



CITY OF SAN JOSÉ, CALIFORNIA

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SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair
Fred de Funiak, Vice Chair
Jang Badhesha
Michael Smith

SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES

May 9, 2007

I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:35 p.m. in Room W-120 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS Badhesha, de Funiak, Smith and Mertens

ABSENT: COMMISSIONERS None

STAFF PRESENT: Evaluator Mike Moye
Senior Deputy City Attorney Norm Sato
Senior Deputy City Attorney Lisa Herrick
City Clerk Lee Price

II OATH OF OFFICE

City Clerk Price administered the Oath of Office to newly appointed Commissioner Michael Smith

III APPROVAL OF MINUTES

- A. Minutes of July 13, 2005, were approved.
- B. Minutes of August 22, 2005, were approved.
- C. Minutes of September 7, 2005, were approved.
- D. Minutes of January 11, 2007, were approved.
- E. Minutes of January 25, 2007, were approved.

IV REPORT OF THE CHAIR

There was none.

V PUBLIC HEARINGS

There were none.

VI DISCUSSION ITEMS

- A. Consideration of the complaint filed by Phaedra Ellis-Lamkins against San Jose/Silicon Valley Chamber of Commerce, COMPAC and Chuck Reed for Mayor Campaign

Document Filed: 1) Report from the Independent Evaluator regarding the complaint filed by Phaedra Ellis-Lamkins against San Jose/Silicon Valley Chamber of Commerce, COMPAC, and Chuck Reed for Mayor Campaign.

Commissioner de Funiak noted he had not received and read the report and would, therefore abstain. Evaluator Moye provided a synopsis of the complaint filed by Phaedra Ellis-Lamkins, stated that there was no violation of the San José Municipal Code and recommended that the complaint be dismissed.

Motion: Upon motion by Commissioner Badhesha, seconded by Commissioner Smith, the Commission accepted the Investigator's recommendation to dismiss the complaint. (Vote 3:1; de Funiak abstained).

Each Commissioner affirmed their findings.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner de Funiak, the Commission directed the City Attorney to prepare a resolution of findings made and authorized the Chair to sign it.

- B. Consideration of the complaint filed by Steve Lopez against Sal Rubino and Pierluigi Oliverio

This item was deferred to the next Commission meeting at the request of the Evaluator.

- C. Discussion regarding City Council Referrals to the Elections Commission and Preliminary Discussion regarding the development of a work program to address the referrals

Documents Filed: 1) Memorandum from City Attorney Rick Doyle dated February 2, 2007 regarding City Council Referrals to the Elections Commission; 2) Memorandum from Chuck Reed dated September 29, 2006 regarding Urgency Ordinance: Independent Expenditure Committees

Chair Mertens led discussion on the City Council referrals to the Elections Commission. Discussion ensued about the current structure of the Elections Commission and creating a work plan for the Commission to address the referrals. Commissioner de Funiak expressed concern about the potential workload and stated that with the current number of commissioners, the scope of the work, and the amount of time involved with overseeing the Mayor's referrals, the Commission would need actual staff to perform the duties asked of them. Senior Deputy City Attorney Norm Sato noted that some referrals will require assistance from a consultant, but some will not. He suggested that the Commission begin work on those referrals while waiting to hire a consultant to help with others.

Public Comment: Dean Munroe, Mayor's Office, indicated that Mayor Chuck Reed is interested in knowing if enforcement is an issue and if campaign committees are disclosing in a timely manner. He noted that political action committees formed at the State level are not required to file campaign reports with the City and suggested perhaps they should.

Brief discussion followed about the budget and staffing levels for other large California cities.

- D. Discussion of Request for Qualifications for Audit and Legal Consultants to assist the San Jose Elections Commission

Documents Filed: 1) Draft Request for Qualifications Audit Consultant – San Jose Elections Commission; 2) Draft Request for Qualifications Legal Consultant – San Jose Elections Commissions

Discussion was held on the scope of the Request for Qualifications for Audit and Legal Consultants for the Commission. Senior Deputy City Attorney Lisa Herrick suggested that the Commission perform an audit back to 2005 to identify trends of independent expenditures and identify the impact of the money being spent. She also suggested having the auditor review complaints that have been filed since the regulations were last amended to include the current complaint procedure and analyze what issues have come up, how often, and to identify what areas need additional oversight.

Chair Mertens suggested creating two subcommittees: one subcommittee to meet with the City Attorney's Office and draft the Request For Qualifications scope (Badhesha/Smith) and another subcommittee to research on Election Commission staffing levels in other cities (de Funiak/Mertens). Discussion ensued on the Request for Qualifications.

Motion: Upon motion by Commissioner de Funiak, and seconded by Commissioner Badhesha, the Commission unanimously accepted Chair Mertens recommendation to form two subcommittees and authorized the subcommittees to work with the City Attorney's Office and authorized the Clerk to issue the Request for Qualification.

- E. Discussion relating to the attorney representative on the Elections Commission and consideration of a recommendation to the City Council that the membership provisions of the ordinance establishing the Elections Commission be amended to delete the requirement that one member of the Commission be an attorney-at-law.

Document Filed: San Jose City Charter Part 16–Elections Commission

Motion: Upon motion by Commissioner Smith, and seconded by Commissioner de Funiak, the Commission unanimously directed staff to take forward to the City Council an amendment to the San Jose Municipal Code 2.08.163(a) eliminating the attorney representative special eligibility requirement.

VI MEETING SCHEDULE

- A. Discussion of setting a regular meeting date and time.

The regular Elections Commission schedule was set for the second Wednesday of each month and a special meeting was scheduled for May 23, 2007.

VII PUBLIC COMMENT

None.

VII ADJOURNMENT

The meeting adjourned at 7:2211 p.m.

THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION