



CITY OF SAN JOSE, CALIFORNIA

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SAN JOSE ELECTIONS COMMISSION

Fred de Funiak, Chair
Michael Smith, Vice Chair
Leon Louie
Robert Shepard
Erica Cosgrove

SAN JOSE ELECTIONS COMMISSION MEETING MINUTES August 12, 2009

I CALL TO ORDER

The members of the San José Elections Commission convened at 5:31 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113 and via telephone conference at 22900 S Hwy 1/P.O. Box 154; Point Arena, CA 95468.

PRESENT: COMMISSIONERS: Cosgrove, Shepard, Smith, de Funiak, and Louie
(via telephone conference)

ABSENT: COMMISSIONER: None

STAFF PRESENT: Senior Deputy City Attorney Lisa Herrick
City Clerk Lee Price
Deputy City Clerk Michelle Radcliffe

II CLOSED SESSION

The Commission convened in Closed Session at 5:30 p.m. and re-convened in Open Session at 5:37 p.m.

III APPROVAL OF MINUTES

The following minutes were approved:

- a. June 10, 2009

IV REPORT OF THE CHAIR

No report.

V REPORT OF THE CLERK/ATTORNEY

City Clerk Lee Price announced that Deputy City Clerk Michelle Radcliffe had received her Certified Municipal Clerk (CMC) designation from the International Institute of Municipal Clerks (IIMC).

Senior Deputy City Attorney Lisa Herrick provided details on the City Council's actions on August 11, 2009, to amend the Campaign Finance Regulations and stated that the Council had referred to the Commission to consider potential requirements to the section of the Regulations regarding electioneering communication, particularly as it relates to "electronic" communications (ie, email, Internet, blogs, etc.)

VI HEARING ON COMPLAINT

- A. Hearing on the complaint file on June 9, 2009 by the City Clerk alleging that Sidney "Ted" Scarlett violated San José Municipal Code campaign finance regulations

Documents Filed: 1) Report from Hanson Bridgett LLP dated June 9, 2009 regarding the Complaint filed by the City Clerk alleging that Sidney "Ted" Scarlett violated San José Municipal Code campaign finance regulations

Respondent Sidney "Ted" Scarlett requested an extension to prepare a detailed response. The Chair declined to grant his request and proceeded with the hearing.

Evaluator Joan Cassman presented an oral report and responded to questions by the Commission. Testimony was received by Ted Scarlett, City Clerk Lee Price and Assistant City Clerk Dennis Hawkins. Commission questions, deliberations and public comments followed. (See Reporter's Transcript Pages 1 through 131)

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Smith, and unanimously passed; the Commission determined that Ted Scarlett violated SJMC section 12.06.290 by accepting a \$250 contribution after the end of the campaign contribution periods. (Vote: 5-0-0)

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Shepard, and unanimously passed, the Commission determined that Ted Scarlett violated SJMC section 12.06.710 by failing to file two campaign statements in a timely fashion. (Vote: 5-0-0)

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Cosgrove, and unanimously passed, the Commission determined that Ted Scarlett violated SJMC Section 12.06.910 by failing to file two campaign statements in a timely fashion. (Vote: 5-0-0)

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Smith, and unanimously passed, the Commission imposed a fine of \$250 for violating SJMC Section 12.06.290 by accepting a \$250 contribution after the end of the campaign contribution periods. (Vote: 5-0-0)

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Cosgrove, and unanimously passed, the Commission took no further action regarding the violation of Section 12.06.710. (Vote: 5-0-0)

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Smith, and unanimously passed, the Commission let stand, with no increase, the fine imposed by the City Clerk under State authority in the amount of \$200 for violating SJMC Section 12.06.910 for failing to file two campaign statements in a timely fashion.

Action: Each commissioner certified that he/she reviewed the entire record and evidence in this case and based his/her decision on the review.

Action: Upon motion by Commissioner Smith, seconded by Commissioner Cosgrove, and unanimously passed, the Commission authorized the City Attorney to prepare a resolution of the findings made and authorized the Chair to sign it.

At 8:08 p.m., the Commission recessed and reconvened at 8:13 p.m. with Commissioners Cosgrove, Shepard, Smith, de Funiak and Louie (via teleconference) present.

- B. Sub-Committee report regarding anonymous complaints
DEFERRED TO SEPTEMBER 9, 2009

C. Review of City Election Costs and continued discussion on the status of Instant Run-Off Voting

Document Filed: 1) Correspondence from New America Foundation Director Blair Bobier in favor of Instant Run-Off Voting; 2) Correspondence from Terry Reilly in opposition to Instant Run-Off Voting; and 3) Memorandum from City Clerk Lee Price dated August 11, 2009 regarding City election costs.

Discussion was held on Instant Run-Off Voting. Public comment was heard from Terry Reilly, New America Foundation Deputy Director Blair Bobier, Californians for Electoral Reform President Steve Chessin, David Parker, and League of Women Voters' representative Trixie Johnson.

Chair de Funiak suggested that the Commission conduct a special meeting or study session to discuss Instant Run-Off Voting and requested the City Clerk coordinate a date based upon the availability of the Commission and stakeholders.

D. Status report on recommendation from the MGT of America, Inc. analysis
DEFERRED TO SEPTEMBER 9, 2009

E. Status of Elections Commission contracts with Hanson Bridgett, LLC and Rivera and Associates

City Clerk Lee Price stated that the contracts for Hanson Bridgett, LLC and Rivera and Associates will expire on December 10, 2009. Ms. Price recommended that the Commission extend the contracts to June 30, 2010 to prevent a lapse in service during the upcoming 2010 Election Cycle. Ms Price also stated that in or around February 2010 the Office of the City Clerk will issue Requests for Proposals for an Independent Evaluator and Investigator to allow the Commission to interview applicants prior to the June 30, 2010 expiration date. Status report received.

VII MEETING SCHEDULE AND AGENDA ITEMS

The next Regular meeting is scheduled for September 9, 2009, at 5:30 p.m. The following items will be placed on the agenda: 1) Closed Session discussion of lawsuit filed by San Jose Silicon Valley Chamber of Commerce; 2) Referral to the City Attorney's Office regarding seeking advice; 3) Sub-committee report regarding anonymous complaints; 4) Status of recommendations from the MGT of America, Inc analysis; and 5) Discussion of Council Referral regarding electronic electioneering communications.

VIII PUBLIC COMMENTS

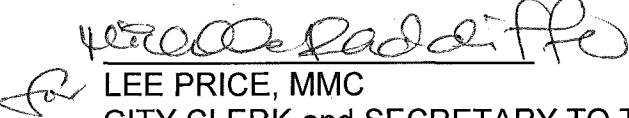
There were none.

IX ADJOURNMENT

The meeting adjourned at 9:13 p.m.


FRED DE FUNIAK, CHAIR

ATTEST:


LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION