



## CITY OF SAN JOSE, CALIFORNIA

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

### **SAN JOSE ELECTIONS COMMISSION**

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

### **SAN JOSE ELECTIONS COMMISSION MEETING MINUTES September 9, 2009**

#### **I CALL TO ORDER**

The members of the San José Elections Commission convened at 5:31 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113

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

**ABSENT:** None

**STAFF PRESENT:** Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Michelle Radcliffe

#### **II CLOSED SESSION**

The Commission convened in Closed Session at 5:32 p.m. and re-convened in Open Session at 5:48 p.m.

#### **III APPROVAL OF MINUTES**

The following minutes were approved, as amended:

a. August 12, 2009

#### IV REPORT OF THE CHAIR

Chair de Funiak requested that in the future Commission hearings be separate from the Regular meetings.

#### V REPORT OF THE CLERK/ATTORNEY

##### A. Report on referral to the City Attorney's Office regarding formal advice

Senior Deputy City Attorney Lisa Herrick stated that the City Attorney's Office currently provides formal advice under the Revolving Door section of Title 12. Ms. Herrick suggested that the Ordinance be amended to extend formal advice to Campaign Finance and Lobbyist Regulations. This item will be placed on the October agenda for consideration.

##### B. Subcommittee report regarding anonymous complaints

Document Filed: Subcommittee Report from Commissioners Cosgrove and Smith dated August 4, 2009 regarding anonymous complaints

Commissioner Cosgrove summarized the Subcommittee recommendation to require that formal written complaints be signed by the Complainant and anonymous complaints submitted by telephone via a "whistleblower" hotline. The recommendation also requires a subcommittee (Chair and City Clerk) to review anonymous complaints to determine the validity and if there is "good cause" for anonymity. Discussion ensued.

Public Comment: Ross Signorino spoke in favor of the subcommittee's recommendation.

Steve Preminger expressed support for the whistleblower hotline and suggested that if there is a split decision by the subcommittee on the validity and reasons for good cause of an anonymous complaint, it be forwarded to the Evaluator for investigation.

The Commission directed the subcommittee to work with the City Attorney and City Clerk to finalize the report and come back at the next regular meeting with a draft amendment to the ordinance regulations.

C. Status report on recommendations from the MGT of America, Inc. Analysis

Assistant City Clerk Dennis Hawkins provided an oral report on the status of work to address recommendations outlined in the Analysis. Commissioner Smith requested that staff submit a written status report at the next meeting. No action was taken.

D. Overview of the 2010 Election Cycle

Assistant City Clerk Dennis Hawkins reviewed the 2010 Election Cycle and calendar. Questions followed. No action was taken.

E. Discussion regarding August 11, 2009 Council Referral to the Elections Commission asking for potential refinements to the Campaign Finance Regulations as it relates to Electronic Electioneering Communications

Senior Deputy City Attorney Lisa Herrick reported on the Council Referral from the August 11, 2009 Council meeting asking the Commission to consider potential refinements regarding electronic electioneering communications. There was mutual agreement that the reporting threshold for payments that cumulatively total \$1,000 or more is a reasonable standard for two reasons: 1) the \$1000 threshold is consistent with other State and local reporting requirements; and 2) the purpose of the electioneering communication regulations is to require disclosure of funds spent – and large payments in particular – but not to limit political speech.

Action: The Commission directed staff to draft a memo to the Council for the Commission's approval at the next meeting stating that the Elections Commission does not recommend amending the City's Campaign Finance Regulations to require the disclosure of payments for electronic electioneering communications that cumulatively total less than \$1,000.

Public Comment: Bianca Pirayou asked questions about disclosure requirements for clarification.

F. Scheduling the Study Session for consideration of Instant Run-Off Voting

Document Filed: Correspondence from Terry Reilly requesting scheduling the study session until after the holidays

The Commission deferred scheduling the Study Session for consideration of Instant Run-Off Voting until January 2010.

## VII MEETING SCHEDULE AND AGENDA ITEMS

A Special Meeting was scheduled September 30, 2009 to discuss proposed amendments to contribution limits.

The next Regular meeting is scheduled for October 14, 2009, at 5:30 p.m. The following items will be placed on the agenda: 1) Discussion and consideration of amending SJMC 12.06 and 12.12 to include formal advice from the City Attorney's Office pertaining to campaign contributions and lobbying; 2) Discussion and consideration of amending Resolution No 72547 regarding anonymous complaints; 3) Status report on recommendations from the MGT of America, Inc. analysis; and 4) Discussion and consideration of draft memo responding to Council regarding Electronic Electioneering Communications.

## VIII PUBLIC COMMENTS

Steve Chessin, Californians for Electoral Reform, thanked the Commission for their work on Instant Runoff Voting.

## IX ADJOURNMENT

The meeting adjourned at 7:36 p.m.

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FRED DE FUNIAK, CHAIR

ATTEST:

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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION