



## 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 December 9, 2009

#### I CALL TO ORDER

The members of the San José Elections Commission convened at 5:32 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113

PRESENT: COMMISSIONERS: Cosgrove, Shepard, de Funiak, and Louie

ABSENT: COMMISSIONER: Smith

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

#### II CLOSED SESSION

##### A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 subsection (a):

Name of Case:

1. San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José Elections Commission

The Commission convened in Closed Session at 5:33 p.m. and adjourned to Open Session at 5:45 p.m.

### III APPROVAL OF MINUTES

The following minutes were approved

- a. September 30, 2009
- b. October 14, 2009

### IV REPORT OF THE CHAIR

There was none.

### V REPORT OF THE CLERK/ATTORNEY

City Clerk Lee Price announced that the City Council deferred discussion regarding Anonymous Complaints to December 15, 2009, and Ms. Price requested that a member of the Commission attend the Council meetings to respond to questions.

### VI DISCUSSION ITEMS

#### A. Select a date to hold a Study Session on Instant Run-Off Voting

The Commission tentatively selected March 17, 2010 or March 24, 2010, as dates to hold the Instant Run-Off Voting Study Session. Deputy City Clerk Michelle Radcliffe will contact interested parties to check availability and finalize the meeting date.

Public Comment: Terry Reilly stated there were lawsuits pending regarding the constitutionality of instant run-off voting and stated that he did not believe there was any hurry to hold the study session.

#### B. Overview of new open government provisions establishing the Elections Commission as a hearing body for appeals relating to requests for records under the California Public Records Act

Senior Deputy City Attorney Lisa Herrick and Public Records Manager Tom Norris provided an overview of the new open government provisions. Discussion was held on the balancing test and the appeal process. Questions followed.

- C. Based on a referral from the City Council, consider whether the Voluntary Expenditure Limits should be adjusted.

City Clerk Lee Price gave a verbal report of the City Council referral. Discussion ensued. Ms. Price stated that the items will be placed on next month's Elections Commission agenda for consideration.

- D. Based on a referral from the City Council, consider "Pay to Play Regulations" for certain contractors

Senior Deputy City Attorney Lisa Herrick provided a brief overview of the referral. This item will be placed on next month's agenda for consideration.

## VII MEETING SCHEDULE AND AGENDA ITEMS


The next Regular meeting scheduled for January 13, 2010, at 5:30 p.m. The following items will be placed on the January agenda: 1) Discussion and consideration of adjusting the Voluntary Expenditure Limits based on referral from the City Council; 2) Discussion and consideration of "Pay to Play" regulations for certain contractors based on a referral from the City Council; and 3) Overview of Elections Commission restrictions regarding campaign activities.

## VIII PUBLIC COMMENTS

There were none.

## IX ADJOURNMENT

The meeting adjourned at 7:27 p.m.

  
FRED DE FUNIAK, CHAIR

ATTEST

  
LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION