



CITY OF SAN JOSÉ, CALIFORNIA

200 East Santa Clara Street
San José, California 95113
Telephone (408) 535-1260
FAX (408) 292-6207

SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair
Fred de Funiak, Vice Chair
Jang Badhessa
Steven C. Chell
April Lin Walsh

SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES

JUNE 14, 2006

I CALL TO ORDER

The Members of the San José Elections Commission convened at 7:04 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS Badhessa, Chell, deFuniak, Walsh and
Chair Mertens

ABSENT: COMMISSIONERS None

STAFF PRESENT: Senior Deputy City Attorney Norm Sato
City Clerk Lee Price
Assistant City Clerk Nancy Alford
Clerk Staff Member Michelle Estabillo

II APPROVAL OF MINUTES

- A. Minutes of May 1, 2006 – deferred to next meeting
- B. Minutes of May 15, 2006, were approved.
- C. Minutes of May 31, 2006 – deferred to next meeting

III REPORT OF THE CHAIR

There was no report.

IV PUBLIC HEARINGS

There were none.

V DISCUSSION ITEMS

- A. Status Report and Discussion on the Continued Investigation into the complaint filed May 17, 2006, alleging that the San José Chamber of Commerce violated San José Municipal Code ethics regulations.

Documents Filed: Status report from Evaluator Mike Moye dated June 13, 2006 with attachments.

Discussion was held on the status of the complaint against the San José Chamber of Commerce. Chair Mertens stated that the San José Chamber of Commerce was cooperating with Evaluator Mike Moye and noted that campaign finance records will be forwarded to Mr. Moye, though no date was provided by COMPAC's representative, James Sutton. The Commission accepted the report.

- B. Commission Subcommittee (de Funiak/Walsh) Presentation and Discussion of Draft Public Statement of Reprimand relating to the Commission's findings that the San José Chamber of Commerce violated San José Municipal Code ethics regulations.

Documents Filed: Draft Statement of Reprimand dated June 14, 2006.

The Commission briefly discussed a draft, edited version of a Statement of Reprimand developed by Commission Subcommittee members deFuniak and Walsh. The draft did not, however, reflect the entire work product of the Subcommittee who agreed to meet and comeback with a final draft in one week.

- C. Commission Review and Discussion of the City's Revolving Door Ordinance (Ord. No. 27271)

Documents Filed: Ordinance No. 27271 (An Ordinance of the City of San José Amending Chapter 12.10 of Title 12 of the San José Municipal Code to Revise the City of San José Revolving Door Ordinance) Adopted November 9, 2004.

Chair Mertens suggested that the Commission consider extending the prohibition of one year to two years for former City/Agency officials or designated employees to work on legislative or administrative matters worked on while employed with the City. City Attorney Sato agreed to provide the Commission with a legal opinion as to the constitutionality of such a change.

D. Status Report and Discussion on Commission recommendations to Rules Committee on Lobbying Ordinances

Documents Filed: Draft memo from the Commission to the Rules Committee recommending changes to the Lobbying Ordinance.

Commissioner deFuniak reported he had concerns about the proposed 48 hour timeframe to report fundraising activity and recommended that it be changed to two business days. City Attorney Sato stated that there is no dollar amount threshold for fundraising outlined in the memo per the Commission's direction. Discussion ensued and the Commission agreed to defer to the City Council the dollar amount.

Action: Upon motion by Commissioner deFuniak, seconded by Commissioner Chell, the Commission unanimously accepted the draft as amended.

Action: Upon motion by Commissioner deFuniak, seconded by Commissioner Bandhesha, the Commission unanimously directed the Chair to make clarifying changes to the memo as needed.

The City Clerk was directed to place this item on the next Rules Committee agenda for the August 8, 2006, City Council meeting.

E. Update Regarding Proposal for Public Financing of City Council and Mayoral Campaigns in San José.

Documents Filed: Research on Public Financing in the cities of Long Beach, Los Angeles, and Oakland submitted by Commissioner deFuniak on June 15, 2006.

Chair Mertens led a discussion on how independent expenditures are reported. City Clerk Lee Price stated that State law requires that during the late reporting period (the last 15 days prior to the election), independent expenditures to support or oppose a candidate in excess of \$1,000 must be reported to the filing official within 24 hours.

Chair Mertens asked Commissioners to continue their research and submit their reports to the City Clerk to forward to the Consultant Alex Stuart.

VI MEETING SCHEDULE

Chair Mertens announced that the Commission's next meeting is scheduled for June 21, 2006, at 5:00 p.m.

VII PUBLIC COMMENTS

Steve Preminger, who filed the complaint against San José Chamber of Commerce, expressed concerns about the draft letter of reprimand. He remarked that the reprimand appears to be more a statement of facts and urged the Commission to send a stronger statement to the Chamber of Commerce. He also recommended a fine be imposed on the Chamber.

Terry Riley, resident of District 6, commented on public financing and suggested that the upcoming District 6 race could be a good test case to try public financing. Chair Mertens observed that there may not be sufficient time to put in place public financing in time for the District 6 election. In response, Mr. Riley proposed that the special election might be postponed.

VIII ADJOURNMENT

The meeting was adjourned at 8:17 p.m.

THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION