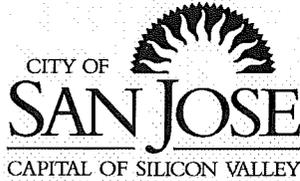


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# Memorandum

**TO: ELECTIONS COMMISSION**

**FROM: LEE PRICE, MMC**

**SUBJECT: STATUS REPORT ON THE  
RECOMMENDATIONS FROM  
THE MGT OF AMERICA AUDIT  
OF THE 2006 ELECTION CYCLE**

**DATE: October 8, 2009**

## INFORMATION

At the September 9, 2009 Commission meeting, Assistant City Clerk Dennis Hawkins provided a verbal update report on the above topic. Commission Chair Fred deFuniak requested that the information be summarized in a written memorandum to the Commission. The following summarizes MGT's findings and the status in our continuing efforts to improve our electoral system and regulations.

**MGT Report Finding:** 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.

- **Status:** The new ordinance adopted by the City Council amending the campaign finance regulations clarify the requirements for independent committees as well as add new disclosure requirements. The City Clerk has been conducting extensive outreach to independent committees throughout the amendment drafting process. The Offices of the City Clerk and City Attorney are coordinating additional outreach. A training workshop is scheduled for October 19 to provide education to stakeholders in an effort to ensure compliance. NetFile has also enhanced the e-filing system to allow on-line filing by independent committees.

**MGT Report Finding:** 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.

- **Status:** The Office of the City Clerk is limited in this capacity. The forms used are approved by the FPPC. Our staff has found that many of coding errors and/or lack of information are errors made by filers. Additionally, according to NetFile, they have completed numerous system enhancements and upgrades to improve filer success since September 25, 2008, including:
  - ✓ The e-filing system allows access for Candidates, Independent Expenditure committees and Major Donors
  - ✓ The e-filing system encompasses a wider range of forms the including the 460, 461, 465, 470, 496, and 497.
  - ✓ A revised data entry for loans and non-monetary contributions has been designed and implemented to make it easier for the filer to correctly file their document.
  - ✓ Improved system ease of use and accuracy.

Additionally, since the audit report, NetFile has added the capability to downloading committee filings containing either the original and amended transactions or the recently amended versions of the transactions. This enables users to view both versions of the reports that are filed, improving the public's access to more accurate and timely information.

**MGT Report Finding:** 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.

- **Status:** This was an isolated occurrence. NetFile has analyzed this issue and has developed new instructions on the website to assist search efforts. Specifically, the NetFile system now has a “?” next to each search box. When a user places the cursor on the question mark, a box pops up and says, “Search using a portion of a name such as JOH for JOHN or JOHNSON”. This should provide the additional detail that users of the public site need to avoid making the mistake of putting the full name of a candidate and it coming back saying the candidate's name does not exist.

**MGT Report Finding:** 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.

- **Status:** An ordinance change would be required. Additionally, some changes to State regulations would be necessary since they require a “wet” signature on the forms filed.

NetFile has been working hard over the past year to address system issues, and they continue to make improvements to enhance their system.

NetFile has rewritten the administration system in a newer programming language, which will be deployed within the next few months. The main impetus for these changes is to make the system easier to navigate by the administrative user as well as making the system more robust. A key element to the new system is the addition of a unique identifier to every electronically filed document. This will be useful so that staff can verify that the document electronically filed matches the paper documents received. In addition to this, a new dashboard has been created so that the staff users can easily navigate from one area to the other. These enhancements will aid staff in their compliance reviews and other administrative functions.

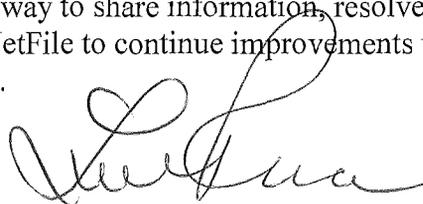
The City Clerk has thought it prudent to wait for the system improvements before moving forward with an ordinance change. Additionally, in 2010, the Office of the City Clerk is required to conduct a new procurement process to select a vendor, which could be NetFile or a new provider. As the procurement proceeds and a new contract is negotiated, we will endeavor to demand additional training opportunities for filers as well as staff to ensure that the system is working well, that filers understand the difference between system filing issues and campaign finance rules; and finally that the Office of the City Clerk is comfortable moving forward with this recommendation.

**Recommendation from Vice Chair Smith:** The Elections Commission and the City Clerk may wish to consider steps that can be taken, such as education and auditing, to address common errors found in contribution and expenditure reports. (Note: This recommendation was not explicitly stated in the report).

- **Status:** The City Clerk concurs with this recommendation and believes that system improvements and enhancements as well as the new regulations will aid greatly in this effort. The issue of sufficient resources in the Office of the City Clerk (particularly as it relates to auditing and enforcement) is, however, the greatest concern at this time, especially in this budgetary climate when lay-offs are anticipated.

**Summary:**

The Offices of the City Clerk and City Attorney collaborate and pursue changes to the Municipal Code as appropriate. In addition, issues such as those raised by the MGT audit and the Commission's investigations, hearings, and findings are brought forward in a number of venues, including the Mayor's Biennial Ethics Review. An outreach, engagement, and education effort with various electoral stakeholders continues as a way to share information, resolve problems, and improve compliance. Lastly, we work with NetFile to continue improvements to the on-line system and services to candidates and committees.



Lee Price, MMC  
City Clerk

