and enforcement mechanism. He said if NEC wants to examine the idea of creating a new set of rules and enforcement guidelines, they, along with Legal Staff, could embark on that in 2016, and make a recommendation to City Council for their consideration.

Item 5, continued:

Ms. Hall said if NEC thinks this subject merits further review they must remember that it is all or nothing. The Ethics Commission will not enforce local rules so the City would need to submit to them that it has adopted an ordinance that covers enforcement and financial disclosure to opt out of the State rules.

Member Hilbert asked if the City could literally go back to exactly what was in the original ordinance and Ms. Hall said not exactly because the City did not have financial disclosure requirements, which would have to be added. She said there would need to be some modification to enforcement provisions that were originally outlined as well because although the City Attorney had the ability to recommend whether or not something was going to be filed in Municipal Court for a violation, that has typically been reserved for a more egregious violation where there appeared to be willful intent. She said violations of State laws had to be filed in the District Attorney's Office. Under the new Ethics Rules the City would take on the enforcement position. Chairman Hardiman said when people make accusations of ethics or improprieties against City Council, if the City Attorney investigates and finds the complaint not worth pursuing the City Attorney could be accused of an ethics breach. It places the City Attorney's Office in a nearly impossible position of investigating their "employers." Ms. Hall said if this is something NEC wants to do the City Attorney's Office would probably seek outside legal counsel for ethic violations because it does put them in an awkward position. She said the City Attorney's Office has investigated complaints of ethics violations against Councilmembers and have been accused of bias.

Ms. Kristina Bell, Assistant City Attorney, said Ms. Hall has stated the issues very well in that it is all or nothing. She also agrees this would put the City Attorney's Office in an awkward position and NEC might want to think about what happens in Municipal Court even if charges were to be filed. Currently, the largest penalty in Municipal Court is a \$750 fine plus court costs and/or 60 days in jail. She said penalty ranges are higher under State Ethics Law. She said in Municipal Court, the City is generally looking for compliance and once compliance is gained the charges are dismissed; however, there are those who refuse to comply so where does the City go from there? If there were something egregious, what would the end result be? Any fine over \$500 or 60 days in jail entitles a person to a jury trial in Municipal Court and an entitlement of de novo appeal, which means if the City prosecutes someone and they were found guilty they could go to District Court for a whole new process so at the end of the day the City has expended resources just to have the violation end up in District Court. She said these are legal factors NEC needs to consider.

Chairman Hardiman said NEC is trying to determine what disclosure requirements the citizens of Norman want. Do the voters of Norman want to see campaign disclosure for anything over \$100 or \$1,000, which is the State's limit? No one knows the State's legal procedure for enforcing violations, but it was his understanding if there is a violation the first thing the State will do is sit on it for a couple of months until after election, which is known as a blackout period, to avoid adversely affecting the election. There seems to be a lot of secrecy involved and if Norman ever gets entangled in a violation, Norman will never see the results of that. If the City hires outside counsel that reports directly to NEC, there would be a monetary cost associated with the City enforcing the violation and he does not know if the City wants to be in the position of enforcing violations or let the State enforce violations. He said, in the past, NEC has received complaints and the City Attorney negotiated for compliance because compliance is the only goal, but for the people complaining compliance is not their only goal, they want punitive results. He did not know if that would happen either at the State or local level.

Chairman Hardiman said Norman was a pioneer in the 1970's and could be a pioneer again by being one of the first municipalities to take this authority back and the State is more than willing to let that happen, but it is not something to be taken lightly. Member Hilbert asked what citizens appealed to City Council to take authority back and Ms. Hall said a handful of citizens requested this during the meeting modifying the ordinance to remove local regulations to comply with State law. She said the group of citizens never officially petitioned Council.

Item 5, continued:

Chairman Hardiman said the 2016 election will include big money since it is a Mayoral election as well as candidate elections and he anticipates lots of complaints and accusations. He said NEC will have to chance to see how effective State enforcement will be and whether NEC really wants to tackle this issue, but it should be done after the election is over. He said whether or not NEC wants to tackle this issue is a decision that needs to be made based on what would best serve the citizens and voters of Norman.

Chairman Hardiman said if NEC decides to pursue this and plans to have something in place to submit to City Council in 2016, in order to address the 2017 election cycle they will have to get to work and meet frequently to draft something they can stand behind. He suggested waiting until the election is over then revisiting to see if this is something that NEC would like to pursue.

Items submitted for the record

1. Legislatively notated Senate Bill No. 438 by Sparks of the Senate and Virgin of the House
2. Copy of the Oklahoma State Courts Network (OSCN), Oklahoma Statutes Citationized, Title 11. Cities and Town, Section 56-103 – Municipalities Subject to Act

Item 6. Miscellaneous Discussion.

None

Item 7. Adjournment.

Chairman Hardiman declared the meeting be adjourned at 3:10 p.m.