

NORMAN ELECTION COMMISSION MINUTES

March 30, 2016

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 30th day of March, 2016, at 3:11 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:

Richard Hilbert
Elizabeth Pierce
Ty Hardiman, Chairman

MEMBERS TARDY:

Robin Allen
Elizabeth Windes

OTHERS PRESENT:

Kristina Bell, Assistant City Attorney
Jeff Bryant, City Attorney
Brenda Hall, City Clerk

Item 2. Consideration of approval of the Norman Election Commission minutes from the November 9, 2015, Norman Election Commission City Council Candidate Orientation Session minutes of January 20, 2016, and the Norman Election Commission minutes of February 8, 2016. Member Pierce moved that the Norman Election Commission minutes of November 9, 2015, Norman Election Commission City Council Candidate Orientation Session minutes of January 20, 2016, and the Norman Election Commission minutes of February 8, 2016, meetings be approved, which motion was duly seconded by Member Hilbert;

Items submitted for the record

1. Norman Election Commission minutes of November 9, 2015
2. Norman Election Commission City Council Candidate Orientation Session minutes of January 20, 2016
3. Norman Election Commission minutes of February 8, 2016

and the question being upon approving the minutes from the Norman Election Commission minutes of November 9, 2015, Norman Election Commission City Council Candidate Orientation Session minutes of January 20, 2016, and the Norman Election Commission minutes of February 8, 2016, a vote was taken with the following result:

YEAS:

Members Hilbert, Pierce, and Chairman Hardiman

NAYES:

None

Chairman Hardiman declared the motion carried and the minutes from the Norman Election Commission minutes of November 9, 2015, Norman Election Commission City Council Candidate Orientation Session minutes of January 20, 2016, and the Norman Election Commission minutes of February 8, 2016, were approved.

Item 3. Review of Campaign Contribution and Expenditure Reports from the following candidates and elected officials.

NAME ON REPORT	STATEMENT OF ORGANIZATION	QUARTERLY CONTRIBUTION & EXPENDITURE REPORT	CONTRIBUTION & EXPENDITURE REPORT - FINAL
Barksdale for Mayor 2016		X	
Lynne Miller for Mayor 2016		X	
Leal for Ward 2 2016		X	
Aleisha Karjala for Ward 2 2016		X	X
Hickman for Ward 4 2016		X	
Supporters of Christina Owen 2016		X	
Friends of Jerry Lang 2016		X	
Friends for Breea Clark 2016		X	
Allison for Ward 8 2016		X	

Barksdale for Mayor 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Report for Barksdale for Mayor 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Barksdale for Mayor 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Barksdale for Mayor 2016, a vote was taken with the following result:

YEAS: Members Hilbert, Pierce, and Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Barksdale for Mayor 2016 was accepted.

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Lynne Miller for Mayor 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Report for Lynne Miller for Mayor 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Lynne Miller for Mayor 2016 filed March 28, 2016

Item 3, continued:

Lynne Miller for Mayor 2016, continued:

and the question being upon accepting the Campaign Contribution and Expenditure Report for Lynne Miller for Mayor 2016, a vote was taken with the following result:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Lynne Miller for Mayor 2016 was accepted.

Ms. Brenda Hall, City Clerk, said Lynne Miller will have a final report for Lynne Miller for Norman City Council Ward 5, but since it was not listed properly on the agenda it will be included on the next Norman Election Commission agenda for formal consideration.

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Leal for Ward 2 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Reports for Leal for Ward 2 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Leal for Ward 2 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Leal for Ward 2 2016, a vote was taken with the following result:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Leal for Ward 2 2016 was accepted.

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Aleisha Karjala for Ward 2 (2014)

Member Hilbert moved that the Campaign Contribution and Expenditure Report for Aleisha Karjala for Ward 2 (2014) be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Aleisha Karjala for Ward 2 (2014) filed February 12, 2016

Item 3, continued:

Aleisha Karjala for Ward 2 2014, continued:

and the question being upon accepting the Campaign Contribution and Expenditure Report for Aleisha Karjala for Ward 2 (2014), a vote was taken with the following result:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Aleisha Karjala for Ward 2 (2014) was accepted.

Member Hilbert moved that the Final Campaign Contribution Report for Aleisha Karjala for Ward 2 2016 be accepted, which motion was duly seconded by Member Allen;

Items submitted for the record

1. Final Municipal Candidate Committee Contributions and Expenditures Report for Aleisha Karjala for Ward 2 (2014) filed March 28, 2016

and the question being upon accepting the Final Municipal Campaign Contribution Report for Aleisha Karjala for Ward 2 2016, a vote was taken with the following result:

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

NAYES: None

The Chairman declared the motion carried and the Final Municipal Campaign Contribution Report for Aleisha Karjala for Ward 2 2016, was accepted.

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Hickman for Ward 4 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Report for Hickman for Ward 4 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Friends of Hickman for Ward 4 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Friends of Hickman for Ward 4 2016, a vote was taken with the following result:

Item 3, continued:

Hickman for Ward 4 2016, continued:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Hickman for Ward 4 2016 was accepted.

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Supporters of Christina Owen 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Report for Supporters of Christina Owen 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Supporters of Christina Owen 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Supporters of Christina Owen 2016, a vote was taken with the following result:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Supporter of Christina Owen 2016 was accepted.

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Friends of Jerry Lang 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Reports for Friend of Jerry Lang 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Friends of Jerry Lang 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Friends of Jerry Lang 2016, a vote was taken with the following result:

Item 3, continued:

Friends of Jerry Lang 2016, continued:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Friends of Jerry Lang 2016 was accepted.

*

Friends of Breea Clark 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Reports for Friend of Breea Clark 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Friends of Breea Clark 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Friends of Breea Clark 2016, a vote was taken with the following result:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Friends of Breea Clark 2016 was accepted.

*

Allison for Ward 8 2016

Member Hilbert moved that the Campaign Contribution and Expenditure Report for Allison for Ward 8 2016 be accepted, which motion was duly seconded by Member Pierce;

Items submitted for the record

1. Municipal Candidate Committee Contributions and Expenditures Report for Allison for Ward 8 2016 filed March 28, 2016

and the question being upon accepting the Campaign Contribution and Expenditure Report for Allison for Ward 8 2016, a vote was taken with the following result:

Item 3, continued:

Allison for Ward 8 2016, continued:

YEAS: Members Hilbert, Pierce, and
Chairman Hardiman

NAYES: None

The Chairman declared the motion carried and the Campaign Contribution and Expenditure Report for Allison for Ward 8 2016 was accepted.

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Item 4. Continued discussion regarding Senate Bill 438 related to the Municipal Campaign Finance and Financial Disclosure Act, which authorizes municipalities to enact comprehensive code of campaign finance and personal financial disclosure ordinances.

Chairman Hardiman said discussion of Senate Bill 438 (the Act) began in December 2014, when the State took control over municipal elections. In 2015, the State gave municipalities the option of reasserting authority over their elections, but it was all or nothing. The Norman Election Commission (NEC) is currently evaluating the State process and comparing that to the previous City of Norman Code, Chapter 7.5. He said a comparison of pros and cons could lead the NEC to a clear path of what might be best for the citizens of Norman. He said Senate Bill 438 took effect in November 2015.

Chairman Hardiman said Ms. Hall provided a copy of Ordinance O-1415-23, which is the previous ordinance that includes annotations that were made to comply with State law. He said if the City reasserted local authority, this ordinance could be used as a template for a new ordinance and he highlighted some of the previous local requirements. The previous ordinance did not require financial disclosure, which the State requires and Ms. Hall said any new ordinance would have to include State requirements such as financial disclosure, Statement of Organization, enforcement, penalties, etc.

On December 9, 2014, City Council adopted Resolution R-1415-63, which asked the State Legislature to allow cities to modify part of the new rules relative to contribution limits. Senate Bill 438 allows municipalities to opt out of the State Ethics Commission rules and allow municipalities to adopt their own ordinances regulating contributions and expenditures and financial disclosure.

Chairman Hardiman said in City Council's Meeting of November 25, 2014, Council discussion indicated that some Councilmembers wanted to retain local jurisprudence and a vote led to failure of adoption of the new State regulations; however, after a short recess Councilmembers voted to reconsider the ordinance and decided to conform to State law and settle the issue at a later time.

Chairman Hardiman said NEC needs to consider the pros and cons of following State law as it stands or adopting a new local ordinance. If the City re-adopted a local ordinance, the City could set contribution levels lower than the \$2,700 allowed by State law. He said a lower contribution level could limit elections to people who have the personal wealth to self-fund their election or it might help reduce the influence of money keeping Council elections from turning into \$50,000 events. He said a couple of campaign reports reviewed today did include \$2,700 contributions, which would not have been allowed under the previous ordinance. Secondly, he said the State has a blackout period where they essentially do not pursue allegations during the campaign process and Ms. Hall said the State will not allow anyone to file a complaint during the election period. Chairman Hardiman

Item 4, continued:

said local regulations would allow the City to conduct active investigations of complaints during the election period, which the City did do when it had local control.

Chairman Hardiman asked Ms. Hall to explain, under the local level, the requirement of all candidates registering and filing reports regardless of the amount contributed or expended. Ms. Hall said, currently, the State threshold of \$1,000 has to be met before anyone is required to file a Statement of Organization and Financial Disclosure form. If \$1,000 is not received or expended, no paperwork is required to be filed. There are currently three candidates in this year's elections that have not filed paperwork for that reason. She said the previous ordinance required candidates to file reports regardless of how much money was received or expended so the reports captured every dime spent or received.

Chairman Hardiman said in the previous ordinance, a local political committee had to file reports if there were any expenditures, but the current State limit is \$1,000. Ms. Hall said under the previous ordinance the threshold was \$500 before a report had to be filed. Chairman Hardiman said a local ordinance would allow the City to set a lower limit, which had benefited the community in knowing the financing behind those political committees.

Ms. Joy Hampton, The Norman Transcript, said State law allows a person and their spouse to donate \$2,700 whereas the City's previous ordinance had a maximum contribution of \$1,000 per household. Chairman Hardiman said some households could exceed \$10,000 in contributions and if NEC were to pursue going back to a local system, NEC would want to confirm through legal review whether or not the concept of a household limitation even stands the test of the 2016 State law. Ms. Hall said under State law, a person has to be 18 years of age to donate so households cannot donate under the name of their children unless the children were 18 years old.

Chairman Hardiman said a local ordinance could require a list of encumbrances prior to receiving an actual invoice, which is not required by State law at this time so this type of disclosure would not have to be reported until the filing of the final report.

Chairman Hardiman said NEC should consider how it would pursue allegations of non-compliance against a candidate. Would an investigation be conducted by the City Clerk, Legal Department, or an agent of NEC? Would the City Attorney be able to have an impartial investigation that would satisfy the people making the allegations?

Ms. Hall said, in the past, people making an allegation did not believe the City Attorney could be impartial in investigating a Councilmember or potential Councilmember and there has been discussion as to whether or not outside legal representation should follow up on the allegations. Mr. Jeff Bryant, City Attorney, believes his office could perform an impartial investigation, but since these are political issues and political elections, both sides are very spirited about what they believe, what they stand for, and which candidate they are supporting so rarely is there a finding that satisfies both sides. Usually one side or the other is convinced that the investigation was biased, some stone was unturned, or something was not done correctly because the answer they were looking for was not the answer they received. He said that puts Staff into somewhat of an awkward position if the determination ends up being adverse to the candidate who gets elected. He said if Council decided to use local rules and not refer disputes to the State's Ethics Committee, the City Attorney's Office would encourage the hiring of outside Counsel to conduct the investigation.

Item 4, continued:

Chairman Hardiman said, in the past, not all complaints were resolved by the City Attorney's Office. He said the NEC would simply write a letter to the accusing party regarding how the complaint was addressed. He asked if that could be the first step in a new complaint process. Ms. Hall said as the NEC Staff liaison, she performed the investigations and many times it was simply a case of someone not being aware a report needed to be filed. She would contact them about filing a report and the complaint would be resolved in that manner and the result of the investigation would be brought to the NEC for review or input, which sometimes required a legal opinion. Mr. Bryant said the City's goal has always been to bring the reports and the conduct of the candidates into compliance with the rules so usually the most effective tool has always been the City Clerk sitting down with the candidates one-on-one about the alleged violation and getting that resolved. He said 99% of the complaints are resolved in this way and usually the City Attorney only becomes involved when the issues cannot be resolved and someone is looking for a pound of flesh because they believe someone has willfully and intentionally violated a particular election law. He said this is point where it usually gets pretty spirited about who is right and who is wrong and it puts City Staff in an awkward position as far as the outcome of that investigation, especially if the conclusion is adverse to the candidate that ends up being elected.

Chairman Hardiman asked if outside legal counsel has been retained to represent a Commission or Board in some type of legal situation and Mr. Bryant said there was an issue about an irregularity in a final paycheck of a former City Attorney in the 1980's where the City hired outside legal counsel to do an independent investigation and make a recommendation.

Ms. Hall said the previous ordinance fined candidates a filing late fee of \$10 per day with a maximum of \$100 per report; however, current State regulations fine candidates \$100 per day with a maximum of \$1,000. She was not always able to collect the fines when they were owed. Chairman Hardiman said it was his understanding that any fine over a certain amount constituted a right to a jury trial or some form of a De Novo appeal process and Ms. Kristina Bell, Assistant City Attorney, said, currently, a fine exceeding \$500 or carrying jail time gives the defendant the right to a jury trial. The City has two jury trials per year so the jury docket could possibly fall well after the election is over. She said a De Novo appeal process gives the defendant the right to go to District Court where no discretion is given to the Municipal Court's decision. Chairman Hardiman asked under what circumstances is a defendant entitled to a De Novo Appeal process. Is it any fine or only fines exceeding \$500 or a jail term sentence and Ms. Bell said defendants can actually appeal a traffic ticket. Chairman Hardiman said if a local ordinance is adopted and that ordinance had a maximum fine of \$400 would that trigger a jury trial process in Municipal Court or could any action of any fine be appealed in District Court and Ms. Hall said the late fees in the previous ordinance were not a charge in Municipal Court they were just a fee the candidate had to pay when they filed a late report. She said a late fee penalty would be different than a violation of the law and Chairman Hardiman felt that was important information for NEC to understand. Mr. Bryant said Norman Municipal Court is not a Court of Record and State statute provides the De Novo appeal to the District Court so any criminal charge heard in Municipal Court can be appealed at the District Court level basically starting the trial process over.

Member Hilbert said NEC needs to know what led to Senate Bill 438, what were the political considerations? What do the citizens of Norman want NEC to do? Why did citizens go to Senator Sparks and Representative Virgin to change this law? Ms. Hall said the resolution Council adopted only asked the legislature to allow municipalities to set their own contribution limits, but it came out in the end that it was all or nothing. Chairman Hardiman said when he reads the discussion from the November 25, 2014, Council meeting he hears the Council saying the State needs to stop writing every piece of legislation as a matter of State concern and co-opting the home rule of a City like Norman who has demonstrated it is capable of making its own ordinances and policies. Senate Bill 438 is one of a string of legislation that has impacted the City and Council was not necessarily rejecting the ideas in the State law, it was rejecting the fact that the City had a process that was preempted by State law. Member Hilbert asked if Council had any criticisms of State law and Chairman Hardiman said there was criticism

Item 4, continued:

Regarding the campaign threshold amounts increasing, but most of the concern was related to the manner in which this law was forced onto the City.

Mr. Bryant said what got the State Legislature's attention about this particular Act had to do with an Oklahoma City, City Council race. There was some unhappiness about how that was handled and the internal ethics policies while Norman citizens were a little frustrated with the enforcement process and how determinations were made prior to an election. He said the State had already taken away a municipalities ability to require landlord registration, regulate the oil and gas, regulate Uber and Lyft Public Transportation, etc., so this was just one more thing in a long list of things the State took away from home rule.

Chairman Hardiman said discussion of local regulations will continue at the next meeting. Mr. Bryant suggested the Commission be provided a copy of the Council resolution that more specifically spells out the majority of Council's concerns about the Act.

Ms. Hampton said media's concerns are always about government transparency and, personally, the only thing she feels any concern about is that people can make huge contributions that are not disclosed until after the election. Mr. Bryant agreed and said under the previous ordinance, the NEC would meet the Monday after reports were filed before an election and the report were put online for the public, but under State law reports do not have to be filed before the day of the election unless the \$1,000 threshold is met.

Items submitted for the record

1. Senate Bill No. 438
2. Legislatively notated copy of Ordinance O-1415-23
3. Verbatim excerpts from the November 25, 2014, Council meeting
4. Consideration for a Municipal Ordinance Regulating Election Regulations – Pros and Cons

Item 5. Miscellaneous Discussion.

If no reports are filed on April 4th, the next NEC meeting is scheduled for May 2nd to review quarterly reports of seated Councilmembers.

Item 6. Adjournment.

Chairman Hardiman declared the meeting be adjourned at 4:45 p.m.