

NORMAN ELECTION COMMISSION MINUTES

October 20, 2014

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 20th day of October, 2014, at 10:00 a.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 Windes
Ty Hardiman, Chairman

MEMBERS ABSENT:

Member Robin Allen

OTHERS PRESENT:

Brenda Hall, City Clerk
Kristina Bell, Assistant City Attorney

Item 2. Approval of minutes from the August 11, 2014, meeting. Member Windes moved that the minutes from the August 11, 2014, meeting be approved, which motion was duly seconded by Member Hilbert; and the question being upon approving the minutes from the August 11, 2014, meeting, a vote was taken with the following result:

YEAS:

Members Hilbert, Windes, and Chairman Hardiman

NAYES:

None

Chairman Hardiman declared the motion carried and the minutes from the August 11, 2014, meeting were approved.

Item 3. Discussion and possible action regarding proposed amendments to Chapter 7.5, Elections, (City Council campaign reports) to comply with changes in State Law established under the Municipal Campaign Finance and Financial Disclosure Act.

Chairman Hardiman said Senate Bill (SB) 1745 eliminates the Political Subdivisions Ethics Act and creates three new state statutes regulating the conduct of campaigns for counties, technology center/independent school districts, and municipal elections and give the Ethics Commission the authority to promulgate specific rules governing such conduct as well as the authority to enforce them.

Chairman Hardiman said the Norman Election Commission's (NEC) role in elections will change because municipal campaign reports will no longer be allowed. He said NEC still has the opportunity to review state campaign reports and NEC needs to decide the best way to facilitate the distribution of information to the voters regarding municipal elections so they have the best information to make the most informed decisions. He said the Legal Department has drafted an ordinance amendment for NEC review.

Ms. Kristina Bell, Assistant City Attorney, said the City of Norman currently requires state and municipal campaign forms to be submitted during elections, but the City will no longer be able to require that. The Municipal Campaign Finance and Financial Disclosure Act (Municipal Act) places most aspects of local election under the oversight of the State Ethics Commission including forms; reporting requirements; due dates; contribution limits; investigations; and enforcement. She said the Municipal Act is implemented through the "Ethics Rules" created by the Oklahoma Ethics Commission. The Municipal Act prohibits any local regulations which overlap, duplicate, or conflict with state rules. She said this will require an amendment to Chapter 7.5 of Norman's City Code. She said because the Municipal Act takes effect on January 1, 2015, and there is a municipal election in 2015, time is of the essence.

Item 3, continued:

Member Hilbert asked if NEC can continue its current duties of educating the public and reporting to City Council and Chairman Hardiman said yes, if NEC feels its duties of educating candidates and the public are important NEC would like the ordinance rewrite to reflect that. He did not believe the education process would be prohibited under the Municipal Act and Members Hilbert and Windes agreed. Member Windes said the rules require the City Clerk to distribute the campaign forms, provide copies of the rules, receive the forms, etc. Ms. Brenda Hall, City Clerk, said education can be a part of providing the forms and rules because the state will not be doing that so it will need to be done at the municipal level.

Ms. Kristina Bell, Assistant City Attorney, highlighted proposed changes to Chapter 7.5. She said all campaign contribution and expenditure filing requirement language is being removed to comply with state requirements, but the duties of the City Clerk and NEC remain primarily unchanged.

Ms. Joy Hampton, The Norman Transcript, asked if there will still be deadlines for filing pre-election campaign reports and Ms. Bell said yes. Ms. Hall said the window of time for filing state reports appear to be between the 14th and 8th day prior to the election. She said it used to be between the 14th and 10th day prior to the election.

Chairman Hardiman said the Ethics Commission is charged with enforcing violations of the election laws, but the state has indicated to municipalities, schools, and counties that they do not have the budget or expect to have the budget to enforce violations. He does not know what the enforcement level will be from the state. He said even if the state enforced violations, there would be a "blackout" period until after the election then it would take a considerable amount of time for any action to be taken. He said this is a fundamentally different than what Norman has done in the past. Ms. Bell agreed the state will have limited resources on what violations they can and will enforce as well as when they will enforce them. She said the draft ordinance states, "Whenever the Norman Election Commission has reason to believe a willful violation of the State Election Laws has occurred, it *may* make a referral to, or file a complaint with the State Ethics Commission in accordance with the procedures outlined in state law."

Chairman Hardiman said towns with populations of 10,000 or under are exempt from the Municipal Act and he does not really understand why. He feels larger towns need local oversight.

Ms. Bell said the Ethics Commission Rules consist of approximately 220 pages of guidelines/rules regarding report filings; contribution limits; expenditures; complaints; and penalties and highlighted the 2014 Ethics Commission Rules. She said the Ethics Commission Rules were created for State elections so definitions will not be the same and municipalities, counties, and schools must keep that in mind. She said the Municipal Act regulates the financial reporting requirements of "campaign committees" and "municipal political committees." A campaign committee is defined as "a committee which may be composed of one or more person the purpose of which is to support the election of a specific candidate to municipal office, whose name as it will appear on the ballot shall appear in the name of the committee." A municipal political committee is defined as "any committee composed of one or more persons whose purpose includes the election or defeat of one or more candidates for municipal office but which is not required to register with the Ethics Commission or the Federal Election Commission." The Municipal Act requires both campaign committees and municipal political committees to file a "statement of organization (R-1 Form)" and a "report of contributions and expenditures (C-1 Form)". All candidates for municipal office and all elected municipal officers are also required to file a "statement of financial interests (F-1 form)." These reports are to be filed with the City Clerk and the City Clerk has the option of posting these reports on the City's website and shall retain them for four years after the date on which they are filed.

Chairman Hardiman felt the definition of a "campaign committee" seemed to be vague or ambiguous. He said a Municipal Political Committee works better for him, which is simply a political committee that is acting on a local level. Member Hilbert felt a political committee should not be known as a Political Action Committee (PAC). Chairman Hardiman said a PAC has to register with state and federal commissions while a campaign committee does not, therefore it would not be a PAC even though it is a committee acting on behalf or against a candidate.

Item 3, continued:

Chairman Hardiman asked where the City goes from here and Ms. Hall said one of the reasons for today's meeting was to educate NEC members on what has happened at the state level and allow NEC to provide input into the process. She said the Legal Department prepared the draft ordinance removing language to comply with state law, but is leaving in that which could remain. She said Council could certainly support the ordinance as submitted or they could weigh the pros and cons of deleting the entire chapter. She said NEC has an opportunity to weigh in on whether or not the parts of the ordinance that remain in Chapter 7.5, as prepared by the Legal Department, are important to have in place locally retaining that small piece of the public process.

Chairman Hardiman said Council has the right to disband the NEC, but it is up to NEC members to carry the torch for the Commission if members believe in its objective. He said the draft ordinance will be reviewed by Council in a Conference on October 28, 2014, and he will attend that meeting to represent the will of the Commission. He believes in the value of the Commission, but said there have been times that some members of the Council did not believe in the value of the Commission and wished to disband it. He felt NEC could stand in front of Council and say they have made for a better election process in Norman and an easier election process for the people running for election.

Ms. Hall said the ordinance will go to First Reading on November 10, 2014, and Second and Final Reading on November 25, 2014. She said the ordinance will become effective prior to candidate filing period in January 2015.

Ms. Hampton said if the NEC does not stay in place to report any violation after the blackout period, it will not be done. She said the Ethics Commission only responds to complaints otherwise they do not even look at the reports. She said NEC is the only entity that keeps the public informed on elections and keeps the election process transparent and she values NEC's role. She said she will be asking for copies from the City Clerk for reporting purposes. She said the City Clerk cannot be expected to be the one to file a complaint.

Chairman Hardiman said NEC would like to show support for the rewriting of Chapter 7.5 to comply with the new state laws and leave the body of NEC in place to carry out tasks that are still allowed by the Municipal Act. He asked Ms. Hall how to phrase a vote on that and Ms. Hall said NEC would be voting in support of the ordinance as presented. Chairman Hardiman said he would entertain a motion to take that action.

Member Hilbert moved to support the amended ordinance as written, which motion was duly seconded by Member Windes;

Items submitted for the record

1. Memorandum dated October 17, 2014, from Kristina L. Bell, Assistant City Attorney, through Jeff Harley Bryant, City Attorney, to The Norman Election Commission
2. Draft Legislatively Notated Ordinance
3. Draft Ordinance
4. Senate Bill 1745
5. Summary of ramifications of Senate Bill 1745
6. 2014 Ethics Commission Rules
7. Copies of State Campaign Reports: Registration: Committees (R-1); Campaign Contributions and Expenditure Report (C-1); and Financial Disclosure Statement (F-1)

Item 3, continued:

and the question being upon supporting the amended ordinance, as written, a vote was taken with the following result:

YEAS:	Members Hilbert, Windes, and Chairman Hardiman
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NAYES:	None
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Chairman Hardiman declared the motion carried and the amended ordinance, as written, was supported.

Item 4. Miscellaneous Discussion.

Ms. Hall said she and Ms. Bell will continue to review the rules and there will obviously be some changes to the process so it will be important for NEC to meet in late November or early December for review of any changes, forms, and updated candidate manual.

Item 5. Adjournment.

Chairman Hardiman declared the meeting be adjourned at 11:30 a.m.