



San Jose Elections Commission and Office of the City Clerk

Analysis of 2006 Election Cycle Activity

Final Report

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Prepared by:

**MGT of America, Inc.
455 Capitol Mall, Suite 600
Sacramento, California 95814**

Contact:

**Linus Li, Partner
Celina Knippling, Senior Consultant
Jessica Atkins, Analyst
916-443-3411**

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Appreciations

MGT of America, Inc. (MGT) could not have completed this analysis without the assistance of the dedicated staff at the San Jose Office of the City Clerk.

We wish to thank Lee Price, San Jose City Clerk—and Michelle Radcliffe, Deputy City Clerk, for their guidance and assistance throughout this project. Additionally, we appreciate the input and assistance of Lisa Herrick, Senior Deputy City Attorney for the City of San Jose.

We also wish to thank the San Jose Elections Commission members—Jang Badesha, Michael Smith, and Frederick deFuniak (chairperson), for their guidance and participation in this analysis.

Executive Summary

Introduction

This section describes—at a high level—the project background; how the work was performed; the criteria and processes for collecting data related to expenditures, contributions, and complaints, and a summary of the team’s findings and recommendations. Additional details for each of these sections follow the Executive Summary.

Project Background

MGT was hired by the San Jose Elections Commission (Commission) and the San Jose City Clerk (City Clerk) to evaluate and report on elections activity pertaining to the 2006 election cycle. The focus of our work was on expenditures incurred and contributions received by candidates and candidate-controlled committees, as well as by Independent Committees (ICs) in support of (and opposition to) candidates during this cycle. We also evaluated complaints related to elections activity that the City Clerk and Commission received and investigated during this election cycle.

Scope and Methodology

Scope

The team’s review of elections activity during the 2006 election cycle encompassed four specific elections during two calendar years. During calendar year 2006, the City of San Jose held a general election in accordance with the City Charter and the state of California Elections Codes for the purpose of electing five City Council members and the Mayor. Because none of the candidates for Mayor and for City Council District 3 received over 50 percent of total votes cast, the City held a subsequent runoff election for these offices in November 2006. The City also held a special election to fill the City Council District 6 seat because the incumbent had been elected to another office in the June 2006 election.

As a result of the November 2006 election, the City Council District 4 seat was vacated when that council member was elected to the office of Mayor, thus requiring a special election in March 2007 to fill the vacancy. Also in March 2007, the City held a runoff election for the District 6 seat, because none of the candidates had received a majority of the votes during the November 2006 election. As a result of the March 2007 election, the City filled the City Council District 6 seat, but was unable to fill the City Council District 4 seat due to the lack of a candidate receiving a majority of total votes cast. Consequently, the City held a runoff election in June 2007 to fill this office. Because the four elections in two calendar years related to elections activity in calendar year 2006, we focused on all four of these elections as part of our analysis.

Methodology

To perform the analysis, MGT began by evaluating and identifying all criteria related to elections reporting by candidates and candidate-controlled committees. The team conducted interviews with the City Clerk, Deputy City Clerk, and the San Jose Senior Deputy City Attorney. In this initial meeting, the team discussed the criteria used by the City Clerk and the Elections Commission, as well as current issues and concerns facing the Commission and City Clerk related to elections activity and reporting. The team followed-up by pulling relevant criteria (laws, regulations, and city ordinances) and documented these criteria in a table used by our team members to guide our research and evaluation of expenditures, contributions, and complaints.

Next, we used the San Jose City Clerk's Web site to identify a list of all candidates for election during the 2006 election cycle. This included candidates for the June and November 2006 elections, as well as candidates for the March and June 2007 elections. Based on the direction of the Elections Commission, the team limited its evaluation to those candidates who had received more than 10 percent of the vote in each election.

MGT evaluated filings from all candidates and candidate-controlled committees during the period under review to determine the amount of contributions received and expenditures made by these groups. MGT obtained most of the filings from the City Clerk's NetFile service—an electronic, online system used by the City Clerk to receive and process candidate disclosures.

MGT analyzed the electronic files to determine whether these files were complete and accurate. To conduct this review, MGT used the PDF filings reported on the City Clerk's Web site and traced totals from the PDF forms back to the electronic files. However, we noted several issues with the data files that are detailed as follows:

- When candidates or committees filed amendments to required reports, the electronic records contain all records (the prior report's records are not purged). Consequently, the electronic file contained all transactions from the original as well as amended reports. Without removing the extraneous data, the team's summary of the files were overstated due to the double or triple reporting of contributions and expenditures. As a result, the team had to carefully review all electronic filings to ensure contributions or expenditures for candidates were not overstated. When we identified duplicate reports, we purged older data from the electronic file.
- In verifying our electronic records against filed reports, we identified problems with the data reported on the Fair Political Practices Commission (FPPC) Form 460 Summary page. The electronic form *generally* accumulates data entered by candidates on several worksheets onto a summary page. However, the form's summary page does not include totals for some of the worksheets (items reported on Schedule G for example, are not totaled). Additionally, the summary page includes unitemized amounts reported on the first page of each schedule, which are not otherwise included in the electronic files. These issues caused discrepancies in our summaries that we had to analyze and reconcile before moving forward.

- In several instances, the FPPC form appears to have inaccurately summarized worksheet totals. For example, the team found several instances where expenditures on the summary page were under-reported due to the form miscalculating reported amounts. The team verified that our totals were accurate by manually running calculations for the reports under question.
- The portal used for obtaining candidate reports may be incomplete. In conducting searches for candidates, the team typed in each candidate's name and committee name to pull any electronic or PDF (scanned hard-copy) filings. For one candidate (David Pandori), the NetFile system reported that no records were available (that is, no filings had been made). However, on a subsequent search through the advanced search function, the team requested all electronic records with expenditure data during selected dates for all candidates. In doing so, the results showed that David Pandori had reported \$238,343 in expenditures, none of which showed up on the initial searches. The City Clerk and her staff were later able to provide a hard-copy document filed by this candidate.
- Some files, although filed electronically according to the NetFile Web site, were not included in the electronic Excel records that the team pulled from the City Clerk's Web site. Therefore, the team had to convert these files from PDF into Excel, or manually enter the data into Excel. In doing so, we were unable to access some data because expenditure dates were not included in the PDF file. The 27 reports the team had to convert were as follows:
 - David Cortese – May 20, 2006 report.
 - Chuck Reed – May 20, 2006 report.
 - Sam Liccardo – March 17, 2006 report.
 - Pierluigi Oliverio – December 31, 2006 report.
 - Pierluigi Oliverio – June 30, 2007 report.
 - Pierluigi Oliverio – December 31, 2007 report.
 - Kansen Chu – May 19, 2007 Report.
 - Kansen Chu – May 29, 2007 Report.
 - Kansen Chu – November 6, 2007 Report.
 - Kansen Chu – May 17, 2008 Report.
 - Cindy Chavez – May 20, 2006 Report.
 - Jim Foran – January 19, 2007 Report.
 - Jim Foran – February 16, 2007 Report and amendments.
 - Jim Foran – February 27, 2007 Report.
 - Jim Foran – April 27, 2007 Report.
 - David Pandori – March 17, 2006 Report.
 - David Pandori – May 20, 2006 Report and amendments.
 - David Pandori – June 30, 2006 Report.
 - David Pandori – December 31, 2006 Report.
 - David Cueva – June 30, 2006 Report.
 - Madison Nguyen – March 17, 2006 Report.
 - Madison Nguyen – May 19, 2006 Report.
 - Madison Nguyen – July 31, 2006 Report.

- Madison Nguyen – December 31, 2006 Report.
- Madison Nguyen – July 31, 2007 Report.
- Madison Nguyen – December 31, 2007 Report.
- Madison Nguyen – June 30, 2008 Report.

After cleaning and verifying the data in our electronic file, we loaded the data into an electronic data analysis software package (ACL). Using this software, we summarized the data on various elements and using various criteria, to create the tables presented later in this report.

One of the summaries conducted by the team was a review of all contributors to candidates and candidate-controlled committees. The team pulled this data and analyzed the records to determine likely organizations that may have also been ICs making expenditures on behalf of or against particular candidates. We added to this list by performing research using the Internet (Smart Voter Web sites, candidate Web sites if still available, and Google searches) and the disclosure filings. Using this list, MGT pulled IC reports from three sources: the California Secretary of State's Web site; the Santa Clara County Registrar of Voters; and the City Clerk's Web site. MGT also performed keyword searches on each of these three Web sites, using terms such as "San Jose," "Election," "City Council," "Mayor," and "Santa Clara" to identify other ICs that we may have missed initially.

The ICs file periodic disclosure statements with County Registrars, City Clerks, the Secretary of State's office, or multiple combinations of these offices. MGT cautions that because we limited our scope to searching for ICs only with the Santa Clara County Registrar, the San Jose City Clerk, and the California Secretary of State, it is possible that the list of IC expenditures is incomplete. This is because ICs may have filed with other jurisdictions outside our review. Therefore, the amounts reported later in this report may be understated.

Once accumulated into a single data source, the team searched the IC electronic files for *all* candidates' names. We did this because in addition to providing support *for* a candidate, ICs often make payments *against* other candidates in the race. The team also conducted its search on several fields (beneficiary name as well as purpose). In several instances, payments were made to groups or individuals unaffiliated with a candidate, but the "Purpose" section of the file showed that the intent was to benefit (or oppose) a candidate under our review. For example, a payment could have been made to a firm for designing literature to oppose a candidate for Mayor. If the team could not clearly link a particular expenditure to one of the candidates under our review, we did not include it in the total expenditures analysis.

MGT compiled the data into Excel workbooks and then summarized the data using ACL. We broke the data out into several components to identify trends in spending and contributions for candidates and to determine if there were any variables that seemed to have more influence than others in determining candidate success in the elections. MGT correlated this information both for candidates' successful election, as well as for those who did not, and used total votes as a measure of success in evaluating the candidates.

MGT obtained and evaluated complaint data from the City Clerk. We accumulated and summarized complaint data using several key variables, including type of complaint, person or group making the complaint if known, candidate against whom the complaint was lodged, and the outcome of the complaint (upheld or dismissed). This information was aggregated and reported later in this report.

Finally, using the results of our work and evaluations, we identified possible issues or concerns that the Commission and City Clerk should be aware of (as discussed in the Future Considerations section).

Caveat: The team notes that several of the candidates running for election were already elected members serving in local government in the San Jose region. Therefore, success rates may be due to other factors than the types or amount of expenditures or contributions. The review team strictly analyzed data related to expenditures and contributions, and did not attempt to determine if other factors (such as the public's perception of a candidate based on their performance in a previous office) may have played a role in a candidate's success.

Current Requirements

Introduction

To recognize the significance of the findings and recommendations, MGT presents in this section the criteria and context within which the City Clerk and the Commission operate. This section describes the criteria related to elections activity in detail, including federal, state, and local requirements. This section is a high-level overview, with summarized details only—detailed laws and regulations and city ordinances are provided in Appendices A and B.

Federal and State Requirements

In general, federal laws and regulations prescribe minimal requirements that local elections officials must adhere to. The majority of regulations governing local elections reporting come from local and state sources. General federal requirements are contained within the United States Constitution, but do not set standards related to campaign finance or reporting. The Federal Elections Commission (FEC) oversees federal campaign finance laws, enforcing limitations and prohibitions on contributions and expenditures, and investigating complaints. However, this agency plays little role in overseeing state or local elections.

In California, the primary authority guiding state and local elections' campaign disclosure, contribution, and expenditure requirements is the Political Reform Act of 1974 (the Act) (California Government Code, Sections 81000 to 91015). The Political Reform Act of 1974 was a ballot initiative initially passed by California voters as Proposition 9. This Act was further refined and modified by Proposition 34 in November 2000, which added contribution limits for candidates to ensure equity in elections.

In addition to establishing expenditure, contribution, and reporting requirements, the Act created the FPPC. The FPPC is responsible for educating the public and public officials about the requirements of the Act, and for investigating alleged violations of the Act. The FPPC regulates the following activities:

- Campaign financing and spending.
- Financial conflicts-of-interest.
- Lobbyist registration and reporting.
- Post-governmental employment.
- Mass mailings at public expense.
- Gifts and honoraria given to public officials.

Local (Municipal Code) Requirements

Each city in California is given some latitude to regulate campaign contributions, expenditures, and reporting requirements related to local campaigns. According to the Act (as amended), Section 81009.5, no local government agency shall enact any ordinance imposing filing requirements additional to, or different from those set forth in Chapter 4 (commencing with Government Code Section 84100) for

elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees, or committees formed or existing primarily to support or oppose their candidacies. In accordance with this requirement, San Jose has included within its Charter (Section 1602) and Municipal Code, Title 12, Section 12.05.010 requirements applicable only to candidates in local elections, requirements which supersede any conflicting provisions with the California Elections or Government Codes.

Within San Jose, Title 12 of the San Jose Municipal Code (Ethics Provisions) provides the primary guidance related to campaign activities. Additionally, Section 404 of the Charter of the City of San Jose defines eligibility criteria for candidates for election to the office of Mayor or Council Member.

To accomplish reporting requirements in a timely and efficient manner, the City Clerk’s office has contracted with NetFile, a third-party vendor. Through these services, candidates can file their periodic campaign finance reports online. Candidates are, however, required to submit their official campaign disclosure statements as paper filings with the Office of the City Clerk. The City Clerk’s office uses the FPPC’s standard forms (including the California Form 460) as its official forms for collecting expenditure and contribution data.

In the following table, we summarize the primary contribution, expenditure, and reporting requirements with the source of the requirements applicable to San Jose municipal elections. MGT notes that this table is a summary of some of the major provisions applicable to its analysis, and is not a complete synopsis of all state and local requirements. For reference purposes, the team has included the full text of the applicable San Jose Municipal Code Sections within Appendix A and the full text of the Act (as amended), in Appendix B.

Description	Details	Source
San Jose Elections Commission -Rights and Responsibilities	<p>The commission is responsible for the following:</p> <ul style="list-style-type: none"> • Monitoring compliance with all campaign and ethics ordinances in Title 12 of the San Jose Municipal Code. • Reviewing and investigating allegations of violations of Title 12 of the San Jose Municipal Code and taking enforcement action when appropriate. • Making recommendations to the City Council with regard to campaign and ethics regulations and policies. • Settling challenges to commission decisions in accordance with Section 4.24.050 of the San Jose Municipal Code. 	San Jose Municipal Code Title 12 Section 12.04.070
San Jose Elections Commission -Investigative Authority	The Elections Commission has the authority to investigate complaints alleging violations of Title 12 of the San Jose Municipal Code, in accordance with the regulations and procedures adopted by the resolution of the City Council. The Elections Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items.	San Jose Municipal Code Title 12 Sections 12.04.080 and 12.04.085

Continued

Description	Details	Source
San Jose Elections Commission –Enforcement Authority	<p>The Elections Commission, by resolution, shall issue formal findings based on a preponderance of the evidence from the entire record of the commission’s proceedings. If the Elections Commission finds a violation of Title 12, the commission may take one of the following actions:</p> <ul style="list-style-type: none"> • Find mitigating circumstances and take no further action. • Issue a public statement or reprimand. • Impost a civil penalty in accordance with Title 12. <p>The Elections Commission may impose civil penalties by resolution. The Elections Commission may impose penalties of up to \$5,000 per violation or three times the amount which a person or respondent failed to report properly or unlawfully contributed, expended, gave, or received, whichever is greater.</p>	San Jose Municipal Code Title 12 Sections 12.04.100 and 12.04.110
Contribution Limitations – City Council Elections	<p>The total campaign contributions made by any person to any councilmember, council candidate, and any controlled committee of that candidate may not exceed:</p> <ul style="list-style-type: none"> • \$100 for the primary election. • \$100 for the general election. • \$100 for any special election. <p>Candidates who participate in the voluntary campaign expenditure limits program may collect contributions of up to \$250 per contributor.</p>	<p>San Jose Municipal Code Title 12 Section 12.06.210 (A)</p> <p>San Jose Municipal Code Title 12 Section 12.06.540 (A)</p>
Contribution Limitations – Mayoral Elections	<p>The total campaign contributions made by any person to any Mayor, Mayoral candidate, and any controlled committee of the candidate may not exceed:</p> <ul style="list-style-type: none"> • \$250 for the primary election. • \$250 for the general election. • \$250 for any special election. <p>Candidates who participate in the voluntary campaign expenditure limits program may collect contributions of up to \$500 per contributor.</p>	<p>San Jose Municipal Code Title 12 Section 12.06.210 (B)</p> <p>San Jose Municipal Code Title 12 Section 12.06.540 (B)</p>
Contribution Restrictions	<p>Contributions made under the following circumstances are deemed to have been made by the primary person and are included in determining whether that person has exceeded allowable limitations:</p> <ul style="list-style-type: none"> • A contribution by an employee over whom the person exercises control as a supervisor or as an owner of the business entity for which the employee works, where the contribution was coerced by the person or made at his or her instigation from monies given or promised to the employee as a gift, bonus, or other form of reimbursement. 	San Jose Municipal Code Title 12 Section 12.06.240

Continued

Description	Details	Source
	<ul style="list-style-type: none"> A contribution of a spouse of child of the person, where the contribution is coerced by the person or made from monies given or promised by the person in instigation of the contribution. <p>Contributions by selected business entities are limited in accordance with the Political Reform Act as amended.</p> <p>No card room, card room owner, officer of a card room, key management employee of a card room, spouse of a card room owner or spouse of a card room officer shall make any contribution under this chapter.</p>	<p>Title 12 Section 12.06.250</p> <p>Title 12 Section 12.06.260</p>
Campaign Contribution Period (Primary Election)	The campaign contribution period shall begin on the 180 th day prior to the primary municipal election and end at midnight on the 17 th day prior the primary municipal election.	San Jose Municipal Code Title 12 Section 12.06.290 (B)
Campaign Contribution Period (runoff election)	The campaign contribution period shall begin on the day after the primary municipal election for the office and end at midnight on the 17 th day prior to the runoff municipal election for that office.	San Jose Municipal Code Title 12 Section 12.06.290 (C)
Personal Contributions	Candidates may not deposit personal funds into his or her campaign bank account during the period beginning seven days prior to election day.	San Jose Municipal Code Title 12 Section 12.06.295
Mitigating Circumstances	The Elections Commission is required to consider several factors and relevant circumstances surrounding the case when making a determination of whether it will impose penalties for campaign contribution violations. These factors include, but are not limited to, the severity of the violation, the presence or absence of any intent to conceal, deceive, or mislead, and whether the violation was an isolated incident. (A complete list of factors is contained in section 12.04.120).	San Jose Municipal Code Title 12 Section 12.04.120
Independent Committee Contribution Limitations	No person shall make, nor shall any person accept, any contribution to or on behalf of an independent committee expending funds or making contributions in aid of or opposition to the nomination or election of a candidate for City Council or Mayor that will cause the total amount contributed by such person to such independent committee to exceed \$250 per election.	San Jose Municipal Code Title 12 Section 12.06.310
Independent Committee Definitions	Independent committees are deemed to be “persons” for purposes of the contribution limitations to City Council and Mayoral candidates.	San Jose Municipal Code Title 12 Section 12.06.320
Expenditure Limits (Voluntary Campaign Expenditure)	Expenditure limits are set at \$0.75 (seventy-five cents) per resident of the city for candidates for the office of Mayor; and \$1.00 (one dollar) per resident of the district for candidates for council office.	San Jose Municipal Code Title 12 Section 12.06.530

Continued

Description	Details	Source
Independent Committee Reports	Each independent committee making contributions or independent expenditures in a council or mayoral election which does not participate in elections other than for city offices shall file the reporting statements required by 12.06.910 (itemized report). For each expenditure or contribution, the committee shall report what amount or portion was of benefit to a particular candidate.	San Jose Municipal Code Title 12 Section 12.06.320
Retirement of Debt	Candidates must retire all campaign-related debts, including loans, within six months after the date of the election.	San Jose Municipal Code Title 12 Section 12.06.710
Publication	The City Clerk shall, five days prior to the election, prepare a report to be published in the San Jose Mercury News. The report shall contain the total contributions and expenditures for each of the candidates and for each independent committee. The Clerk shall cause the report to be published two days prior to the election.	San Jose Municipal Code Title 12 Section 12.06.920
Return of Excessive Contributions	Contributions which either in the aggregate or on their face exceed allowable contribution limits are deemed not to have been accepted if returned as soon as possible and no more than 30 days after the candidate's discovery of the excess contribution. Monetary contributions must be refunded or the amount of contribution in excess of allowable amounts must be donated to the general fund of the city.	San Jose Municipal Code Title 12 Section 12.04.130 and 12.04.140 and Government Code Section 85303

Election Activity Trends and Analysis

Introduction

The Commission is tasked with overseeing elections activities within the San Jose municipality limits. However, in recent years, the Commission has seen increased work and concern related to Independent Committee actions, which, in part, prompted the request for this report.

This section presents the results of the team’s data and trend analyses related to contributions, expenditures, and complaints relevant to the 2006 election cycle (calendar years 2006 and 2007). This section provides detailed tables and results of the team’s work in evaluating expenditures and contributions, and the results of its analysis of these trends. Detailed data gathered and used by the team will also be provided in an electronic file accompanying the team’s final report.

2006 Election Cycle Overview

The 2006 Election cycle for the City of San Jose encompassed four elections during two calendar years. First, the City held a general election in June 2006, in accordance with the City Charter and the state of California Elections Codes. This election was called for the purpose of electing five City Council members and the Mayor.

To win an election, candidates are required under the terms of the City Charter, section 1600(g) to receive a majority of the votes cast for the office (at least 50 percent plus one vote). If no one candidate receives such a majority, then the two candidates who received the greatest number of votes will run against each other at the next election (per the City Charter, Section 1600(d)).

Table 1: June 2006 City of San Jose Election Results

Candidate Name	Total Votes - Number (Percentage)	Elected to Office?
Mayor		
Chuck Reed	36,401 - (28.79%)	No – Qualified for runoff
Cindy Chavez	29,295 - (23.17%)	No – Qualified for runoff
David Pandori	22,581 - (17.86%)	No
Dave Cortese	20,691 - (16.37%)	No
Michael Mulcahy	13,580 - (10.74%)	No
Other Candidates ^a	3,880 - (3.1%)	No
City Council, District 1		
Peter Constant	7,066 - (64.54%)	Yes
Jay James	3,324 - (30.36%)	No
Other Candidates ^a	558 - (5.10%)	No
City Council, District 3		
Sam T. Liccardo	3,616 - (43.00%)	No – Qualified for runoff
Manny Diaz	3,022 - (35.94%)	No – Qualified for runoff
Other Candidates ^a	1,771 - (21.1%)	No

Continued

Candidate Name	Total Votes - Number (Percentage)	Elected to Office?
City Council, District 5		
Nora Campos	6,056 – (100%)	Yes
City Council, District 7		
Madison Nguyen	7,179 – (100%)	Yes
City Council, District 9		
Judy Chirco	9,553 – (63.63%)	Yes
David Cueva	2,913 – (19.40%)	No
Kevin Fanning	2,548 – (16.97%)	No

- a The team limited its analysis to those candidates receiving at least 10 percent of the vote in each election and race. Candidates not receiving at least 10 percent of the vote are aggregated into the “Other Candidates” category in these tables.

As shown in Table 1 on the prior page and above, because none of the candidates for Mayor and City Council District 3 received a sufficient percentage of total votes cast, in November 2006, the City held a runoff election. The City also held a special election to fill the City Council District 6 seat because the incumbent had been elected to another office in the June 2006 election. Table 2 below presents the results of the November 2006 election.

Table 2: November 2006 City of San Jose Election Results

Candidate Name	Total Votes - Number (Percentage)	Elected to Office?
Mayor (runoff election)		
Chuck Reed	117,394 – 59.26%	Yes
Cindy Chavez	80,720 – 40.74%	No
City Council, District 3 (runoff election)		
Sam T. Liccardo	7,883 – 61.3%	Yes
Manny Diaz	4,977 – 38.7%	No
City Council, District 6		
Pierluigi Oliverio	6,984 – 30.57%	No – Qualified for runoff
Steve Tedesco	4,938 – 21.61%	No – Qualified for runoff
Clark Williams	4,889 – 21.4%	No
Jim Spence	4,638 – 20.3%	No
Other Candidates ^a	1,399 – 6.1%	No

- a The team limited its analysis to those candidates receiving at least 10 percent of the vote in each election and race. Candidates not receiving at least 10 percent of the vote are aggregated into the “Other Candidates” category in these tables.

As a result of the November 2006 election, the City Council District 4 seat was vacated when the council member was elected to the office of Mayor. This necessitated a special election in March 2007 to fill the vacancy on the council. Additionally, because none of the candidates for the City Council District 6 seat had received a majority of the votes in November 2006, the City held a runoff election for that seat.

Table 3: March 2007 City of San Jose Election Results

Candidate Name	Total Votes - Number (Percentage)	Elected to Office?
City Council, District 6 (runoff election)		
Pierluigi Oliverio	7,020 – 58.2%	Yes
Steve Tedesco	5,042 – 41.8%	No
City Council, District 4		
Kansen Chu	2,952 – 31.0%	No – Qualified for runoff
Hon Thi Lien	2,356 – 24.74%	No – Qualified for runoff
Bryan Do	1,758 – 18.46%	No
Jim Foran	1,002 – 10.52%	No
Other Candidates ^a	1,454 – 15.3%	No

a The team limited its analysis to those candidates receiving at least 10 percent of the vote in each election and race. Candidates not receiving at least 10 percent of the vote are aggregated into the “Other Candidates” category in these tables.

In March 2007, as shown in Table 3 above, the City filled the District 6 seat during the runoff election, but none of the candidates in the District 4 race received a majority of total votes cast, and thus the City held a runoff election in June 2007 between the top two candidates to fill this office. Because the four elections in two calendar years related to elections activity in calendar year 2006, the team focused on all four of these elections as part of its analysis.

Table 4: June 2007 City of San Jose Election Results

Candidate Name	Total Votes - Number (Percentage)	Elected to Office?
City Council, District 4 (runoff election)		
Kansen Chu	7,247 – 64.73%	Yes
Hon Thi Lien	3,949 – 35.27%	No

The team notes that its review of filings received by the City Clerk’s office, we found that one of the candidates shown in the above tables (David Fanning) filed a FPPC Form 470 statement. This statement is filed by candidates who do not have a controlled committee, do not anticipate receiving contributions totaling \$1,000 or more during the calendar year, and do not anticipate spending \$1,000 or more during the calendar year. Therefore, in the following tables, there are no expenditures or contributions for Mr. Fanning included in the summaries.

Contributions Analysis

In total, the candidates analyzed as part of the team’s work received 17,335 contributions totaling \$5,013,724. On a per-contributor basis, City Council members received an average of \$207 per contributor and Mayoral candidates received an average of almost \$341. These averages fall within the allowable guidelines and limits under the voluntary spending provisions, which allow up to \$250 per City Council candidate and \$500 per Mayoral candidate.

As shown in Table 5 below, the team found that for **runoff elections**, there was minimal difference in the average contributions received for the successful and unsuccessful candidates. That is, in the runoff elections, both the successful and unsuccessful candidates received relatively similar amounts on a per-contributor basis. This holds true for the City Council, as well as the Mayoral, races.

For **general elections**, the average contribution received for unsuccessful candidates (for both Mayor and City Council races) was much higher than the average contributions received by either the successful candidates or the candidates moving on to the runoff elections, however. For example, unsuccessful candidates in the City Council general elections received over \$245 per contributor, compared to \$195 for successful candidates and \$197 for candidates moving on to runoff elections. The discrepancy between unsuccessful and successful candidates may be in part due to the fact that several of the successful candidates for City Council seats ran unopposed, and therefore, had less incentive to solicit large donations from their supporters. Additionally, as will be discussed later in the Independent Expenditure analysis, several candidates also benefited from large expenditures made on their behalf by outside groups, again lessening the incentive to seek donations directly from supporters.

Table 5: Contributions by Election Type and Result

Candidate Name	Total Contributions	Number of Contributions	Average Contribution
City Council Candidates - General Elections			
Unsuccessful Candidates	\$260,278	1,061	\$245.31
Successful Candidates	\$204,487	1,049	\$194.94
Candidates Moving to runoff	\$397,573	2,014	\$197.40
Total, City Council General Elections Contributions	\$862,338	4,124	\$209.10
City Council Candidates – Runoff Elections			
Unsuccessful Candidates	\$219,741	1,075	\$204.41
Successful Candidates	\$309,230	1,509	\$204.92
Total, City Council Runoff Elections Contributions	\$528,971	2,584	\$204.71
Total, All City Council Candidates	\$1,391,309	6,708	\$207.41
Mayor – General Election			
Unsuccessful Candidates	\$1,366,013	3,051	\$447.73
Candidates Moving to Runoff Election	\$1,023,949	3,609	\$283.72
Total, Mayor General Elections Contributions	\$2,389,962	6,660	\$358.85
Mayor – Runoff Election			
Unsuccessful Candidate	\$683,997	2,202	\$310.63
Successful Candidate	\$548,458	1,765	\$310.74
Total, Mayor Runoff Elections Contributions	\$1,232,455	3,967	\$310.68
Total, All Mayoral Candidates	\$3,622,415	10,627	\$340.87
Total, All Elections	\$5,013,724	17,335	\$289.23

Contributions by Source

The team’s analysis of the source of the contributions found that the vast majority of all contributions reported by all candidates (78 percent) originated from individual contributors. The next highest contributor category (20 percent) came from business entities in the “Other” category, as shown in Table 6 below.

Table 6: Contributions by Contributor Type

Contributor Type	Total Contributions		Number of Contributions	Average Contribution Amount
	\$	%		
Individual (IND)	\$3,922,271	78%	14,019	\$279.78
Other (for example, Business Entity) (OTH)	\$1,007,043	20%	3,071	\$327.92
Recipient Committee (COM)	\$79,585	2%	232	\$343.04
Small Contributor Committee (SCC)	\$4,700	0%	11	\$427.27
Political Party (PTY)	\$125	0%	2	\$62.50
TOTAL	\$5,013,724	100%	17,335	\$289.23

The team notes, however, that it appears there were several instances where candidates incorrectly reported the contributor type designation. For example, in our analysis of contributions made by various groups, the team found that many contributors were coded under the “Other” category that should have been coded under the “Recipient Committee” designation instead. In several instances, a group was coded multiple times under various designations. For example, contributions from the American Federation of State, County, and Municipal Employees (AFSCME) were reported variously as “Other,” “Small Contribution Committee,” and “Recipient Committee” by several candidates. According to the Secretary of State’s Web site, this group should have been reported as a Recipient Committee.

By far the largest category with misreported contributions was the “Other” category. As shown in Table 7 on the following page, the team found that \$53,000 in donations reported under the “Other” category should have been more properly reported in the “Recipient Committee” category.

Table 7: Contributions Coded to Other Contributor Types that Should Have Been Reported As Recipient Committees

Contributor Type	Total Contributions		Number of Contributions	90Average Contribution Amount
	\$	%		
Amounts Reported on Candidate Contribution Forms (Selected Categories Only)				
Other (for example, Business Entity) (OTH)	\$1,007,043	20%	3,071	\$327.92
Recipient Committee (COM)	\$79,585	2%	232	\$343.04
Amounts That Should Have Been Reported on Candidate Contribution Forms (Selected Categories Only)				
Other (for example, Business Entity) (OTH)	\$954,044	19%	2,865	\$333.00
Recipient Committee (COM)	\$132,584	2.6%	438	\$302.70

Contributions by Election Type (Office Sought)

The team analyzed contributions by election type and found that the largest contributions were received by candidates running for Mayor. The team analyzed contributions received by five individuals in the Mayor’s race, and found, as shown in Table 8 below, that between the general and runoff elections, these candidates raised a total of \$3.6 million (over \$724,000 per candidate). This is in contrast to the team’s analysis of 16 individuals vying for the various City Council seats, who collectively (in the general and runoff elections) raised a total of almost \$1.4 million (or almost \$87,000 per candidate).

Table 8: Contributions by Contributor Type and Election Type

Contributor Type	Total Contributions		Number of Contributions	Average Contribution Amount
	\$	%		
City Council Elections				
Individual (IND)	\$1,094,699	79%	5,414	\$202.20
Other (for example, Business Entity) (OTH)	\$277,524	20%	1,207	\$229.93
Recipient Committee (COM)	\$18,586	1%	85	\$218.66
Small Contributor Committee (SCC)	\$500	0%	2	\$250.00
Political Party (PTY)	\$0	0%	0	\$0.00
TOTAL, CITY COUNCIL ELECTIONS	\$1,391,309	100%	6,708	\$207.41
Mayoral Elections				
Individual (IND)	\$2,827,572	78%	8,605	\$328.60
Other (for example, Business Entity) (OTH)	\$729,519	20%	1,864	\$391.37
Recipient Committee (COM)	\$60,999	2%	147	\$414.96
Small Contributor Committee (SCC)	\$4,200	0%	9	\$466.67
Political Party (PTY)	\$125	0%	2	\$62.50
TOTAL, MAYORAL ELECTIONS	\$3,622,415	100%	10,627	\$340.87

Again, as will be discussed later in this report, this information must be balanced against our findings related to IC expenditures, which resulted in large amounts being spent by other entities on behalf of candidates in addition to those contributions given directly to candidates or their committees for their own use.

Contributions by Geographical Location of Contributor

Candidates received contributions from a variety of contributors in various locations, both inside, as well as outside, the state of California. In total, the team found that contributions originated from 547 different cities. However, the majority of all contributions received originated from cities within a 50-mile radius of the City of San Jose. As shown in Table 9 below, \$3.6 million of the total of \$5.0 million contributed to candidates in the elections analyzed by the team, originated from contributors within a 50-mile radius of San Jose. In fact, all but one of the cities was within a 20-mile radius of San Jose.

Table 9: Contributions by Location (Top Ten Cities Only)

City	Total Contributions		Number of Contributions	Average Contribution Amount	Distance from San Jose
	\$	%			
San Jose	\$2,690,259	74.6%	9,224	\$291.66	0 miles
Los Gatos	\$182,509	5.1%	631	\$289.24	12.5 miles
San Francisco	\$152,103	4.2%	491	\$309.78	48.5 miles
Saratoga	\$123,933	3.4%	403	\$307.53	13.1 miles
Santa Clara	\$103,300	2.9%	437	\$236.38	4.9 miles
Palo Alto	\$77,732	2.2%	276	\$281.64	19.6 miles
Campbell	\$77,142	2.1%	313	\$246.46	6.8 miles
Cupertino	\$70,361	2.0%	273	\$257.73	11.3 miles
Milpitas	\$69,797	1.9%	262	\$266.40	11.1 miles
Fremont	\$60,333	1.7%	235	\$256.74	17.9 miles
TOTALS	\$3,607,144	100%	12,545	\$287.58	

Across the country, contributions originated from 40 states including California. However, the team’s analysis found that almost \$4.9 million, or 96.9 percent, of all contributions originated from donors within California.

Contributions by Date Received

The team analyzed the date ranges for when candidates received contributions. As shown in Figures 1 and 2 on the following page, the team found that they tended to grow steadily and spike in the month prior to the election date (the exception being that both the City Council candidates’ and Mayoral candidates’ contributions dropped off in April 2006 compared to those received in March and May 2006). The team is unsure whether this is an actual drop-off, or whether this is due to missing data from candidates or inaccurate dates captured from candidates on their reports.

Figure 1: Contributions Received by Date – City Council Candidates

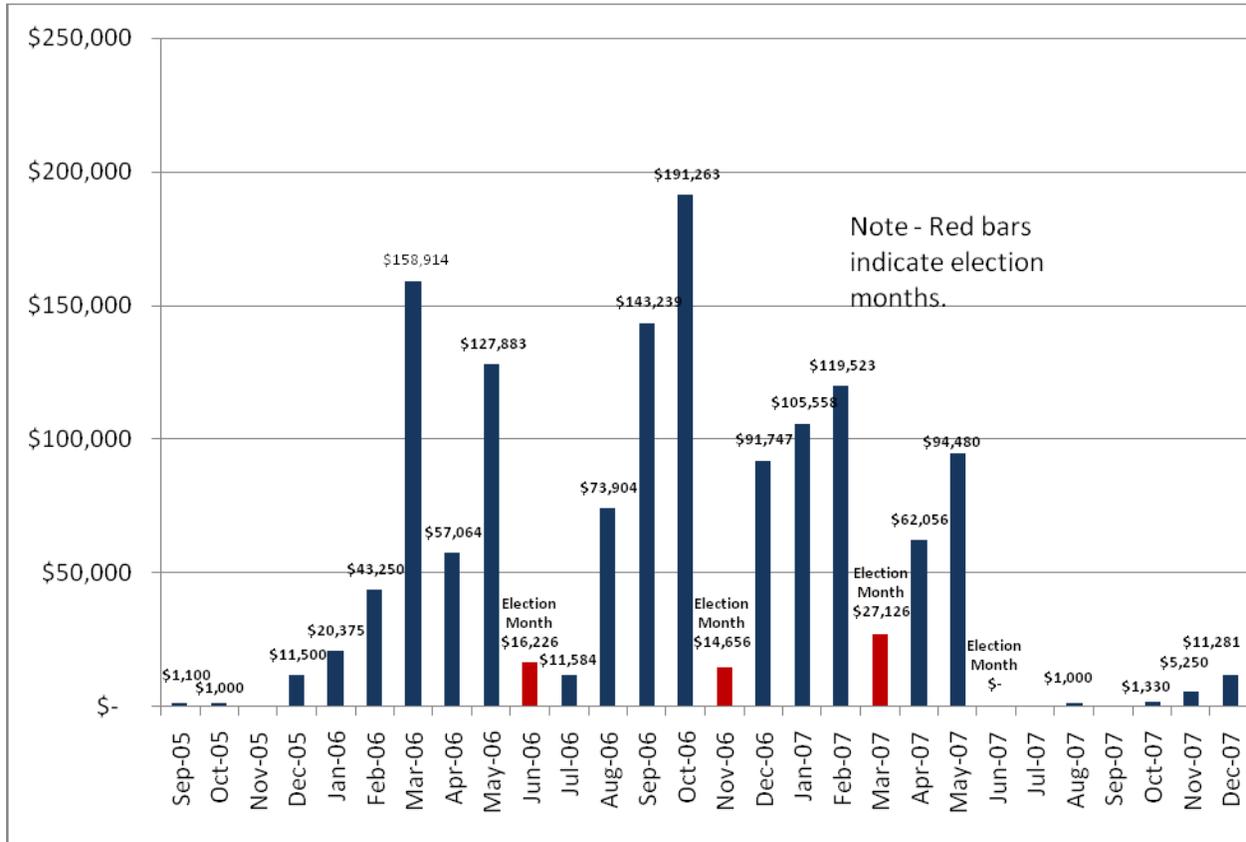
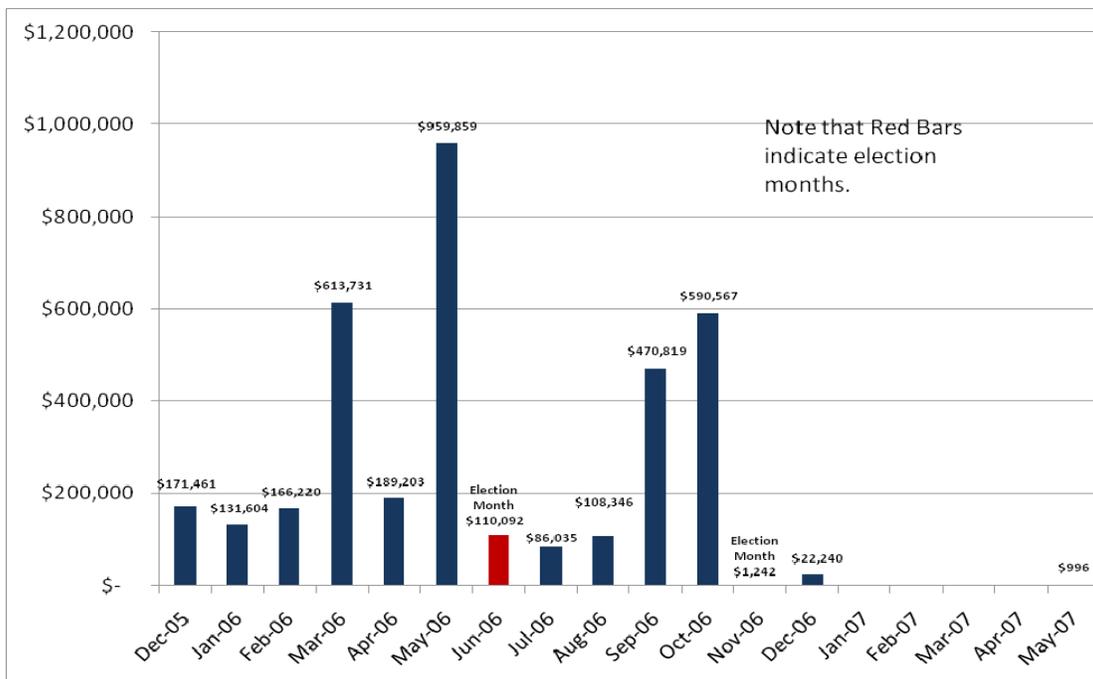


Figure 2: Contributions Received by Date – Mayoral Candidates



Contributions by Employer or Occupation

The team attempted to analyze contributions by employment type, since this was also a field included in the electronic files. However, the team found that in many instances, the “Occupation” and “Employer” fields had been juxtaposed by the filers. Additionally, over 31 percent of the records (\$1.53 million out of \$5.0 million) had blank fields or “NA” listed for the occupation. Due to the problems with this field, the team did not perform further analysis of these records.

Contributions in Excess of Allowed Amounts

The team summarized contributions both by name as well as by address. The team then reviewed contributions from addresses that exceeded the total allowable based on the type of election (Mayor or City Council). The team found that in most instances when contributions in excess of allowable amounts were identified, these amounts were refunded by the candidates or their committees in accordance with state and local requirements.

The team found that for the remaining items, most were contributions made by candidates to their own campaigns. Per the Act, Section 85301 (d) limitations on contributions do not apply to a candidate’s contributions of his or her personal funds to his or her own campaign. Therefore, the team did not believe these to be unallowable.

In only five instances—affecting three candidates—did candidates report contributions of more than allowed amounts from businesses. Because the contributors named were also some of the top *payees* that the team saw later in its analysis, the team cautions that these may in fact be *expenditures* that candidates misreported as *contributions*. These contributions are as shown in Table 10 below:

Table 10: Candidates and Contributions that May Have Exceeded Allowable Amounts

Candidate	Contributor	Amount Contributed	Number of Contributions	Allowable Amounts	Amount in Excess of Allowable Amounts
David Cortese	ADP	\$1,516.83	2	\$500	\$1,016.83
David Cortese	Comcast Spotlight	\$2,326.90	1	\$500	\$1,826.90
Chuck Reed	Paychex	\$2,301.73	2	\$500	\$1,801.73
Chuck Reed	Comcast Spotlight	\$1,142.38	1	\$500	\$642.38
Steve Tedesco	Printmail Pros	\$381.63	1	\$250	\$131.63

Expenditures Analysis

To conduct its analysis of expenditures, the team first determined the type of expenditure coded by the filers. In many instances, filers provided descriptions of their expenditure, but in other areas simply added a reference of “See Below” (without a subsequent explanation provided). In some instances, filers added expenditure codes not part of the FPPC Form 460 designations. To the extent possible, the team attempted to code or recode expenditures using the expenditure codes provided in the FPPC Form 460. These expenditure categories are as shown in Table 11.

Table 11: Expenditure Categories

Code	Definition	Code	Definition	Code	Definition
CMP	Campaign Paraphernalia / Misc.	MBR	Member Communications	RAD	Radio Airtime and Production Costs
CNS	Campaign Consultants	MTG	Meetings and Appearances	RFD	Returned Contributions
CTB	Contribution	OFC	Office Expenses	SAL	Campaign Workers' Salaries
CVC	Civic Donations	PET	Petition Circulating	TEL	Television or Cable Airtime and Production Costs
FIL	Candidate Filing / Ballot Fees	PHO	Phone Banks	TRC	Candidate Travel, Lodging, and Meals
FND	Fundraising Events	POL	Polling and Survey Research	TRS	Staff/Spouse Travel, Lodging, and Meals
IND	Independent Expenditure Supporting or Opposing Others	POS	Postage, Delivery, and Messenger Services	TSF	Transfer Between Committees of the Same Candidate / Sponsor
LEG	Legal Defense	PRO	Professional Services (Legal, Accounting)	VOT	Voter Registration
LIT	Campaign Literature and Mailings	PRT	Print Ads	WEB	Information Technology Costs (Internet, E-mail)

In total, the candidates spent more than \$5.6 million on various services and items as detailed in Table 12 on the following page. The difference between the \$5.0 million in contributions reported earlier and the \$5.6 million in expenditures came from candidate loans to their own campaigns.

Similar to the issues reported in the Contributions Analysis section, the team noted several problems with candidates' statements and selection of expenditure categories. In many instances, filers reported expenditures to the same business or same individual under multiple categories. This is potentially acceptable for payments that may be distributed out to several sources, such as payments on credit card statements for which the filer was reporting the usage categories, or payments to campaign consultants who may be providing a variety of campaign services. (For example, one candidate for Mayor reported payments to a single campaign consultant under eight different expenditure codes—campaign

consultants; fundraising events; campaign literature and mailings; meetings and appearances; office expenses; phone banks; polling and survey research; and staff or spouse travel, lodging, and meals).

Nonetheless, the team found numerous instances of designations that did not appear to be correct. For example, one candidate reported expenditures to the Santa Clara County Registrar of Voters under three expenditure codes (phone banks, information technology costs, and campaign workers’ salaries). It appears that these charges should have been more properly recorded under “Candidate Filing or Ballot Fees” or “Voter Registration.” Consequently, it is important to note that the expenditure categories recorded in this section may be faulty due to human error in miscoding.

Expenditures by Category

The top three expenditure categories were Campaign Literature and Mailings (22.2 percent), Television or Cable Airtime and Production Costs (17.0 percent), and Campaign Workers’ Salaries (14.0 percent). However, on a per-transaction basis, the largest per capita expenditures came from Television or Cable Airtime and Production Costs (an average expenditure of \$17,884); Campaign Consultants (\$4,244 average expenditure); and Polling and Survey Research (\$4,085 average expenditure).

Table 12: Total Expenditures by Category – All Candidates

Expenditure Type	Total Expenditures		Number of Expenditures	Average Expenditure Amount
	\$	%		
TOTAL	\$5,678,601	100.0%	4,201	\$1,352
Campaign Paraphernalia / Misc.	\$192,463	3.4%	141	\$1,365
Campaign Consultants	\$538,952	9.5%	127	\$4,244
Contribution	\$4,998	0.1%	11	\$454
Civic Donations	\$17,924	0.3%	43	\$417
Fundraising Events	\$72,313	1.3%	221	\$327
Independent Expenditure Supporting or Opposing Others	\$2,236	0.0%	5	\$447
Legal Defense	\$1,000	0.0%	1	\$1,000
Campaign Literature and Mailings	\$1,258,308	22.2%	445	\$2,828
Meetings and Appearances	\$27,958	0.5%	144	\$194
Office Expenses	\$424,241	7.5%	1,009	\$420
Petition Circulating	\$257	0.0%	2	\$129
Phone Banks	\$76,058	1.3%	72	\$1,056
Polling and Survey Research	\$183,813	3.2%	45	\$4,085
Postage, Delivery, and Messenger Services	\$506,081	8.9%	280	\$1,807
Professional Services (Legal, Accounting)	\$134,206	2.4%	137	\$980
Print Ads	\$188,844	3.3%	175	\$1,079

Continued

Expenditure Type	Total Expenditures		Number of Expenditures	Average Expenditure Amount
	\$	%		
TOTAL	\$5,678,601	100.0%	4,201	\$1,352
Radio Airtime and Production Costs	\$179,885	3.2%	84	\$2,141
Returned Contributions	\$33,198	0.6%	116	\$286
Campaign Workers' Salaries	\$794,280	14.0%	724	\$1,097
Television or Cable Airtime and Production Costs	\$965,713	17.0%	54	\$17,884
Candidate Travel, Lodging, and Meals	\$1,894	0.0%	6	\$316
Staff/Spouse Travel, Lodging, and Meals	\$15,325	0.3%	220	\$70
Voter Registration	\$7,973	0.1%	13	\$613
Information Technology Costs (Internet, E-mail)	\$50,241	0.9%	126	\$399

Expenditures by Category and Election Results

The team compared expenditures for **City Council** candidates by category and election results (successful versus unsuccessful candidates). In doing so, the team grouped into the “Unsuccessful Candidates” category those candidates who accumulated sufficient votes to qualify for a runoff election, but who were ultimately unsuccessful in their election bid. As shown in Table 13 on page 24, the team found the following items of note:

- Office Expenses, Campaign Workers' Salaries, and Campaign Consultants. In total, successful candidates spent 30.6 percent of their funds on these three categories, compared to unsuccessful candidates, who spent 21.4 percent of their funds on these categories. This may indicate that success rates are affected by the type and experience of staff (successful candidates may be paying more for experienced campaign workers or consultants, for example, which would increase their costs).
- Campaign Advertisements: Successful candidates spent significantly more for campaign literature and mailings and print ads (41.5 percent and 5.3 percent respectively) than did unsuccessful candidates (27.1 percent and 2.4 percent). Successful candidates also spent more for radio airtime and production costs than did the unsuccessful candidates (5.3 percent versus 2.4 percent). Successful candidates spent substantially less than unsuccessful candidates, however, on television or cable airtime and production costs (0.1 percent compared to 22.5 percent). This appears to indicate that for local elections in San Jose, printed materials and possibly radio advertisements may have more impact with the voters than do television advertisements. Finally, the team noted that successful candidates also spend less than unsuccessful candidates on campaign paraphernalia (3.2 percent versus 5.6 percent), indicating possibly that voters are not strongly influenced by these types of materials.

Similarly, the team compared expenditures for **Mayoral** candidates by category and election results (successful versus unsuccessful candidates). In this instance, because there was only one runoff election, the team presented separately within Table 14 on page 25, the various expenditures by unsuccessful candidates in the June 2006 election, and separately for the two runoff candidates participating in the November 2006 election. The team noted the following items:

- Office Expenses, Campaign Workers' Salaries, and Campaign Consultants. Similar to the city council findings, the successful candidate for mayor spent relatively more for campaign workers' salaries, office expenses, and campaign consultants than did the unsuccessful candidates in both the general and runoff elections. In total, the successful candidate spent 47.4 percent of all his expenditures on these three expenditure types, compared to unsuccessful candidates in the general election (23.1 percent) and the unsuccessful candidate in the runoff election (31.4 percent). Again, this may indicate that success rates are affected by the type and experience of staff (successful candidates may be paying more for experienced campaign workers or consultants, for example, which would increase their costs).
- Media Expenses: The successful candidate spent more on a percentage basis for print ads, campaign literature and mailings, and postage (in total, 34.5 percent for these three categories) than did the unsuccessful candidates in the general election (30.1 percent) and in the runoff election (25.0 percent). Additionally, the successful candidate spent far less for television or cable airtime and production costs and radio airtime (6.2 percent and 0.2 percent respectively) than did the unsuccessful candidates in the general election (20.9 percent for television and 11.9 percent for radio) and the unsuccessful candidate in the runoff election (28.1 percent for television and 0.2 percent for radio). This seems to indicate strongly that San Jose voters pay more attention to printed materials in campaigns for mayor, than they do to radio or television advertisements. Also, both candidates moving on to the runoff spent far less on campaign paraphernalia than did the unsuccessful candidates, again indicating that voters are not swayed strongly by these items.

Table 15 on page 26 presents a comparison of all candidates by election outcome (successful or unsuccessful) for all races. The trends identified above held true in this table as well. That is, successful candidates spent more on a percentage basis for campaign workers, campaign consultants, and office expenses than did unsuccessful candidates. Also, successful candidates spent more on printed materials and advertisements than on radio, television, or campaign paraphernalia.

Table 13: Total Expenditures by Category and Election Result – City Council Candidates

	Unsuccessful Candidates			Successful Candidates			TOTAL		
	\$	%	#	\$	%	#	\$	%	#
TOTAL	\$1,059,731	100.0%	946	\$692,394	100.0%	932	\$1,752,125	1878	100.0%
Campaign Paraphernalia / Misc.	\$58,839	5.6%	34	\$22,359	3.2%	32	\$81,198	66	4.6%
Campaign Consultants	\$107,561	10.1%	29	\$83,323	12.0%	20	\$190,885	49	10.9%
Contribution	\$0	0.0%	0	\$4,998	0.7%	11	\$4,998	11	0.3%
Civic Donations	\$9,779	0.9%	4	\$7,025	1.0%	34	\$16,804	38	1.0%
Fundraising Events	\$20,039	1.9%	50	\$12,078	1.7%	14	\$32,117	64	1.8%
Independent Expenditure Supporting or Opposing Others	\$588	0.1%	1	\$1,648	0.2%	4	\$2,236	5	0.1%
Legal Defense	\$0	0.0%	0	\$1,000	0.1%	1	\$1,000	1	0.1%
Campaign Literature and Mailings	\$287,168	27.1%	192	\$287,315	41.5%	111	\$574,483	303	32.8%
Meetings and Appearances	\$4,378	0.4%	16	\$12,869	1.9%	53	\$17,247	69	1.0%
Office Expenses	\$61,081	5.8%	265	\$67,382	9.7%	268	\$128,463	533	7.3%
Phone Banks	\$10,084	1.0%	20	\$2,152	0.3%	16	\$12,236	36	0.7%
Polling and Survey Research	\$5,377	0.5%	7	\$11,466	1.7%	20	\$16,843	27	1.0%
Postage, Delivery, and Messenger Services	\$110,650	10.4%	111	\$36,086	5.2%	51	\$146,736	162	8.4%
Professional Services (Legal, Accounting)	\$37,658	3.6%	29	\$13,800	2.0%	9	\$51,458	38	2.9%
Print Ads	\$25,132	2.4%	47	\$36,492	5.3%	74	\$61,625	121	3.5%
Radio Airtime and Production Costs	\$2,152	0.2%	6	\$7,350	1.1%	12	\$9,502	18	0.5%
Returned Contributions	\$10,050	0.9%	31	\$7,547	1.1%	31	\$17,597	62	1.0%
Campaign Workers' Salaries	\$58,082	5.5%	41	\$61,362	8.9%	85	\$119,444	126	6.8%
Television or Cable Airtime and Production Costs	\$238,635	22.5%	14	\$500	0.1%	1	\$239,135	15	13.6%
Candidate Travel, Lodging, and Meals	\$62	0.0%	3	\$1,000	0.1%	1	\$1,062	4	0.1%
Staff/Spouse Travel, Lodging, and Meals	\$3,633	0.3%	15	\$2,674	0.4%	41	\$6,307	56	0.4%
Voter Registration	\$376	0.0%	5	\$3,800	0.5%	4	\$4,176	9	0.2%
Information Technology Costs (Internet, E-mail)	\$8,408	0.8%	26	\$8,166	1.2%	39	\$16,574	65	0.9%

Table 14: Total Expenditures by Category and Election Result – Mayoral Election Candidates

Expenditure Category	Unsuccessful Candidates			Candidate Who Qualified for Runoff But Was Unsuccessful			Candidate Who Qualified for Runoff and Was Successful			All Mayoral Candidates		
	\$	%	#	\$	%	#	\$	%	#	\$	%	#
TOTAL	\$1,391,022	100.0%	651	\$1,274,601	100.0%	620	\$1,260,413	100.0%	1052	\$3,926,034	100.0%	2323
Campaign Paraphernalia / Misc.	\$71,106	5.1%	23	\$13,648	1.1%	10	\$26,511	2.1%	42	\$111,265	2.6%	75
Campaign Consultants	\$95,505	6.9%	25	\$93,698	7.4%	15	\$158,865	12.6%	38	\$348,068	9.4%	78
Civic Donations	\$1,120	0.1%	5	\$-	0.0%	0	\$-	0.0%	0	\$1,120	0.0%	5
Fundraising Events	\$8,737	0.6%	78	\$15,399	1.2%	57	\$16,059	1.3%	22	\$40,195	1.0%	157
Campaign Literature and Mailings	\$284,754	20.5%	58	\$180,357	14.2%	35	\$218,712	17.4%	49	\$683,823	16.1%	142
Meetings and Appearances	\$2,699	0.2%	11	\$6,187	0.5%	52	\$1,825	0.1%	12	\$10,711	0.2%	75
Office Expenses	\$120,463	8.7%	135	\$88,191	6.9%	189	\$87,125	6.9%	152	\$295,778	7.1%	476
Petition Circulating	\$-	0.0%	0	\$73	0.0%	1	\$184	0.0%	1	\$257	0.0%	2
Phone Banks	\$15,156	1.1%	5	\$15,180	1.2%	2	\$33,486	2.7%	29	\$63,822	1.5%	36
Polling and Survey Research	\$39,478	2.8%	9	\$77,893	6.1%	4	\$49,600	3.9%	5	\$166,970	3.9%	18
Postage, Delivery, and Messenger Services	\$114,054	8.2%	63	\$65,874	5.2%	22	\$179,418	14.2%	33	\$359,345	8.3%	118
Professional Services (Legal, Accounting)	\$47,526	3.4%	43	\$31,416	2.5%	15	\$3,806	0.3%	41	\$82,748	2.3%	99
Print Ads	\$19,010	1.4%	13	\$71,169	5.6%	24	\$37,040	2.9%	17	\$127,219	3.0%	54
Radio Airtime and Production Costs	\$165,425	11.9%	51	\$2,390	0.2%	4	\$2,568	0.2%	11	\$170,383	3.9%	66
Returned Contributions	\$1,600	0.1%	4	\$6,795	0.5%	29	\$7,206	0.6%	21	\$15,601	0.5%	54
Campaign Workers' Salaries	\$104,555	7.5%	64	\$218,269	17.1%	63	\$352,012	27.9%	471	\$674,836	16.6%	598
Television or Cable Airtime and Production Costs	\$291,133	20.9%	28	\$357,605	28.1%	5	\$77,840	6.2%	6	\$726,578	22.2%	39
Candidate Travel, Lodging, and Meals	\$-	0.0%	0	\$832	0.1%	2	\$-	0.0%	0	\$832	0.0%	2
Staff/Spouse Travel, Lodging, and Meals	\$1,234	0.1%	14	\$5,012	0.4%	84	\$2,772	0.2%	66	\$9,018	0.3%	164
Voter Registration	\$-	0.0%	0	\$3,797	0.3%	4	\$-	0.0%	0	\$3,797	0.1%	4
Information Technology Costs (Internet, E-mail)	\$7,467	0.5%	22	\$20,816	1.6%	3	\$5,384	0.4%	36	\$33,667	0.8%	61

Table 15: Expenditures by Type and Election Outcome, All Races

	Unsuccessful Candidates			Successful Candidates			TOTAL		
	\$	%	#	\$	%	#	\$	%	#
TOTAL	\$3,725,353	100.0%	2217	\$1,952,807	100.0%	1984	\$5,678,160	100.0%	4,201
Campaign Paraphernalia / Misc.	\$143,593	3.9%	67	\$48,870	2.5%	74	\$192,463	3.4%	141
Campaign Consultants	\$296,764	8.0%	69	\$242,188	12.4%	58	\$538,952	9.5%	127
Contribution	\$-	0.0%	0	\$4,998	0.3%	11	\$4,998	0.1%	11
Civic Donations	\$10,899	0.3%	9	\$7,025	0.4%	34	\$17,924	0.3%	43
Fundraising Events	\$44,176	1.2%	185	\$28,137	1.4%	36	\$72,313	1.3%	221
Independent Expenditure Supporting or Opposing Others	\$588	0.0%	1	\$1,648	0.1%	4	\$2,236	0.0%	5
Legal Defense	\$-	0.0%	0	\$1,000	0.1%	1	\$1,000	0.0%	1
Campaign Literature and Mailings	\$752,279	20.2%	285	\$506,027	25.9%	160	\$1,258,308	22.2%	445
Meetings and Appearances	\$13,264	0.4%	79	\$14,693	0.8%	65	\$27,958	0.5%	144
Office Expenses	\$269,734	7.2%	589	\$154,507	7.9%	420	\$424,241	7.5%	1,009
Petition Circulating	\$73	0.0%	1	\$184	0.0%	1	\$257	0.0%	2
Phone Banks	\$40,420	1.1%	27	\$35,638	1.8%	45	\$76,058	1.3%	72
Polling and Survey Research	\$122,747	3.3%	20	\$61,066	3.1%	25	\$183,813	3.2%	45
Postage, Delivery, and Messenger Services	\$290,577	7.8%	196	\$215,504	11.0%	84	\$506,081	8.9%	280
Professional Services (Legal, Accounting)	\$116,600	3.1%	87	\$17,606	0.9%	50	\$134,206	2.4%	137
Print Ads	\$115,312	3.1%	84	\$73,532	3.8%	91	\$188,844	3.3%	175
Radio Airtime and Production Costs	\$169,967	4.6%	61	\$9,918	0.5%	23	\$179,885	3.2%	84
Returned Contributions	\$18,445	0.5%	64	\$14,753	0.8%	52	\$33,198	0.6%	116
Campaign Workers' Salaries	\$380,906	10.2%	168	\$413,375	21.2%	556	\$794,280	14.0%	724
Television or Cable Airtime and Production Costs	\$887,373	23.8%	47	\$78,340	4.0%	7	\$965,713	17.0%	54
Candidate Travel, Lodging, and Meals	\$894	0.0%	5	\$1,000	0.1%	1	\$1,894	0.0%	6
Staff/Spouse Travel, Lodging, and Meals	\$9,879	0.3%	113	\$5,446	0.3%	107	\$15,325	0.3%	220
Voter Registration	\$4,173	0.1%	9	\$3,800	0.2%	4	\$7,973	0.1%	13
Information Technology Costs (Internet, E-mail)	\$36,691	1.0%	51	\$13,551	0.7%	75	\$50,241	0.9%	126

Expenditures by Date

The team attempted to analyze expenditures by date; however, we were unable to obtain sufficient data to perform this analysis. The team noted several problems with dates reported for some candidates (dates showing expenditures made in calendar year 2004, that appeared to be erroneous). Additionally, many dates were missing from the electronic records. For the records that the team had to manually enter or convert from PDF files, the team could not identify the dates related to these expenditures, adding to the number of records that were missing this data. Because of the amount of missing or erroneous data associated with expenditure dates, the team did not report further on this area.

Expenditures by Geographic Location

Similar to our analysis of contributions by city and state, we also analyzed expenditures by city and state. In total, candidates paid out amounts to individuals or organizations in 140 cities and 30 states. By far, the state with the largest expenditures was California, where candidates spent \$4.5 million, or 80 percent of all expenditures. The next highest states were Colorado (almost \$319,000 or 5.6 percent), and Washington (almost \$114,000 or 2.0 percent).

Unlike contributions, where the majority of contributors originated from cities within a 50-mile radius of San Jose however, expenditures by candidates were made to a wider range of cities. It is possible that the main reason may be that candidates seek specialty services, including campaign consultants or printing or design services, which may not be available within the city of San Jose.

The top ten cities where candidates made expenditures are as shown in Table 16 below.

Table 16: Expenditures by City

City	Total Expenditures		Number of Expenditures	Distance from San Jose
	\$	%		
San Jose, CA	\$1,857,434	43.6%	1,996	0 miles
San Francisco, CA	\$995,537	23.4%	282	48.5 miles
Denver, CO	\$317,000	7.4%	2	1,301 miles
Sacramento, CA	\$296,977	7.0%	134	119 miles
Oakland, CA	\$234,598	5.5%	99	41.3 miles
Berkeley, CA	\$131,735	3.1%	22	45.8 miles
Santa Clara, CA	\$117,428	2.8%	138	4.9 miles
Seattle, WA	\$112,926	2.7%	11	840 miles
Omaha, NE	\$103,594	2.4%	24	1,700 miles
Washington, DC	\$88,230	2.1%	17	2,851 miles
TOTALS	\$4,255,459	100%	2,725	

Expenditures by Entity Code

Candidates code expenditures by the type of entity that they are paying for services or goods. These entity types are the same as those used to identify contributor type (that is, IND for Individual, COM for Recipient Committee, or OTH for Businesses or Other entities, etc).

The team’s review of these codings did not find that the data were reliable for analysis purposes. For instance, many payments to individuals for “Salaries” were coded as payments under “OTH” rather than “IND.” In total, \$5.2 million of the expenditures (90.7 percent) were recorded under the “OTH” designation. The team believes that many of these expenditures are miscoded, but due to the large number of errors noted, the team did not further analyze expenditures by entity code since we did not believe the field to be reliable.

Expenditures per Vote

The team included an analysis of the “cost per vote” as a final step. The team calculated total expenditures by candidate and election date, using report filing dates, and compared the expenditures to the total votes accumulated by the candidate. The team found that, as shown in Table 17 below, it was not necessarily the candidate who spent the most money who received the most votes. In fact, in many instances, the successful candidates spent less than one or more of their unsuccessful competitors. This indicates that it is not necessarily the amount of money expended, but other factors (such as what the funds are spent on, or the candidates qualifications and public’s perception of this candidate in the local area) that influences the local elections in San Jose.

Table 17: Expenditures Per Vote by Election Date and Race

Candidate Name	Total Votes	Total Expenditures	Expenditures per Vote
June 2006 Election			
Mayor – General Election			
Chuck Reed	36,401	\$532,401	\$14.63
Cindy Chavez	29,295	\$713,526	\$24.36
David Pandori	22,581	\$238,757	\$10.57
David Cortese	20,691	\$734,355	\$35.49
Michael Mulcahy	13,580	\$818,929	\$60.30
City Council, District 1			
Peter Constant	7,066	\$48,117	\$6.81
Jay James	3,324	\$46,227	\$13.91
City Council, District 3			
Sam T. Liccardo	3,616	\$94,485	\$26.13
Manny Diaz	3,022	\$86,555	\$28.64
City Council, District 5			
Nora Campos	6,056	\$21,762	\$3.59
City Council, District 7			
Madison Nguyen	7,179	\$120,104	\$16.73
City Council, District 9			
Judy Chirco	9,553	\$24,758	\$2.59
David Cueva	2,913	\$9,768	\$3.35
Kevin Fanning	2,548	\$0	\$0

Candidate Name	Total Votes	Total Expenditures	Expenditures per Vote
November 2006 Election			
Mayor Runoff Election			
Chuck Reed	117,394	\$728,012	\$6.20
Cindy Chavez	80,720	\$561,076	\$6.95
City Council, District 3 Runoff Election			
Sam T. Liccardo	7,883	\$106,848	\$13.55
Manny Diaz	4,977	\$40,002	\$8.04
City Council, District 6			
Pierluigi Oliverio	6,984	\$39,050	\$5.59
Steve Tedesco	4,938	\$35,095	\$7.11
Clark Williams	4,889	\$43,255	\$8.85
Jim Spence	4,638	\$129,524	\$27.93
March 2007 Election			
City Council, District 6 Runoff Election			
Pierluigi Oliverio	7,020	\$107,521	\$15.32
Steve Tedesco	5,042	\$94,311	\$18.71
City Council, District 4			
Kansen Chu	2,952	\$7,924	\$2.68
Hon Thi Lien	2,356	\$41,196	\$17.49
Bryan Do	1,758	\$41,825	\$23.79
Jim Foran	1,002	\$18,709	\$18.67
June 2007 Election			
City Council, District 4 Runoff Election			
Kansen Chu	7,247	\$121,822	\$16.81
Hon Thi Lien	3,949	\$72,243	\$18.29

Independent Committee Expenditures Analysis

In June 2008, the FPPC issued a study—*Independent Expenditures: the Giant Gorilla in Campaign Finance* with the results of its analysis of how independent expenditures affect candidates and elections within California. As noted in this report, California voters approved Proposition 34 in November 2000, with the intent of establishing contribution limits for candidates and ensuring equity in elections. However, since this time, the FPPC report noted that independent expenditures, made by third-parties on behalf of, or against, a particular candidate have skyrocketed. The FPPC report indicates that in 2000, when candidates did not have contribution limits, independent expenditure spending for legislative candidates totaled \$376,000. By 2006, independent expenditures had increased to \$23.48 million, or an increase of 6,144 percent.

MGT's analysis of IC expenditures made on behalf of or against candidates within our review found similarly large expenditures made from ICs. MGT identified over \$3.3 million in expenditures made by ICs within the period of its review. This amount is more than 63 percent of total expenditures made directly by candidates on their own behalf. MGT cautions that this amount may be understated because our review only searched for these expenditures in selected reporting arenas, as disclosed in the Scope and Methodology.

Table 18 identifies the total expenditures by candidate for those expenditures made only on *behalf* of a candidate, and compares these amounts to the totals expended directly by that candidate or his or her

committee. Expenditures made against candidates are summed at the bottom of Table 18. The team found that some candidates had the majority of their total expenditures coming from ICs.

Table 18: Independent Expenditures as a percentage of Total Campaign Expenditures

Candidate Name	Expenditures by Independent Committees	Expenditures by the Candidate or His or Her Committee	Total Expenditures	IC Expenditures as a percentage of Total Expenditures	Election Outcome
Hon Lien	\$268,908	\$113,438	\$382,346	70%	Unsuccessful
Kansen Chu	\$209,661	\$129,746	\$339,407	62%	Successful
Cindy Chavez	\$1,902,073	\$1,274,601	\$3,176,674	60%	Unsuccessful
Steve Tedesco	\$115,470	\$129,407	\$244,877	47%	Unsuccessful
Nora Campos	\$11,333	\$21,762	\$33,095	34%	Successful (Ran Unopposed)
Manny Diaz	\$58,093	\$126,557	\$184,650	31%	Unsuccessful
Judy Chirco	\$11,022	\$24,758	\$35,780	31%	Successful
Madison Nguyen	\$42,237	\$120,104	\$162,341	26%	Successful (Ran Unopposed)
Jim Spence	\$41,048	\$129,524	\$170,572	24%	Unsuccessful
Jay James	\$14,430	\$46,227	\$60,657	24%	Unsuccessful
Clark Williams	\$10,231	\$43,255	\$53,486	19%	Unsuccessful
Pierluigi Oliverio	\$26,946	\$146,571	\$173,518	16%	Successful
Dave Cortese	\$96,369	\$734,355	\$830,724	12%	Unsuccessful
Pete Constant	\$5,383	\$48,117	\$53,500	10%	Successful
Chuck Reed	\$98,434	\$1,260,413	\$1,358,847	7%	Successful
Sam Liccardo	\$1,350	\$201,334	\$202,684	1%	Successful
Michael Mulcahy	\$1,500	\$818,929	\$820,429	0%	Unsuccessful
Bryan Do	\$0	\$41,825	\$41,825	0%	Unsuccessful
David Pandori	\$-	\$238,757	\$238,757	0%	Unsuccessful
David Cueva	\$-	\$9,768	\$9,768	0%	Unsuccessful
Jim Foran	0	\$18,709	\$18,709	0%	Unsuccessful
Sub Total, IC Expenditures	\$2,914,487				
Expenditures by ICs Against Candidates	\$439,970				
GRAND TOTALS	\$3,354,457	\$5,678,160	\$9,032,617	37%	

The team’s review found that expenditures by ICs, as a percentage of total campaign expenditures, were not an indicator of campaign success. That is, as shown above, candidates who had large amounts expended on their behalf by outside groups had no more and no less of a chance of succeeding in their election campaign than those who had smaller percentages of expenditures.

The team analyzed election outcome results by race (Mayor and individual City Council District races) to determine whether IC expenditures influenced any of the races. In Tables 19 and 20 on the following pages, the team presents the data for IC expenditures for candidates as well as IC expenditures made against candidates. The IC expenditures made against candidates were grouped in the column as benefiting the candidate who most benefited from these expenditures. For example, in the Mayoral election, the campaign expenditures made against one candidate (Chuck Reed) were all from groups

who spent large sums in support of only one other candidate (Cindy Chavez). Therefore, the team included all expenditures against Mr. Reed as benefits reaped by Ms. Chavez.

In the Mayoral race, the person with the largest amount of IC expenditures, both on behalf of herself and against another candidate, was ultimately unsuccessful in the race. However, because this candidate did accrue sufficient votes to qualify for the runoff election, it is possible that the IC expenditures did play a part, somewhat, in the general election results.

Table 19: IC Expenditures Analysis – Mayoral Election

Candidate Name	IC Expenditures FOR the Candidate		IC Expenditures AGAINST OTHER Candidates		Candidate Expenditures		Actual Expenditures	Election Outcome
	\$	%	\$	%	\$	%	\$	
Chuck Reed	\$98,434	7.2%	\$0	0%	\$1,260,413	92.8%	\$1,358,847	Qualified for runoff and was successful
Cindy Chavez	\$1,902,073	53.0%	\$413,808	11.1%	\$1,274,601	35.5%	\$3,590,482	Qualified for runoff and was unsuccessful
David Pandori	\$0	0%	\$0	0%	\$238,757	100%	\$238,757	No
Dave Cortese	\$96,369	11.6%	\$0	0%	\$734,355	88.4%	\$830,725	No
Michael Mulcahy	\$1,500	0.2%	\$0	0%	\$818,929	99.8%	\$820,429	No

Similarly, as shown in Table 20 below, we did not find that independent expenditures generally played a large role in determining candidate success. In all elections, the successful candidate spent more of his or her own funds (or their committee’s funds) on a percentage basis, than ICs spent on behalf of them.

Table 20: IC Expenditures Analysis – City Council Elections

Candidate Name	IC Expenditures FOR the Candidate		IC Expenditures AGAINST OTHER Candidates		Candidate Expenditures		Actual Expenditures	Election Outcome
	\$	%	\$	%	\$	%	\$	
City Council, District 1								
Peter Constant	\$5,383	10.1%	\$0	0%	\$48,117	89.9%	\$53,500	Successful
Jay James	\$14,430	23.8%	\$0	0%	\$46,227	76.2%	\$60,657	Unsuccessful
City Council, District 3								
Sam Liccardo	\$1,350	0.7%	\$5,442	2.6%	\$201,334	96.7%	\$208,126	Qualified for runoff and was successful
Manny Diaz	\$58,093	31.5%	\$0	0%	\$126,557	69.5%	\$184,650	Qualified for runoff and was unsuccessful
City Council, District 5								
Nora Campos	\$11,333	34.2%	\$0	0%	\$21,762	65.8%	\$33,095	Successful
City Council, District 7								
Madison Nguyen	\$42,237	26.0%	\$0	0%	\$120,104	74.0%	\$162,341	Successful

Continued

Candidate Name	IC Expenditures FOR the Candidate		IC Expenditures AGAINST OTHER Candidates		Candidate Expenditures		Actual Expenditures	Election Outcome
	\$	%	\$	%	\$	%	\$	
City Council, District 9								
Judy Chirco	\$11,022	30.8%	\$0	0%	\$24,758	69.2%	\$35,780	Successful
David Cueva	\$0	0%	\$0	0%	\$9,768	100%	\$9,768	Unsuccessful
Kevin Fanning	\$0	0%	\$0	0%	\$0	0%	\$0	Unsuccessful
City Council, District 6								
Pierluigi Oliverio	\$26,946	15.5%	\$0	0%	\$146,572	84.5%	\$173,518	Qualified for runoff and was successful
Steve Tedesco	\$115,470	47.2%	\$0	0%	\$129,407	52.3%	\$244,877	Qualified for runoff and was unsuccessful
Clark Williams	\$10,231	19.1%	\$0	0%	\$43,255	80.9%	\$53,486	Unsuccessful
Jim Spence	\$41,048	24.1%	\$0	0%	\$129,524	75.9%	\$170,572	Unsuccessful
City Council, District 4								
Kansen Chu	\$209,661	58.2%	\$20,720	5.8%	\$129,746	36.0%	\$360,127	Qualified for runoff and was successful
Hon Thi Lien	\$268,908	70.3%	\$0	0%	\$113,438	29.7%	\$382,342	Qualified for runoff and was unsuccessful
Bryan Do	\$0	0%	\$0	0%	\$41,825	100%	\$41,825	Unsuccessful
Jim Foran	\$0	0%	\$0	0%	\$18,709	100%	\$18,709	Unsuccessful

The top committees who contributed funds on behalf of (or against) candidates in the election were as shown below in Table 21.

Table 21: Top Ten Independent Committees Supporting or Opposing Candidates in the 2006 Election Cycle (San Jose)

Committee Name	IC Expenditures		Candidates Supported or Opposed
	\$	%	
Santa Clara County Democratic Campaign	\$1,706,334	50.9%	<ul style="list-style-type: none"> • Chuck Reed (Opposed) • Cindy Chavez (Supported) • Clark Williams (Supported) • Jay James (Supported) • Judy Chirco (Supported) • Kansen Chu (Supported) • Madison Nguyen (Supported) • Nora Campos (Supported) • Pierluigi Oliverio (Supported)
Strengthening Our Lives Through Education, Community Action, and Civic Participation, a Coalition of Labor Organization Candidate PAC	\$272,576	8.1%	<ul style="list-style-type: none"> • Cindy Chavez (Supported)

Committee Name	IC Expenditures		Candidates Supported or Opposed
	\$	%	
San Jose Silicon Valley Chamber of Commerce PAC (COMPAC)	\$393,294	11.7%	<ul style="list-style-type: none"> • Chuck Reed (Supported) • Cindy Chavez (Opposed) • Hon Lien (Supported) • Madison Nguyen (Supported) • Manny Diaz (Opposed) • Michael Mulcahy (Supported) • Pete Constant (Supported) • Sam Liccardo (Supported) • Steve Tedesco (Supported)
San Jose Police Officers Association	\$261,524	7.8%	<ul style="list-style-type: none"> • Cindy Chavez (Supported) • Hon Lien (Supported) • Jim Spence (Supported) • Judy Chirco (Supported) • Manny Diaz (Supported) • Nora Campos (Supported) • Pete Constant (Supported) • Steve Tedesco (Supported) • Dave Cortese (Supported)
San Jose Firefighters PAC	\$156,447	4.7%	<ul style="list-style-type: none"> • Dave Cortese (Supported) • Hon Lien (Supported) • Jay James (Supported) • Jim Spence (Supported) • Judy Chirco (Supported) • Madison Nguyen (Supported) • Manny Diaz (Supported) • Nora Campos (Supported) • Pete Constant (Supported) • Pierluigi Oliverio (Supported) • Steve Tedesco (Supported) • Sam Liccardo (Supported)
Committee on Political Education (C.O.P.E.)	\$93,112	2.8%	<ul style="list-style-type: none"> • Cindy Chavez (Supported) • Hon Lien (Opposed) • Kansen Chu (Supported) • Madison Nguyen (Supported)
South Bay AFL-CIO Labor Council Committee on Political Education	\$114,136	3.4%	<ul style="list-style-type: none"> • Cindy Chavez (Supported) • Hon Lien (Opposed) • Kansen Chu (Supported) • Madison Nguyen (Supported)
San Jose First	\$63,105	1.9%	<ul style="list-style-type: none"> • Chuck Reed (Opposed)
Association of Retired San Jose Police Officers and Firefighters PAC	\$33,986	1.0%	<ul style="list-style-type: none"> • Jim Spence (Supported) • Kansen Chu (Supported) • Manny Diaz (Supported)
Santa Clara County Republican Party	\$24,437	0.7%	<ul style="list-style-type: none"> • Hon Lien (Supported)
International Union of Painters	\$13,500	0.4%	<ul style="list-style-type: none"> • Cindy Chavez (Supported) • Jay James (Supported) • Kansen Chu (Supported) • Madison Nguyen (Supported) • Manny Diaz (Supported)
ALL OTHER COMMITTEES	\$222,005	6.6%	Various
TOTAL	\$3,354,457	100%	

Complaints Analysis

The final analysis that the team performed was an analysis of complaints received by the Commission related to the 2006 election-cycle activity. In total, the Commission investigated 15 complaints related to elections activity, as detailed in Table 19. Persons filing complaints can choose to be anonymous when doing so. Therefore, for purposes of this presentation, the team has presented only the source's type (citizen or candidate for election during the election cycle) below.

The majority of allegations related to complaints that candidates had either accepted excessive contributions, or had violated contribution limits by virtue of independent committee expenditures made on their behalf. Most of these were ultimately dismissed by the Commission.

Table 22: Complaint Summary for 2006 Elections Cycle

Complaint Source (Type)	Subject of the Complaint	Complaint Description	Commission Finding	Outcome
Citizen	San Jose Silicon Valley Chamber of Commerce (COMPAC)	Complaint alleged that COMPAC violated Title 12 of the San Jose Municipal Code (Municipal Code) by 1) providing independent expenditures opposing a candidate for Mayor; 2) failing to report an independent expenditure in accordance with Municipal Code requirements; and 3) exceeding contribution limits under the Municipal Code (collected amounts from individuals in excess of allowable limits to benefit a candidate).	The Commission dismissed the first two allegations of the complaint, but found that the association did violate Municipal Code on the third allegation.	Letter of Reprimand
Citizen	Association of Retired San Jose Police Officers and Firefighters PAC	Complaint alleged that the association violated Municipal Code by making expenditures that exceeded contributed amounts received during the campaign contribution period.	The Commission found that the organization did not violate Municipal Code requirements.	Complaint Dismissed
Citizen	UNITE Here TIP State and Local Fund	Complaint alleged that the organization violated Municipal Code by improperly disclosing an independent expenditure or filing a misleading disclosure report.	The Commission found that the organization did not violate Municipal Code requirements.	Complaint Dismissed
Citizen	International Brotherhood of Electrical Workers Committee on Political Education	Complaint alleged that the organization violated Municipal Code by failing to identify an expenditure as an independent expenditure.	The Commission found that the organization did not violate Municipal Code requirements.	Complaint Dismissed
Citizen	SEIU Local 1000 Candidate PAC	Complaint alleged that the organization violated Municipal Code by failing to disclose proper information regarding an independent expenditure.	The Commission found that the organization did not violate Municipal Code requirements.	Complaint Dismissed

Continued

Complaint Source (Type)	Subject of the Complaint	Complaint Description	Commission Finding	Outcome
Candidate	<ul style="list-style-type: none"> • Manny Diaz • Tom Saggau • Dustin DeRollo • Ash Pirayou • Bianca Pirayou • Saggau and Derollo, LLC • Pirayou Properties, LLC • Gilmore Erickson • Northpoint Development • Jonathan Emami • Miro Design Group 	Complaint alleged that the organizations and individuals violated Municipal Code by making contributions that exceeded allowable limits to the Manny Diaz for City Council Campaign.	The Commission found that the organizations and the individuals had not violated Municipal Code requirements.	Complaint Dismissed
Candidate	<ul style="list-style-type: none"> • Manny Diaz • Gilmore Erickson • Jonathan Emami • Miro Design Group • Northpoint Development 	Complaint alleged that the organizations and individuals violated Municipal Code by making contributions that exceeded allowable limits to the Manny Diaz for City Council Campaign.	The Commission found that the organizations and individuals did violate Municipal Code.	Commission determined the violation was inadvertent and took no further action.
Citizen	<ul style="list-style-type: none"> • Chuck Reed • Hon Lien • Vic Aljouny 	Complaint alleged that the individuals had violated Municipal Code, but provided no details or specific allegations.	The Commission found that the individuals had not violated Municipal Code requirements.	Complaint Dismissed
Citizen	<ul style="list-style-type: none"> • COMPAC • Chuck Reed 	Complaint alleged that the organization and the Chuck Reed for Mayor campaign violated Municipal Code by coordinating an independent activity between the two parties.	The Commission found that the candidate and organization had not violated Municipal Code requirements.	Complaint Dismissed
Citizen	<ul style="list-style-type: none"> • Cindy Chavez • Pacific Park Management Inc. 	Complaint alleged that the organization violated Municipal Code by making contributions through its employees in excess of applicable campaign contribution limits.	<p>The Commission found that Cindy Chavez did not violate Municipal Code.</p> <p>The Commission found that the organization, however, did violate Municipal Code by making contributions in excess of contribution limits.</p>	<p>Complaint Dismissed against Cindy Chavez</p> <p>The Commission assessed a \$5,000 penalty against Pacific Park Management.</p>
Citizen	<ul style="list-style-type: none"> • Pierluigi Oliverio • Sal Rubino 	Complaint alleged that the candidate violated Municipal Code by accepting excessive contributions from several different contributors.	The Commission found that the candidate and individual had not violated Municipal Code requirements.	Complaint Dismissed

Continued

Complaint Source (Type)	Subject of the Complaint	Complaint Description	Commission Finding	Outcome
Candidate	Cindy Chavez	Complaint alleged that the candidate violated Municipal Code by accepting excessive contributions from independent committees via independent expenditures made on her behalf.	The Commission found that the candidate had not violated Municipal Code requirements.	Complaint Dismissed
Candidate	<ul style="list-style-type: none"> • Hon Lien • Santa Clara County Republican Party • COMPAC 	Complaint alleged that the candidate and organizations violated Municipal Code by coordinating an independent activity between the parties.	The Commission found that the candidate and the organizations did not violate Municipal Code requirements.	Complaint Dismissed
Citizen	Chuck Reed	Complaint alleged that the candidate violated Municipal Code by depositing campaign contributions without the dollar-identifying information required or by filing an inaccurate disclosure report.	The Commission found that the candidate had not violated Municipal Code requirements.	Complaint Dismissed
Citizen	<ul style="list-style-type: none"> • Sam Liccardo • Hobard Curtis • Laura Liccardo • Stephanie Gillis • Matt Schecter 	Complaint alleged that the candidate and organizations violated Municipal Code when the candidate accepted excessive contributions from several different contributors and failed to report a non-monetary contribution received in the form of discounted rent for campaign headquarters.	The Commission found that the candidate and the organizations did not violate Municipal Code requirements.	Complaint Dismissed

The complaint data we reviewed matched the data analyzed related to candidate contributions and expenditures, as well as IC expenditures. In other words, with the exception of items noted in prior sections of this report, the team did not note that systemic violations of the San Jose Municipal Code by candidates or ICs during the 2006 elections cycle were occurring without being identified and corrected.

Conclusion and Future Considerations

As presented in the prior pages of this report, the team's analysis identified several trends that seemed associated with candidate success. For example, as discussed in the Expenditure section, successful candidates in the 2006 election cycle within San Jose seemed to be those who spent more on campaign consultants, campaign workers' salaries, and print advertisements and mailers, and less on television or radio advertisements or campaign paraphernalia. Additionally, as discussed in both the contributions and expenditures section, the candidate who collected the most contributions and made the most expenditures was not necessarily the candidate who was most likely to succeed.

However, the team points out that our conclusions were made solely on the basis of expenditure and contribution data. Several of the candidates running for election were already elected members serving in local government in the San Jose region. Therefore, success rates may be due to other factors than the types or amount of expenditures or contributions. These other factors would certainly include the candidate's prior performance while in another office and the public's favorable or unfavorable perception of how well the candidate had performed in that role.

The team notes that the Elections Commission and City Clerk may wish to consider following up with Independent Committees who did not comply with Municipal Code requirements related to IC filings. That is, the San Jose Municipal Code requires ICs to file statements with the City Clerk when they are expending or contributing amounts on behalf of, or in opposition to, a candidate. Although the team found that many ICs complied with this requirement, the team did identify several ICs that did not. Continuing to remind ICs of the San Jose requirements and following up with the IC managers will improve the data available to the public as well as to the Elections Commission and the City Clerk in the future.

Additionally, the City Clerk may wish to conduct an analysis of the forms used by candidates to determine whether the inaccurate summaries identified by the team on some of the reports (and discussed in the Scope and Methodology section of this report) are a result of errors in the FPPC's electronic form, or whether candidates are bypassing total fields and entering incorrect amounts in the summary table. The City Clerk should also work with NetFile to determine why one candidate did not appear to have any filings, but subsequently had data in the electronic database, and to determine whether this problem affected other candidates in other elections.

For future consideration, the Elections Commission may wish to consider modifying current requirements related to campaign disclosure filings. Currently, all candidates must submit signed, paper documents of their campaign disclosure statements directly to the City Clerk's office. Most also submit electronic statements via the city's NetFile system. The team did note some issues with the electronic database, as discussed in the Scope and Methodology section. However, once the City Clerk and Elections Commission are satisfied that the electronic system is accurate and complete, the move to allow candidates to opt to choose to file solely through the electronic portal could reduce the amount of paper that the City Clerk's office must process and store, will be a more efficient method for candidates

and ICs to submit their statements, and will increase the public's ability to access campaign disclosure reports and data.

Although not discussed earlier in this report, the review team does wish to commend both the Elections Commission and the City Clerk and her staff. The review team noted that the Elections Commission and the City Clerk have good communication and work well together. The City Clerk ensures that the Elections Commission members are kept abreast of any issues, complaints, or information that they need to see and consider. The City Clerk's staff was prompt and responsive to all the review team's requests and staff were very knowledgeable in election requirements and the San Jose elections environment. The Elections Commission members were very supportive of the review team's efforts and it appeared that the good working relationship between the commission members and the city clerk play a large part in the city's success in overseeing election activities.