



CITY OF SAN JOSÉ, CALIFORNIA

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SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair
Jang Badhesha
Michael Smith
Tony Ventura

SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES July 11, 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 de Funiak

ABSENT: COMMISSIONERS Mertens

STAFF PRESENT: Chief Deputy City Attorney Norm Sato
Senior Deputy City Attorney Lisa Herrick
City Clerk Lee Price
Deputy City Clerk Nora Pimentel
Evaluator Mike Moye

II APPROVAL OF MINUTES

- A. Minutes of May 9, 2007, were approved, with Commissioner Ventura abstaining.
- B. Minutes of May 23, 2007, were approved, with Commissioner Ventura abstaining.
- C. Minutes of June 13, 2007, were approved, with Commissioner de Funiak abstaining.

III OATH OF OFFICE

City Clerk Lee Price administered the Oath of Office to reappointed Commissioner Fred de Funiak.

IV REPORT OF THE CHAIR

The Commission reappointed Commissioner de Funiak as Vice Chair of the Commission.

V HEARING ON COMPLAINT

- A. Hearing on complaint filed on June 15, 2007 by E. Kaeding against Mayor Chuck Reed, Hon Lien, and Vic Aljouny

Documents Filed: 1) Report from the Independent Evaluator regarding the complaint filed by E. Kaeding against Mayor Chuck Reed, Hon Lien, and Vic Aljouny; and 2) prepared statement of E. Kaeding

Evaluator Mike Moye provided a synopsis of the report and stated that there was no violation of the Municipal Code. The Evaluator recommended that this complaint be dismissed.

Public Comment: Erik Kaeding read a prepared statement into the record regarding Victor Aljouny's involvement in the Lien campaign.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner Badhessa, the Commission unanimously accepted the Evaluator's recommendation 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. Further discussion on complaint filed on December 22, 2006 by Garrick Hileman against the Cindy Chavez for Mayor Campaign and Pacific Park Management, Inc.

The Commission authorized Chief Deputy City Attorney Norm Sato to prepare seven subpoenas for the hearing scheduled for August 9, 2007 at 5:30 p.m.

VI DISCUSSION ITEMS

- A. Discussion regarding the Request for Qualifications for Legal/Evaluator Consultants to assist the San Jose Elections Commission

City Clerk Lee Price updated the Commission on the RFQ for Legal/Evaluator Consultants, stated that the RFQ will be posted in several publications and will be emailed to the Santa Clara County Bar Association, minority Bar Associations, and Santa Clara University.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner Ventura, and unanimously accepted, the Commission directed the City Clerk to post the Request for Qualifications.

- B. Discussion of Request for Qualifications for an Investigator

City Clerk Lee Price provided an update on the RFQ for an Investigator and stated that the deadline for submission was July 31, 2007. This item will be placed on the August 8, 2007 agenda for discussion.

- C. Continued discussion regarding City Council Referrals to the Elections Commission and Preliminary Discussion regarding the development of a work program to address the referrals

Document Filed: San Diego Municipal Code Chapter 2: Government

Chief Deputy City Attorney Norm Sato reported on the outcome of the subcommittee meeting and stated that the report would be ready next month. Discussion was held on Mayor Reed's referrals to the Commission and Mr. Sato stated that the Commission could address the referrals by enforcing the provisions. One example of enforcement is to have the investigator/evaluator review campaign statements.

- D. Update on Lobbyist Ordinance amendments and its impacts

Senior Deputy City Attorney Lisa Herrick summarized the lawsuit filed by Ted Smith against the City of Jose and the Elections Commission stating there were challenges to various provisions of the lobbyist ordinance as well as to the election regulations. She stated that this lawsuit was similar to the lawsuit filed by COMPAC.

- E. Supreme Court decision on Independent Expenditures

Discussion ensued about Supreme Court decision on Independent Expenditures and Senior Deputy City Attorney Lisa Herrick explained that the "Right to Life" case did not apply to the City's appeal, but may have an impact on federal, state and local campaign regulations.

F. Update of Commission contact information

The Commissioners stated they will email changes to the City Clerk.

V PUBLIC COMMENT

City Clerk Lee Price provided an update on the Audit Consultant RFQ and stated that the deadline was extended to July 31, 2007.

VI ADJOURNMENT

The meeting adjourned at 6:43 p.m.

THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION