

**ELECTIONS COMMISSION**

Meeting Minutes

April 14, 2010

**ROLL CALL**

PRESENT: Vice Chair Smith, Commission Members Cosgrove, Louie, and Shepard

ABSENT: Chair de Funiak (Excused)

STAFF: Senior Deputy City Attorney Lisa Herrick, City Clerk Lee Price, and Deputy City Clerk Nora Pimentel

**ORDER OF BUSINESS**

**I. Call to Order**

The members of the San Jose Elections Commission convened at 5:30 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, CA 95113.

**II. Election of Chair and Vice Chair**

Action: Upon motion by Commissioner Louie, seconded by Commissioner Shepard, and unanimously passed, Commissioner deFuniak was re-elected Chair.

Action: Upon motion by Commissioner Louie, seconded by Commissioner Shepard, and unanimously passed, Commissioner Smith was re-elected Vice Chair.

**III Closed Session**

The Commission met in Closed Session to discuss:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 subsection (a):

Name of Case: San Jose Silicon Valley Chamber of Commerce of Political Action Committee, et al. v. City of San José Elections Commission

#### IV Approval of Minutes

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Louie, and unanimously passed, the Minutes of March 22, 2010 with one minor correction.  
(Vote: 4-0-1)

#### V. Report of the Chair

None.

#### VI. Reports of the Clerk/Attorney

##### A. Status of the Anonymous Complaint Hotline 408-975-ANON

City Clerk Lee Price reported that the Anonymous Complaint Hotline is now live and accessible to the public.

##### B. Respond to any questions about feedback from the Mayor's Biennial Ethics Review Panel to the City Council regarding four issues referred to the Panel and the Elections Commission in parallel by the City Council on December 15, 2009.

Documents Filed: Memorandum from City Clerk Lee Price dated March 29, 2010 regarding Mayor's Biennial Ethics Review Panel on February 16, 2010.

City Clerk Lee Price provided an overview of her memo and responded to brief questions. She explained that the Rules and Open Government Committee reviewed the memo at its March 29, 2010 meeting and agreed to hold pending any next steps until it receives feedback from the Elections Commission on the referrals.

#### VII. Discussion Items

##### A. Consider a recommendation by Commissioner Smith to propose changes to the Lobbying Ordinance, in response to the City Council Referral to consider closing a potential loophole in lobbyist registration and disclosures.

Documents Filed: (1) Memorandum from Elections Commission Vice Chair Michael Smith dated April 1, 2010 regarding Proposed Changes to Lobbying Ordinance. (2) Memorandum from Commissioner Erica Cosgrove dated April 12, 2010 regarding Summary of Discussion by Blue Ribbon Task Force on Ethics from 2004 regarding Nonprofits and Lobbying. (3) Letter from Patricia Gardner dated April 12, 2010 regarding Lobbyist Registration for nonprofits.

Vice Chair Smith summarized options, as outlined in his memo. Commissioner Cosgrove summarized her review of the Blue Ribbon Task Force on Ethics in 2004, as outlined in her memo. Commission discussion followed.

Public Comments

Ben Fields (South Bay Labor Council) expressed concern about the administrative burden registration and reporting would cause nonprofits and urged the Commission to weigh the objective of open transparency against the benefits nonprofits provide to the community.

Patricia Gardner (Silicon Valley Council of Nonprofits) referenced her letter dated April 2, 2010 and expressed opposition to requiring nonprofits to register as lobbyists.

Elisa Hopkins (Working Partnerships) debated the need to register nonprofits when neighborhood associations are not required to do so and asked what is the difference.

Brief Commission discussion followed regarding the number of hours proposed as the threshold for lobbying. There was agreement the threshold may need additional analysis.

Action: Upon motion by Commissioner Shepard, seconded by Commissioner Cosgrove, the Commission approved Commissioner Smith's recommendations with the caveat that the number of hours for the lobbying threshold may need further analysis. (3-1-1, Louie opposed)

- B. Discuss and formulate a recommendation about the City Council Referral to review the concept of allowing for public comments and debate about items on the Agenda during Orders of the Day, even if the City Council is not debating any items during Orders of the Day.

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Shepard, and unanimously passed, the Commission recommended that the City Council allow public comment on any motion on the floor made to change the printed order of the agenda.

- C. Discuss and formulate a recommendation about the City Council Referral to amend Council Policy 0-32 to avoid conflicts of interest arising from family relationships.

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Louie, and unanimously passed to recommend that the City Council not amend Council Policy 0-32.

- D. Receive the Subcommittee's report on "Play to Play Regulations" for certain contractors.

Commissioner Shepard reported that the subcommittee is still researching this issue and will report back at the next regular meeting.

- E. Continued discussion about the City Council Referral to consider whether the Voluntary Expenditure Limits should be adjusted.

Item deferred to the May 12, 2010 regular meeting.

**VIII. Meeting Schedule and Agenda Items**—The next Regular Meeting is scheduled for Wednesday, May 12, 2010.

The Commission agreed to consider at the next regular meeting the following items: (1) subcommittee report on “Pay to Play Regulations” for certain contractors; (2) a draft ordinance revising the Campaign Regulations; (3) Instant Run-off Voting; and (4) Continued discussion about the City Council Referral to consider whether the Voluntary Expenditure Limits should be adjusted

**IX. Public Comment**

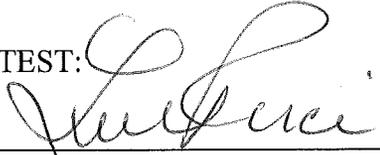
There were none.

**X. Adjournment**

The meeting adjourned at approximately 7:00 p.m.

  
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MICHAEL SMITH, VICE CHAIR

ATTEST:

  
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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION