



## CITY OF SAN JOSE, CALIFORNIA

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### SAN JOSE ELECTIONS COMMISSION

Fred de Funiak, Chair  
Michael Smith, Vice Chair  
Leon Louie  
Robert Shepard  
Erica Cosgrove

### SAN JOSE ELECTIONS COMMISSION MEETING MINUTES April 20, 2009

#### I CALL TO ORDER

The members of the San José Elections Commission convened at 5:32 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS: Cosgrove, Louie, Shepard, Smith, and de Funiak

ABSENT: COMMISSIONER: None

STAFF PRESENT: Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Nora Pimentel  
Evaluator Mike Moye  
Evaluator Joan Cassman

#### II HEARING ON COMPLAINT

A. Hearing on the complaint filed May 17, 2006 that San José Silicon Valley Chamber of Commerce and COMPAC violated San José Municipal Code ethics regulations

Documents Filed: 1) Correspondence from James R. Sutton dated April 29, 2009; 2) Correspondence from James R. Sutton dated April 20, 2009 with attachments; 3) Reporter's Transcript of Hearing dated April 20, 2009. Reported by Howard Schroeder, CSR, License Number 1123, Advantage Reporting Services, No. 23886 Pages 3 through 113; and 4) Administrative Record of the May 31, 2006 hearing on the complaint and additional documentation.

Evaluator Mike Moye presented an oral report and responded to questions by the Commission. Testimony was heard from James R. Sutton, Jay Ross and Steve Preminger. Commission deliberations and public comments followed. (See Reporter's Transcript);

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Smith, and unanimously passed, the Commission dismissed the Complaint allegations of a violation of the independent expenditure restrictions or reporting requirement. (5-0-0)

Action: Upon motion by Commissioner Smith, seconded by Commissioner Shepard; the Commission found that the Chamber mailings were funded from contributions that exceed the \$250 limitation under Municipal Code §12.06.310(A). (3-2-0; Noes: Shepard, Louie).

Action: Upon motion by Commissioner Smith, seconded by Commissioner Cosgrove, the Commission found that San Jose/Silicon Valley Chamber of Commerce violated San José ethics ordinance. (Vote: 4-1-0. Noes: Louie)

Action: Upon motion by Commissioner Smith, seconded by Commissioner Cosgrove, the Commission imposed the maximum fine of \$5,000 against San Jose/Silicon Valley Chamber of Commerce. (Vote: 3-2-0. Noes: Shepard and Louie)

Upon motion by Commissioner Cosgrove, seconded by Commissioner Shepard, and unanimously passed, the Commission authorized the City Attorney to prepare a resolution of the findings made and authorized the Chair to sign it.

### III DISCUSSION ITEMS

- A. Continued discussion on the City's campaign finance regulations relating to (1) contribution limits generally; (2) inflation adjustments on contribution limits; (3) limits on contributions to independent expenditure committees; (4) segregation of contributions to independent expenditure committees; and (5) disclosure of contributions to independent expenditure committees.

The Commission invited public comments.

Public Comments: James Sutton, representing COMPAC, stated the Chamber of Commerce supports full disclosure and offered to work with the Commission on drafting language for the amended ordinance. He stated that the City of San Diego recently amended their ordinance and

recommended that the Commission clean up the ambiguity in the City's campaign finance ordinance.

Ash Pirayou observed that the City's current regulations have been amended in piecemeal fashion over the years and suggested that the entire ordinance be examined and amended as a whole for greater clarity and, further, to reduce the risk of litigation. He proposed that if it is the intention of the Commission to impose contribution limits that a draft recommendation be prepared so that the public may comment and react to it.

The matter was continued to the next regular meeting of the Commission.

#### IV MEETING SCHEDULE AND AGENDA ITEMS

The next Special meeting is scheduled for April 30, 2009 at 5:30 p.m. and the Commission dropped the discussion on independent expenditures.

The next Regular Meeting is scheduled for May 13, 2009 at 5:30 p.m.

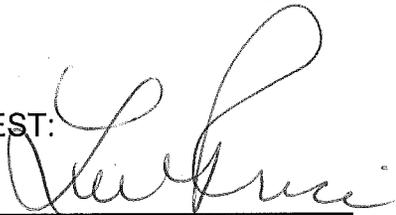
#### V PUBLIC COMMENT

There were none.

#### VI ADJOURNMENT

The meeting adjourned at 8:15 p.m.

ATTEST:



LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION



FRED DE FUNIAK, CHAIR