

**CITY OF ESCONDIDO
MINUTES OF THE MEETING OF THE
THE INDEPENDENT
DISTRICTING COMMISSION**

August 12, 2013

The meeting of the Independent Districting Commission was called to order at 6:00 p.m. by Chairman Nuesca in the Mitchell Room, 201 North Broadway, Escondido, California.

Commissioners Present: Commissioner Carey, Commissioner Cruz, Commissioner Flores, Chairperson Nuesca, Commissioner Ramirez, and Vice-Chairperson Valdez.

Commissioners Absent: Commissioner Anderson.

Staff Present: Diane Halverson, City Clerk; Allegra Frost, Deputy City Attorney; and Ty Paulson, Minutes Clerk.

ORAL COMMUNICATIONS

Robert Fuhrmann, Escondido, noted he was a unit member of the National Association of Parliamentarians. He suggested the Commission read Robert's Rules of Order Newly Revised in Brief, The Complete Idiots Guide to Parliamentary Procedures, or go on YouTube, noting these were easier reads and watches than reading Robert's Rules of Order.

Robroy Fawcett, Escondido, suggested using the Rosenberg Rules of Order for referencing parliamentary procedures. He noted that he had reviewed the Commission's minutes regarding his qualifications as an expert consultant. He stated that his interpretation of an expert consultant as outlined in the consent decree was that it could be an individual. He indicated that he was familiar with the requirements of the California Voting Rights Act, census data with regard to districting, public engagement, and drawing voting districts. He elaborated that he was non-partisan. He expressed concern with the comment at the last meeting regarding outside counsel costing \$400 per hour, noting there was nothing in the consent decree allowing the hiring of an attorney. He also noted he was offering his services for free.

Luz, Villafana, Escondido, felt a week was not enough notice for these meetings to adequately reach the community. She asked what type of outreach plans the Commission was considering. She also felt directional signage would be helpful to the public for future meetings.

Yazmin Perez, Escondido, questioned why translation was not being provided for these meetings. She felt the meetings needed to be better publicized along with the meetings being posted on the City's website. She suggested publicizing meetings in the Filipino Press and The Latino over the La Prensa Press. She also asked that the Commission be trained on the legal principles by the next meeting.

Cesar Serrano, Escondido, questioned why there was no translation services being provided at the meetings. He questioned what was being done for outreach. He reminded the Commission not to forget about the Filipino and Vietnamese communities. He also felt the existing community groups would be a good avenue for outreach.

MINUTES:

Moved by Commissioner Nuesca, seconded by Commissioner Valdez, to approve the minutes of the August 5, 2013, meeting as amended by Commissioner Valdez and Commissioner Carey. Motion carried (6-0).

4. Role of City Attorney's Office

ACTION:

Moved by Commissioner Flores, seconded by Commissioner Carey, to table Item 4 to the next meeting. Motion carried. Ayes: Carey, Nuesca, Valdez, Flores, and Ramirez. Noes: None. Abstained: Cruz. (5-0-1)

5. Retention of Expert Consultant

Paul Mitchell, Owner of Redistricting Partners, provided his presentation. (Presentation available at City Clerk's Office) Mr. Mitchell informed the Commission that they had acted as expert witnesses for Escondido in the Gomez case.

Commissioner Valdez asked Mr. Mitchell how he would reach out to the Latino community. Mr. Mitchell suggested using the established community groups through all venues.

Commissioner Flores asked Mr. Mitchell if he had helped an entity as a result of a court order or consent decree with an independent commission. Mr. Mitchell replied in the affirmative.

Commissioner Flores asked Mr. Mitchell if he felt there was anything unique about Escondido that would make it challenging. Mr. Mitchell replied in the negative, noting he had worked with other similar communities.

Commissioner Flores asked Mr. Mitchell who would be assigned to the subject

project. Mr. Mitchell noted that four to five staff would work on this project, which included two line drawers, administrative staff, and himself.

Commissioner Ramirez asked Mr. Mitchell if the \$1,500 per meeting included travel. Mr. Mitchell noted that he absorbed the travel costs.

Chairman Nuesca asked Mr. Mitchell how many projects he was currently working on. Mr. Mitchell noted he was working on four small school districts in Central Valley, two school districts in the Santa Clarita Valley, and a statewide project with some non-profit groups that would be concluded at the end of the month.

Chairman Nuesca asked Mr. Mitchell if he was familiar with the Commission's proposed schedule. Mr. Mitchell replied in the affirmative.

Commissioner Carey referenced Mr. Mitchell's comments regarding non-profit funding partners and asked Mr. Mitchell if there was something additional in his proposal that would need to be funded. Mr. Mitchell stated that his comment and suggestion would be for the Commission to take any non-profit funds offered for providing outreach to the community.

Commissioner Carey asked Mr. Mitchell if he could provide the name of the non-profit partners. Mr. Mitchell stated he did not want to put this on the official record, but could put the Commission in touch with some individuals he knew.

Commissioner Ramirez asked Mr. Mitchell if he felt there would be additional costs if the consent decree were rejected by City Council. Mr. Mitchell stated that this would depend on the scope of work.

Ana Henderson, Q2 Data & Research, LLC, provided the presentation. (Presentation available at City Clerk's Office.)

Chairman Nuesca asked Ms. Henderson if she had provided a budget. Ms. Henderson stated she was unaware of whether they were requested to provide a budget. She noted she could work within the Commission's budget or less.

Vice-chairman Valdez asked Ms. Henderson how she would handle language barriers and build outreach. Ms. Henderson suggested using the existing community leaders for outreach. She suggested training the trainers and leaders about redistricting and the Voting Rights Act. She also noted that she would solely be working on this project if approved.

Commissioner Flores asked Ms. Henderson if she was an attorney. Ms. Henderson replied in the affirmative, noting she was licensed in the State of California. She then provided her background as an attorney with Voting Rights Act and Language Act matters.

Commissioner Flores asked Ms. Henderson if her legal work regarding Voting Rights and Language Act matters occurred before working in districting. Ms. Henderson replied in the affirmative. Commissioner Flores asked Ms. Henderson if she had conducted any legal work while working for Q2. Ms. Henderson replied in the negative. She also noted she had provided legal training and information but did not provide advice as an attorney while working with Q2.

Commissioner Flores asked Ms. Henderson if it would be possible for the Commission to use her legal background to guide the Commission if the Commission selected Q2 as the expert consultant. Ms. Henderson stated that she would be happy to work with the City Attorney's Office but would not be advising the Commission directly.

Doug Johnson, President of National Demographics Corporation, and Justin Levitt, Vice-President, provided the presentation. (Presentation available at City Clerk's Office.)

Vice-chairperson Valdez asked Mr. Johnson who would work on this project if they were selected. Mr. Johnson noted that he and Mr. Levitt would be present at the public meetings. Mr. Levitt noted he was fluent in Spanish and then addressed the audience in Spanish.

Chairman Nuesca asked Mr. Johnson who in his firm did the line drawing for the districts. Mr. Johnson noted that he and Mr. Levitt had extensive background in drawing lines for districts. Mr. Levitt noted that his dissertation involved drawing district lines.

Chairman Nuesca asked Mr. Levitt what other projects he was working on and whether there could be any conflicts. Mr. Levitt noted that he was local which made him readily available.

Chairperson Nuesca asked Mr. Johnson how many meetings his budget provided for. Mr. Johnson noted that the budget provided for ten committee meetings and two City Council meetings, but noted they were flexible with regard to meetings.

Commissioner Flores and Mr. Johnson discussed the difference between an independent and non-independent commission. Mr. Johnson noted that the main difference was the amount of public outreach and public involvement.

Commissioner Carey referenced Mr. Johnson's proposal with regard to special translations of project materials in Spanish and asked if this was being done in house. Mr. Johnson noted that Mr. Levitt typically worked with local translators, noting that the proposed charge was only for jurisdictions that did not have their own translation services. He also stated that they would work with the Commission's translators for technical terms at no charge.

Cesar Serrano, Escondido, was in favor of Q2. He asked that the Commission consider who would be pro community. He also felt the Commission should consider revising the budget.

Commissioner Flores stated he would like to see a budget proposal from Q2.

Chairman Nuesca stated that she was disappointed that Q2 did not provide a budget, given the time constraints.

Vice-chairperson Valdez stated that Q2 indicated that she could work within the established budget. He then asked if Ms. Henderson could comment on the budget.

Ms. Henderson stated that she could work within the established budget. She then asked if the budget was \$75,000. Commissioner Carey replied in the affirmative. Ms. Henderson stated that their personal services would be \$75,000 or less with 10,000 going to the redraw system.

Commissioner Ramirez felt enough information was available to select a consultant.

Commissioner Carey stated that each of the applicants had good qualities, noting he was confident the timeline could be met.

Commissioner Ramirez noted that consideration had to be given to the amount of time needed for translation for noticed meetings.

Commissioner Flores thanked all of the applicants. He expressed concern with Mr. Mitchell working with the plaintiffs, noting his concern with the appearance this might project. He stated that he was impressed with the fact that Ms. Henderson indicated that they would only be working on this project.

Commissioner Valdez was in favor of Q2, noting he liked their educational components.

Commissioner Ramirez recognized Mr. Fawcett as a possible applicant. He stated that he was in favor of National Demographics Corporation, noting they had already worked with Escondido and had been present at each meeting.

Chairman Nuesca stated that she was in favor of National Demographics Corporation, noting Mr. Levitt would be local and be easily available. She also stated that she liked the concept of Q2 solely working on this project.

Commissioner Cruz asked Mr. Johnson what their experience was in working with

non-registered voters with special focus being on elderly individuals who had just become citizens. Mr. Johnson noted that the American Community Survey data, which they used, included everyone's demographics. He stated that getting the word out, engaging community groups, and allowing anyone to provide comments on this process regardless of whether they live in the City or not was the best way to get a good response.

Commissioner Carey asked Attorney Frost why staff recommended National Demographics Corporation as the expert consultant. Attorney Frost noted that she had personally contacted the deputy city attorney who had helped San Diego's redistricting who recommended National Demographics Corporation. Attorney Frost also stated that she recommended them based on input from other jurisdictions and their experience in Escondido.

Commissioner Valdez stated that his community had not had the best relations with the City, noting concern with the amount of funds spent on lawsuits and litigation. He stated that they had been very polarized and alienated. He felt some Council members were going against the constitution, noting some of them did not like the 14th amendment. He felt the current process might help build better confidence.

MOTION:

Commissioner Flores motioned to hire Q2 as the expert consultants. The motion was based on the fact that they were non-partisan consultants, had a proven track record having done the statewide redistricting, and would only be working on this project. Vice-chairperson Valdez seconded the motion based on the budget being \$75,000, Q2's strong educational component, and were best qualified to meet the Commission's needs.

Commissioner Carey expressed concern with committing to a budget not in writing. He suggested a friendly amendment to require Q2 to provide a budget within a day that would meet all of the established criteria.

Commissioner Ramirez did not feel there was an issue with the other applicants currently working on other projects.

Discussion ensued regarding a clarification of the budget for National Demographics Corporation budget.

ACTION ON MOTION:

Motion did not carry. Ayes: Flores and Valdez. Noes: Carey, Cruz, Ramirez, and Nuesca. (4-2)

MOTION:

Commissioner Ramirez moved to hire National Demographics Corporation as the expert consultant. Chairman Nuesca seconded the motion.

Commissioner Cruz felt Q2 had some important elements, questioning whether Q2 could present some other information tonight about the budget. Chairman Nuesca stated that her understanding was that Q2 would not be considered based on the previous vote. Commissioner Carey did not feel this was the case, noting his vote was predicated on not having a budget from Q2.

Commissioner Ramirez felt National Demographics Corporation was the best qualified.

Commissioner Carey felt the Commission should have been provided three qualified firms from the beginning, noting his view that the City lost credibility when it only provided one. He indicated that he was hesitant due to the trust issues between this Commission and City staff, noting the decisions made by the Commission were lasting. He stated that he would like to know the relationship Mr. Johnson had with the City, if any. In conclusion, he noted that he was in favor of hiring Q2 if they could meet the requirements of the budget.

Commissioner Flores stated that Mr. Johnson had been invited by City staff and spoke at each of the meetings unsolicited. He indicated that this was no reflection on Mr. Johnson or his company. He stated that he was concerned with not having other firms to consider from the beginning, noting his view that this needed to be considered by the Commission.

ACTION ON MOTION:

Motion did not carry. Ayes: Ramirez and Nuesca. Noes: Carey, Cruz, Valdez, and Flores. (2-4)

Commissioner Valdez stated that Q2 made a commitment to provide a budget, feeling the Commission should revoke to consider Q2 with the commitment to receive the budget.

Commissioner Ramirez motion to table this item for two weeks. Motion did not pass due to lack of a second.

ACTION:

Moved by Vice-chairman Valdez, seconded by Commissioner Carey, to revote to hire Q2 as the expert consultant contingent on Q2 providing a budget by 5:00 p.m. on August 13, 2013 before 5:00 p.m. The motion also included that the budget would be capped at \$65,000. Motion carried. Ayes: Carey, Flores, Valdez, and Cruz. Noes: Ramirez and Nuesca. (4-2)

6. Meeting/Hearing Schedule and Locations

Ms. Halverson referenced the staff report and requested input.

The Commissioners noted they would forward possible locations to the City Clerk.

Pat Mues, Escondido, referenced her articles on the Escondido2014.com website. She felt these meetings should be held in City Council Chambers so they could be televised and recorded in order to ensure the full intent of the consent decree was met.

Commissioner Flores asked if City Council Chambers could be used. City Clerk Halverson replied in the affirmative, but noted that she would research as to whether they could be televised.

Chairman Nuesca asked if the meetings could be recorded. City Clerk Halverson noted she would check into this.

Commissioner Carey questioned whether the budget could be revised so the meetings could be televised and/or recorded.

Commissioner Flores requested information regarding the costs associated with televising and/or recording meetings. Ms. Halverson stated that she would look into this further. She also stated that it was City Policy that City Council meetings were televised.

Commissioner Ramirez suggested meeting in two weeks in order to allow time for proper notification in the newspapers.

City Clerk Halverson noted that the Commission's budget would be presented to the City Council on August 21, noting that until then no funds were available for public hearing translation fees.

Commissioner Carey noted technically a budget had already been approved but needed finalization. City Clerk Halverson explained that election funds were set aside, noting that these funds were earmarked for this and other processes.

The next meeting was scheduled for City Council Chambers at 6:00 p.m. in City Council Chambers on August 22, 2013. The consensus of the Commission was to table the hearing schedule until the consultant was hired.

7. Publishing of Notices

The Commission was to provide potential media sources for publishing notices to the City Clerk, which would be included on the next agenda for consideration.

8. Commissioner Requested Agenda Items

a. Translation Service/Public Noticing

Robert Furhman, Escondido, noted that this meeting was not publicized in the Union Tribune. City Clerk Halverson noted that meetings were only posted on the City's website.

Commissioner Carey and City Clerk Halverson discussed the government code requirements for publicizing public hearings.

Commissioner Flores expressed his view that translation services were needed for the Commission's meetings, hearings and documents.

Commissioner Valdez felt having Spanish translators would encourage more public participation.

b. Operating Budget

Commissioner Flores asked if City Council had set aside \$138,000 for the operation of this Commission. City Clerk Halverson noted that these funds were set aside in a non-departmental election fund. Commissioner Flores suggested amending the budget to \$138,000.

Chairman Nuesca and City Clerk Halverson discussed the proposed budget.

Commissioner Flores read a paragraph from the consent decree which stated that the City Council shall appropriate to the Commission and to the City Clerk the funds necessary for the Commission to accomplish its task including paying for an expert consultant. He felt whatever reasonable expenditures the Commission felt were necessary should be used. Vice-chairman Valdez concurred.

ACTION:

Moved by Commissioner Flores, seconded by Vice-chairperson Valdez, to amend the original budget from \$110,000 to \$138,000 but not limited to that amount in order to begin the work on the consent decree. The motion was predicated on providing a Spanish interpreter and translation services, publication in local media outlets that would reach Vietnamese, Spanish, Mandarin, and Tagalog speaking residents and televising regular meetings. Motion carried unanimously.

- c. Meeting Translators – Discussed earlier.
- d. Microphones/Sound System – Discussed earlier.

FUTURE AGENDA ITEMS:

Chairman Nuesca suggested an agenda item to discuss using social media for outreach as well as having a parliamentarian on the panel.

Adjournment: Chairman Nuesca adjourned the meeting at 9:45 p.m. The next meeting was set for August 22, 2013 at 6:00 p.m.

Chairman Nuesca

Ty Paulson, Minutes Clerk