



CITY OF SAN JOSÉ, CALIFORNIA

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SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair
Fred de Funiak, Vice Chair
Jang Badhesha
April Lin Walsh

SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES November 1, 2006

I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:16 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS Badhesha, Walsh, and Chair Mertens

ABSENT: COMMISSIONERS deFuniak

STAFF PRESENT: Evaluator Mike Moye
Senior Deputy City Attorney Norm Sato
City Clerk Lee Price
Deputy City Clerk Michelle Estabillo

II APPROVAL OF MINUTES

A. Minutes of October 26, 2006 were deferred.

III REPORT OF THE CHAIR

There was nothing to report.

IV PUBLIC HEARINGS

A. Hearing on the Independent Evaluator's Report regarding contributions made to Manny Diaz by Jonathon Emani, Miro Design Group, Gilmore Erickson, and Northpoint Development.

Documents Filed: 1) Report from the Independent Evaluator regarding the complaint filed by Sam Liccardo against Gilmore Erickson, Northpoint Development; Jonathon Emami and Miro Design Group; 2) Correspondence

dated October 31, 2006 from Michael Dietrick, attorney representing Mr. Erickson; 3) Correspondence dated October 31, 2006 from Mr. Erickson responding to complaint; 4) E-mail correspondence dated October 31, 2006 from Farheen S. Ghatala, Senior Accountant of ROEM Development Corporation regarding ownership information of Miro Design Group; and 5) Transcript of Hearing dated November 1, 2006. Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. 23886 Pages 4 through 14.

Evaluator Mike Moye provided a synopsis of the report and recommended that there was a violation of San José Municipal Code, but that it was inadvertent and recommended that no further action be taken. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Walsh, seconded by Commissioner Badhesha, the Commission unanimously accepted the recommendation and found that Gilmore Erickson, Northpoint Development, Jonathon Emami, and Miro Design Group violated San José Municipal Code.

Motion: Upon motion by Commissioner Badhesha, seconded by Commissioner Walsh, the Commission unanimously accepted the Evaluator's recommendation that the violation was inadvertent and that no further action be taken.

- B. Hearing regarding complaint filed by Morgan Wines of October 21, 2006 alleging that the Liccardo Campaign violated San José Municipal Code campaign regulations.

Documents Filed: 1) Report from the Independent Evaluator regarding the complaint filed by Morgan Wines against the Committee to Elect Sam Liccardo/San Liccardo for City Council Campaign, Hobart Curtis, Laura Liccardo, Stephanie Gillis, and Matt Schecter; 2) Supplemental Report from the Independent Evaluator regarding the complaint filed by Morgan Wines against the Committee to Elect Sam Liccardo/San Liccardo for City Council Campaign, Hobart Curtis, Laura Liccardo, Stephanie Gillis, and Matt Schecter; and 3) Transcript of Hearing dated November 1, 2006. Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. 23886 Pages 14 through 45.

Evaluator Moye provided a synopsis of the complaint filed by Morgan Wines and stated there have been additional findings after the first report was completed. Mr. Moye summarized findings included in the supplemental report and concluded that the Liccardo campaign misinterpreted Fair Political Practice Commission rules regarding non-monetary contributions and that the non-monetary contribution made by Laura Liccardo, Sam Liccardo's mother, was an inadvertent violation. He recommended that no further action be taken. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Badhesha, seconded by Commissioner Walsh, the Commission unanimously accepted the Evaluator's

recommendation that the violation was inadvertent and that no further action be taken.

Evaluator Moye stated that contributions made by Jennifer Adams and Richard Cristina were made through intermediaries and did not violate the San José Municipal Code. The Sam Liccardo Campaign did not violate the San José Municipal Code by accepting those contributions. The Evaluator recommended that no further action be taken. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Badhessa, seconded by Commissioner Walsh, the Commission unanimously accepted the Evaluator's recommendation and that no further action be taken.

Evaluator Moye stated that contributions made by Jeanne Filice and Batisa Vieira were separate contributions from a husband and wife and that the San José Municipal Code does not require such contributions be aggregated. The Evaluator stated that there was no violation to San José Municipal Code and recommended that no further action be taken. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Badhessa, seconded by Commissioner Walsh, the Commission unanimously accepted the Evaluator's recommendation and that no further action be taken.

Each Commissioner affirmed their findings.

Motion: Upon motion by Commissioner Walsh, seconded by Commissioner Badhessa, the Commission directed the Chair to work with the City Attorney to prepare a resolution of the finding.

C. Status of pending investigations.

Evaluator provided an update on two pending regarding independent expenditures filed on October 26, 2006, and October 31, 2006. He stated that a report will be available in a few weeks. Senior Deputy City Attorney Sato summarized Brown Act rules regarding the conduct of special meetings.

V DISCUSSION ITEMS

A. Continued discussion regarding the proposal for public financing of city council and mayoral campaigns in San José

Chair Mertens led discussion on the structure and agenda of the public meetings. The Commission agreed to hold another meeting just to speak about logistics of the public meetings.

B. Discussion on the structure of the Elections Commission.

This item was deferred to the next Commission meeting.

VI MEETING SCHEDULE

The next meeting was scheduled for November 8, 2006.

VII PUBLIC COMMENT

Jay Rosenthal, representative from the Liccardo Campaign, provided clarification on contributions received from Laura Liccardo.

Michael Smith, observer, recommended that the public meeting flyers be sent to neighborhood action committees and neighborhood association groups.

Terry Riley, observer, read an Elections Commission recommendation from ten years ago regarding contributions from businesses.

VIII ADJOURNMENT

The meeting adjourned at 6:55 p.m.

THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION