



Date: August 30, 2018

To: Santa Clara Community

From: Jennifer Yamaguma, Acting City Clerk

Subject: Information regarding Candidate Forums for the November 2018 Election

The City has received several inquiries regarding conducting candidate forums for the November 2018 election, where Santa Clara voters will elect Council Members from District 2 and District 3, as well as the Mayor and City Clerk (partial term) on a City-wide basis. As the questions will likely be asked by other community members, the City is providing this Question & Answers format for the public's awareness to and, particularly, to avoid misinformation that may have already circulated by members of the public.

1. Is the City planning any candidate forums or debates?

No, City staff is restricted from these activities; however, a neutral organization may conduct forums. California law restricts campaign and election activity by municipal governments and their officials, officers and employees and prohibits the use of City funds or resources to advocate for or against a local ballot measure or candidate running for office. Cities have "broad discretion to make public expenditures, subject to the limitations that the expenditure be for a public purpose and not expressly forbidden by law" (Schroder 97 Cal. App. 4th 174, 184-85). While public funds may be expended for the purpose of giving voters relevant facts to aid them in reaching an informed decision, careful analysis is required to classify whether expenditures are an impermissible campaign effort or a permissible informational effort. Upon review of the City's past practices related to the Santa Clara Votes programs, which included conducting candidate forums and a final word forum led by a City-hired consultant with the use of general fund monies, there was significant concern by the City Manager and City Attorney that these practices conflicted with state law and the appropriate use of public funds. Therefore, as has been previously stated, neither a Candidate Forum nor a Final Word Forum will be hosted by the City of Santa Clara this year through the services of a hired consultant.

Neutral Outside Organization's Candidate Forum – While City staff is restricted from supporting candidate forums, as permitted by State law and City policy (Policy and Procedure 008 and 028), the use of public facilities for campaign activities are generally permitted in limited circumstances provided that no public funds or resources are used to support the event, with the specific exemption of allowing for the video recording of a candidate forum organized by the League of Women Voters or another neutral outside organization. Such a forum may be held in the Council Chambers approximately four weeks prior to a municipal election, upon determination of the availability of City Council Chambers. **At this time, the League of Women Voters or another neutral outside organization have not yet organized a specific date to**

conduct a Candidate Forum in the City of Santa Clara for the November 2018 election. If organized and upon confirmation, an announcement will be made through the City's Municipal Cable Channel, website, social media and other media notification.

2. If the Citizen Advisory Committee wanted to host a Candidate Forum, could we get the Council Chambers or subsidized rental of the Senior Center Room or Library Rooms?

Per City policy, City building facilities may be used for group meetings; however, campaign and campaign-related fund raising activities are not allowed. If an organization wishes to use the Council Chambers for a neutral Candidate Forum, they must submit a written request, including the date, hours and purpose of the meeting to the City Manager. In addition, the City Library has two community rooms that may be reserved for general use by members of the public who have a Santa Clara City Library account in good standing and the Senior Center has a number of rooms available for rent through an application process and in accordance with the established City fee schedule.

3. Would the City help publicize the candidate forums?

City policy (Policy and Procedure 028) allows for advertisement of a Candidate Forum hosted by the League of Women Voters or another neutral outside organization under limited circumstances.

4. Is there going to be any ethics consultant or support for the election like we had 2 years ago?

See response to question 1 above. Upon review of the City's past practices related to the Santa Clara Votes programs, which included conducting candidate forums and a final word forum led by a City-hired consultant with the use of general fund monies, there was significant concern by the City Manager and City Attorney that these practices conflicted with state law and the appropriate use of public funds. Therefore, as has been previously stated, neither a Candidate Forum nor a Final Word Forum will be hosted by the City of Santa Clara this year through the services of a hired consultant.

5. If a candidate or member of the public has an issue with how someone is running their campaign (stealing lawn signs, stating endorsements without consent), what is the recourse? Will there be a last word forum or event to air grievances?

Chapter 2.130 *Political Campaign Finance Reform Act* of the Santa Clara City Code has a number of provisions intended to ensure that individuals and interest groups in the City have a fair opportunity to participate in the municipal elective and governmental processes. Article VI speaks to enforcement, including penalties for violation, civil actions, injunctive relief, cost of litigation, disqualification, and the effect of a violation on the outcome of an election. If a member of the public has reason to believe that a candidate has violated the City Code, they should immediately contact the Elections Official (Acting City Clerk, Jennifer Yamaguma). On a case-by-case basis, the Elections Official will coordinate with the City Attorney's Office, City

Manager's Office, Code Enforcement and, dependent upon the nature of the complaint, consultant services may be needed to ensure full due process and impartiality. This is also the case for any potential violation of the City's new "[Dark Money Ordinance](#)" (Article X), whereby the same enforcement measures listed above (Article VI) apply; in addition, there is a specific provision that states any violation shall be considered a material breach of contract by a contracting party and grounds for termination of the contract.