



CITY OF SAN JOSÉ, CALIFORNIA

200 East Santa Clara Street
Second Floor, City Hall Wing
San José, California 95113
Telephone (408) 535-1252
FAX (408) 292-6207

SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair
Jang Badhesha
Michael Smith
Tony Ventura

SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES June 13, 2007

I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:34 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS Badhesha, Smith, Ventura and Mertens

ABSENT: COMMISSIONERS de Funiak

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

II OATH OF OFFICE

City Clerk Lee Price administered the Oath of Office to newly appointed Commissioner Anthony Ventura.

III REPORT OF THE CHAIR

There were none.

IV HEARING ON COMPLAINT

The order of the complaints was changed due to the fact that the parties to the complaint of Garrick Hileman were still enroute to the meeting.

- D. Hearing on complaint filed on March 16, 2007 by Kansen Chu against the Hon Lien Campaign, the Republican Party, and COMPAC

Document Filed: Report from the Independent Evaluator regarding the complaint filed by Kansen Chu against Hon Lien, the Republican Party, and COMPAC; and 2) Transcript of Hearing dated June 13, 2007. Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. 23886 Pages 5 through 13

Evaluator Steven Miller provided a synopsis of the report and stated that there was no evidence to show that there was coordination between COMPAC, the Republican Party and Hon Lien in regards to campaign mailers. The Evaluator recommended that this complaint be dismissed. (See transcript for complete report, questions and comments).

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

- B. Hearing on complaint filed on October 31, 2006 by Chuck Reed for Mayor Committee, Councilman Chuck Reed against the Chavez Campaign

Document Filed: 1) Report from the Independent Evaluator regarding the complaint filed by Chuck Reed against Cindy Chavez for Mayor Campaign; and 2) Transcript of Hearing dated June 13, 2007. Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. 23886 Pages 16 through 22.

Evaluator Steven Miller provided a synopsis of the report and stated that there was no evidence to show that there was a violation of the San Jose Municipal Code. The Evaluator recommended that this complaint be dismissed. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Ventura, seconded by Commissioner Badhesha, the Commission unanimously accepted the Evaluator's recommendation and dismissed the complaint.

Each Commissioner affirmed their findings.

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

- A. Hearing on complaint filed on December 22, 2006 by Garrick Hileman against the Cindy Chavez for Mayor Campaign and Pacific Park Management, Inc

Documents Filed: 1) Report from the Independent Evaluator regarding the complaint filed by Garrick Hileman against Cindy Chavez for Mayor Campaign and Pacific Park Management, Inc (PPM); 2) Email correspondence from Pacific Park Management, Inc attorney Doug Marshall dated June 11, 2007 requesting for continuance/deferral on the Hearing On Complaint of Garrick Hileman; 3) Email correspondence from PPM President Robert Stang dated June 13, 2007 relaying a written statement from PPM Office Manager Yee Ng; 4) Fax correspondence from PPM President Robert Stang dated June 13, 2007 regarding California Unemployment Appeals Board – San Francisco Office decision on Claimant Garrick Hileman; and 5) Transcript of Hearing dated June 13, 2007. Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. 23886 Pages 24 through 108.

Chair Mertens called the hearing to order. Robert Stang, Fred Naranjo and Yee Ng from Pacific Park Management, Inc. (PPM) were present. The complainant Garrick Hileman was not present. The Commission did not grant PPM's request for a 30-45 day continuance and proceeded with the hearing. Evaluator Steve Miller provided a synopsis of the complaint filed against Cindy Chavez Campaign and PPM. The Evaluator summarized the report and stated that the candidate accepted contributions in excess of the allowable amount, but the candidate returned the excess contribution in a timely matter after being notified, there is no violation of San Jose Municipal Code. Evaluator Miller stated that Cindy Chavez had returned the excess contribution and recommended that the complaint be dismissed.

Evaluator Miller summarized the complaint filed against Sam Tadesse, owner of PPM, and gave a synopsis of the report. Evaluator Miller stated that Mr. Tadesse did violate San Jose

Municipal Code by not aggregating his contribution to the Cindy Chavez campaign with the contribution made by PPM. The Evaluator stated that the violation was inadvertent, but recommended that the Commission find a violation and that the contributions made be aggregated.

Evaluator Steve Miller summarized the third aspect of the complaint in which the complainant Garrick Hileman claims that the contributions made by PPM employees at a Cinco de Mayo fundraiser for Cindy Chavez were instigated. Testimony was heard from PPM President Robert Stange, PPM Boardmember Fred Naranjo, and PPM Office Manager Yee Ng. Questions were asked by the Commission and this matter was continued to a date to be determined to allow the Commission to interview Garrick Hileman and other PPM employees. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Ventura, seconded by Commissioner Badhesha, the Commission authorized the Chair to issue subpoenas if necessary.

- C. Hearing on complaint filed on February 27, 2007 by Steve Lopez against Sal Rubino and Pierluigi Oliverio

Document Filed: 1) Report from Independent Evaluator regarding the complaint filed by Steve Lopez against Oliverio for City Council Campaign and Sal Rubino; and 2) Transcript of Hearing dated February 27, 2007. Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. 23886 Pages 109 through 131.

Evaluator Mike Moyer provided a synopsis of the report and stated that there was no evidence to show that there was a violation of San Jose Municipal Code. (See transcript for complete report, questions and comments).

Motion: Upon motion by Commissioner Badhesha, seconded by Commissioner Ventura, the Commission unanimously accepted the Evaluator's recommendation and dismissed the complaint.

Each Commissioner affirmed their findings.

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

V DISCUSSION ITEMS

- A. Update regarding the reappointment of Vice Chair de Funiak to the Elections Commission

Discussion was held on Vice Chair de Funiak's expired term. City Clerk Price stated that the Rules and Open Government Committee accepted staff's recommendation to reappoint Mr. de Funiak and added that the reappointment will occur at the June 26, 2007 City Council meeting.

V PUBLIC COMMENT

There was none.

VI ADJOURNMENT

The meeting adjourned at 8:15 p.m.

THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION