



Fair Campaign Practices Commission

MINUTES

Civic Center
2180 Milvia Street
Cypress Room (1st Floor)

Regular Meeting
May 16, 2019

Members Present: Dean Metzger (Chair), Jessica Blome, Janis Ching, Mark McLean, Patrick O'Donnell, Daniel Saver, Brad Smith, Brian Tsui

Members Absent: Greg Harper (excused)

Also Present: Emmanuelle Soichet, Staff Secretary/Deputy City Attorney
Mark Numainville, City Clerk

1. **Call to Order**

Chair called the meeting to order at 7:02 p.m.

2. **Roll Call**

Roll call taken.

– Commissioner McLean arrived at 7:03 p.m. –

3. **Public Comment (items not on agenda)**

Two speakers for public comment on matters not on agenda.

4. **Reports**

- a. Report from Chair.
- b. Report from Staff.

Staff notified Commissions of number of pending complaints and forthcoming response to Commission's request regarding loan disclosures adopted at its March 21, 2019 meeting.

5. **Approval of Minutes for the April 18, 2019 Regular Meeting**

- a. Public comment: 1 speaker.
- b. Commission discussion and action.

Motion to approve minutes (M/S/C: O'Donnell/Smith; Ayes: Blome, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: Ching, McClean; Absent: Harper (excused)).

6. **Amendments to the Berkeley Election Reform Act related to Public Financing and General Amendments to the FCPC Regulations; discussion and possible action**

- a. Public comment: 3 speakers.
- b. Commission discussion and action.

Motion to adopt amendments, regulations, and text of the report to Council (M/S/C: Smith/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

7. **Referral from the City Clerk's Office regarding potential violation of the Berkeley Election Reform Act by Greg Magofna for Berkeley City Council 2018; discussion and possible action.**

- a. Public comment: One speaker.
- b. Commission discussion and action.

Motion to find probable cause of a violation of BERA (BMC section 2.12.530). (M/S/C: Smith/Tsui; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

Motion to request that staff engage in negotiations with the candidate to enter into a stipulation that admits a violation occurred and requires the candidate to return the \$150 payment to the City's Fair Elections Fund. (M/S/C: O'Donnell/Ching; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

8. **Complaint of alleged violation of the Berkeley Election Reform Act by Harrison for City Council 2018 submitted by L. Menard; discussion and possible action.**

- a. Public comment: One speaker.
- b. Commission discussion and action.

Motion to find probable cause of a violation of BERA (BMC section 2.12.530). (M/S/C: Smith/Blome; Ayes: Blome, Ching, O'Donnell, Saver, Smith, Tsui; Noes: McLean, Metzger; Abstain: None; Absent: Harper (excused)).

Motion to not find probable cause of allegations in the original complaint (M/S/C: Blome/Tsui; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

Motion to dismiss the complaint and take no further action (M/S/C: Smith/Ching; Ayes: Ching, McLean, Metzger, O'Donnell, Saver, Smith; Noes: Blome, Tsui; Abstain: None; Absent: Harper (excused)).

————— *Meeting temporarily adjourned at 8:05 p.m., reconvened at 9:19 p.m.* —————

9. **Proposed amendment to Berkeley Election Reform Act related to limiting the number of candidates to whom a donor may contribute; discussion and possible action.**

- a. Public comment: One speaker.
- b. Commission discussion and action.

Motion to not adopt proposed BERA amendment (M/S/C: Blome/Tsui; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

10. **Proposed amendment to Berkeley Election Reform Act related to Officeholder Accounts; discussion and possible action.**

- a. Public comment: One speaker.
- b. Commission discussion and action.

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

11. **Proposal for Commission to address issues regarding Discretionary Council Office Budgets; discussion and possible action.**

- a. Public comment: No speakers.
- b. Commission discussion and action.

Motion to refer to Open Government Commission for a future meeting (M/S/C: McLean/Smith; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

12. **Adjournment**

Motion to adjourn (M/S/C: Saver/O'Donnell; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

The meeting adjourned at 10:15 p.m.