

ELECTIONS COMMISSION
Meeting Minutes
July 14, 2010

ROLL CALL

PRESENT: Chair de Funiak, Vice Chair Smith, Commission Members Louie and Shepard

ABSENT: Commission Member Cosgrove

STAFF: Senior Deputy City Attorney Lisa Herrick, City Clerk Lee Price, Evaluator Michael Moye, Assistant City Clerk Dennis Hawkins, and Deputy City Clerk Nora Pimentel

ORDER OF BUSINESS

I. Call to Order

The members of the San Jose Elections Commission convened at 5:50 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

II. Hearings on Complaint

- A. Hearing on the complaint filed on June 1, 2010 by Peter and Jan Soule alleging that David Clancy violated San Jose Municipal Code campaign finance regulations.

Documents Filed: (1) Memorandum with attachments from Hanson Bridgett LLP to San Jose Elections Commission dated July 9, 2010 regarding a Citizen Complaint alleging potential violations of the Campaign Ordinance: Filing Inaccurate/Incomplete Campaign Reports. (2) Transcript of Hearing dated July 14, 2010, Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. Pages 2 through 19.

Chair de Funiak, summarized hearing procedures and opened the public hearing. Evaluator Mike Moye summarized the Independent Evaluator's Report and Recommendations. Testimony was presented by David Clancy. (See transcript for complete testimony)

The Commission deliberated.

Action: Upon motion by Commissioner Cosgrove, seconded by Commissioner Shepard, and unanimously passed, the Commission unanimously accepted the Evaluator's Report and Recommendations and closed the matter without further action. Vote 5-0

Each Commissioner certified that he or she personally heard the testimony at the hearing and reviewed the entire evidence in the record.

Action: Upon motion by Commissioner Smith, seconded by Commissioner Louie, the Commission directed the City Attorney to prepare a resolution of findings made and authorized the Chair to sign it. Vote 5-0

- B. Hearing on the complaint filed on May 19, 2010 by Robert Sandoval alleging that Minh Duong violated San José Municipal Code Campaign finance regulations.

Documents Filed: (1) Memorandum with attachments from Hanson Bridgett LLP to Elections Commission dated July 12, 2010 regarding Citizen Complaint alleging potential violations of the Campaign Ordinance: Filing inaccurate/incomplete campaign reports. (2) Supplemental Memorandum with additional attachments from Hanson Bridgett LLP to Elections Commission dated July 12, 2010. (3) Transcript of Hearing dated July 14, 2010, Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services, No. Pages 20 through 142.

Evaluator Mike Moyer summarized the Independent Evaluator's Report and Recommendations. Testimony was presented by Minh Duong, Robert Sandoval, and Michael Luu. (See transcript for complete testimony)

The Commission deliberated.

Action: Upon motion by Commissioner Louie, seconded by Commissioner Shepard, and unanimously passed, the Commission found the following: (1) that Minh Duong failed to file an accurate first pre-election statement to report two installment payments under the Memorandum of Understanding with Imprenta Communications Group as accrued expenses; and (2) failed to file campaign disclosure statements that would have been required had respondent not inappropriately terminated the "Minh Duong for Council" committee. Vote 5-0

Action: Upon motion by Commissioner Smith, seconded by Commissioner Cosgrove, the Commission imposed a \$500 penalty. Vote 3-2 (Shepard and Louie Opposed)

Action: Upon motion by Commissioner Smith, seconded by Commissioner Cosgrove, and unanimously passed, the Commission directed the City Attorney to include statement in the resolution of findings that the Commission was concerned about the timing of the Complaint relative to the 2010 election cycle.
Vote 5-0

Each Commissioner certified that he or she personally heard the testimony at the hearing and reviewed the entire evidence in the record.

Action: Upon motion by Commissioner Smith, seconded by Commissioner de Funiak, the Commission directed the City Attorney to prepare a resolution of findings made and authorized the Chair to sign it. Vote 5-0-0

III. Public Comment

Minh Steven Dovan, Bertha Ward and Robert Sandoval provided additional comments relative to the Minh Duong Complaint (see transcript for complete testimony).

IV. Adjournment

The meeting was adjourned at approximately 8:43 p.m.



FRED DE FUNIAK, CHAIR

ATTEST



LEE PRICE, MMC

CITY CLERK and SECRETARY TO THE COMMISSION

Attachment: Transcript of Hearings dated July 14, 2010, Reported by Noelia Espinola, CSR, License Number 8060. Advantage Reporting Services