



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 October 14, 2009

I CALL TO ORDER

The members of the San José Elections Commission convened at 5:33 p.m. in Room W-262 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 Closed Session was canceled.

III APPROVAL OF MINUTES

The following minutes were approved

a. September 9, 2009

IV REPORT OF THE CHAIR

There was none.

V REPORT OF THE CLERK/ATTORNEY

City Clerk Lee Price announced that the City Clerk's Office and City Attorney's Office will conduct a workshop on October 19, 2009 to discuss changes to Title 12 of the San José Municipal Code. Ms. Price also informed the Commission that the Commission's recommendations regarding contribution limits will be heard by the Council on October 20, 2009 and asked that a member of the Commission be present for questions.

VI DISCUSSION ITEMS

- A. 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

Document Filed: Draft Ordinance adding section 12.05.080 and amending section 12.12.610 to permit certain persons to request a formal written opinion from the City Attorney

Senior Deputy City Attorney Lisa Herrick provided an overview of the draft amended ordinance and informed the Commission that she had spoken to Ash Pirayou who expressed concerns about the proposed language. Ms. Herrick stated that Mr. Pirayou hoped the language would be consistent with the Political Reform Act and that the proposed language does not go far enough to provide immunity or future enforcement action. Ms. Herrick stated that the City cannot grant immunity but can provide opinions which people can reasonably rely on. Discussion ensued.

Motion: Upon motion by Commissioner Cosgrove, seconded by Commissioner Shepard, and unanimously passed, the Commission asked the City Attorney to strengthen the language of the ordinance and forward to the City Council. (Vote: 5-0-0)

- B. Discussion and consideration of amending Resolution No. 72547 regarding anonymous complaints

Document Filed: Draft copy of Resolution 72547 amendments

Ms. Herrick summarized changes to the Resolution. Commissioner Smith thanked the sub-committee for their work. Discussion ensued.

Motion: Upon motion by Commissioner Shepard, seconded by Commissioner Smith, and unanimously passed, the Commission approved the changes and authorized the City Clerk and City Attorney to forward it to the City Council. (Vote: 5-0-0)

- C. Discussion and consideration of draft memo responding to Council regarding Electronic Electioneering Communications

Document Filed: Draft memorandum from City Clerk Lee Price to the Mayor and City Council dated October 6, 2009 regarding the Council referral to the Elections Commission potential refinements to the Campaign Finance Regulations as it relates to electronic electioneering communications

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Smith, and unanimously passed, the Commission authorized the Clerk to forward the memo to the Mayor and City Council. (Vote: 5-0-0)

- D. Status report on recommendation from the MGT of America, Inc. analysis

Document Filed: Memorandum from City Clerk Lee Price dated October 8, 2009 providing a status report on the recommendation from the MGT of America audit of the 2006 Election Cycle

Commissioner Smith noted for the record that the status report was reported at his request and not by Chair de Funiak as the memo has stated.

Action: The Commission accepted the report.

VII MEETING SCHEDULE AND AGENDA ITEMS

The next Regular meeting scheduled for November 11, 2009, is canceled due to a City holiday. The next Regular Meeting is Wednesday, December 9, 2009. The following items will be placed on the December agenda: 1) Select a date in 2010 for a Study Session on Instant Run-Off Voting; and 2) Overview of new sunshine provisions establishing the Elections Commission as the hearing body for appeals relating to requests for records under the California Public Records Act.

VIII PUBLIC COMMENTS

There were none.

IX ADJOURNMENT

The meeting adjourned at 6:19 p.m.

FRED DE FUNIAK, CHAIR

ATTEST:

LEE PRICE, MMC
CITY CLERK and SECRETARY TO THE COMMISSION